

# The 1<sup>st</sup> Asian Public Governance Forum on Regulatory Reform

13 ~ 14 October 2015

## Forum Report







Commemorative photograph



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Deputy Head, Regulatory Policy Division, Public Governance and Territorial Development  
Directorate, OECD

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The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

## Opening Session

■ Opening Remarks : **Deoksoo Park,**

Director General, Public Governance Programme, OECD KOREA Policy Centre

■ Congratulatory Remarks : **Won Lee**

President, Korean Legislation Research Institute

■ Keynote Address : **Celine Kauffmann**

Deputy Head, Regulatory Policy Division, Public Governance and Territorial Development  
Directorate, OECD







# Opening Remarks

Deoksoo Park

Director General, Public Governance Programme, OECD KOREA Policy Centre



# Congratulatory Remarks

Won Lee

President, Korean Legislation Research Institute



# Keynote Address

Celine Kauffmann

Deputy Head, Regulatory Policy Division, Public Governance and Territorial Development Directorate, OECD





## KEYNOTE ADDRESS REGULATORY POLICY: TRENDS AND OUTLOOK

Céline Kauffmann, Deputy Head,  
Regulatory Policy Division, OECD

1<sup>st</sup> Asian Public Governance Forum on Regulatory Reform  
13-14 October 2015, Seoul, Korea



### Outline

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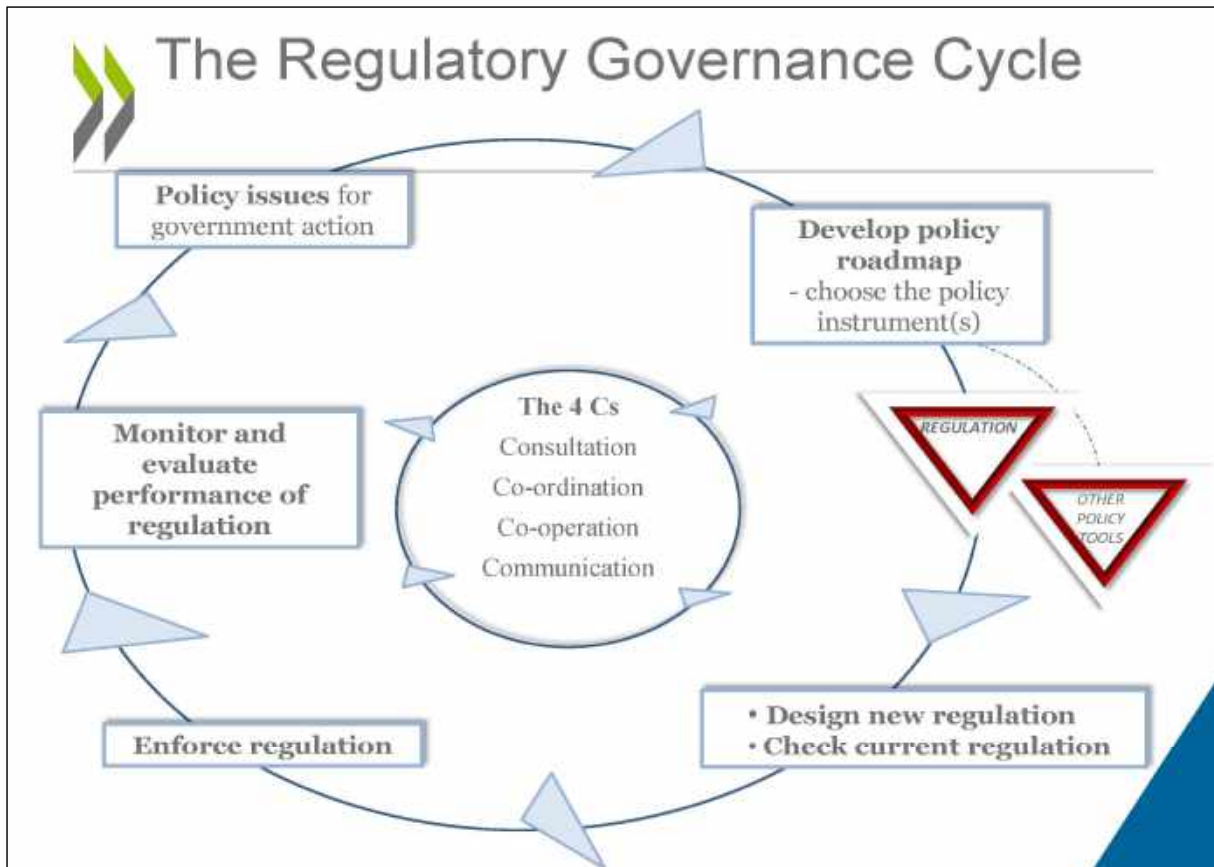
1. The OECD Regulatory Policy Committee
2. The OECD Regulatory Policy Outlook: a timely and necessary undertaking
3. The state of regulatory policy in OECD countries
4. Looking ahead: a forward-looking agenda for regulatory policy



## The OECD Regulatory Policy Committee

- The RPC was created by the OECD Council on 22 October 2009 to assist countries in implementing government-wide policies to promote regulatory quality and improvement.
- The Regulatory Policy Division supports their efforts by collecting and discussing practices, providing evidence based analysis, conducting country reviews, developing guidance.
- It is a platform to help countries learn from each other's experience in relation to regulatory policies, tools and institutions.
- Information about OECD work on regulatory policy at [www.oecd.org/gov/regulatory-policy](http://www.oecd.org/gov/regulatory-policy)





## Unpacking regulatory policy

Strategic Approach	Institutions	Management Tools	Governance
Policy Statement	Oversight Body	Impact Assessment	Whole of Government
Political Leadership	Parliaments	Regulatory Alternatives	National/Sub-national interface
Designated Minister	Advocacy	Simplification and Burden Reduction	Public and Private
	Regulators/Inspectors	Public Consultation	International Dimension
		Ex-post Evaluation	



## The OECD Regulatory Policy Outlook 2015

Forthcoming: 28 October 2015

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- First evidence-based cross-country analysis of the progress made by OECD countries to improve the way they regulate
- Based on the 2014 Regulatory Indicators covering all OECD countries and the European Commission
- Covers regulatory policy processes and institutions following the Recommendation of the Council on Regulatory Policy & Governance
- In-depth review of 3 key tools of regulatory policy: RIA, stakeholder engagement, ex post evaluation
- Forward looking agenda for regulatory policy



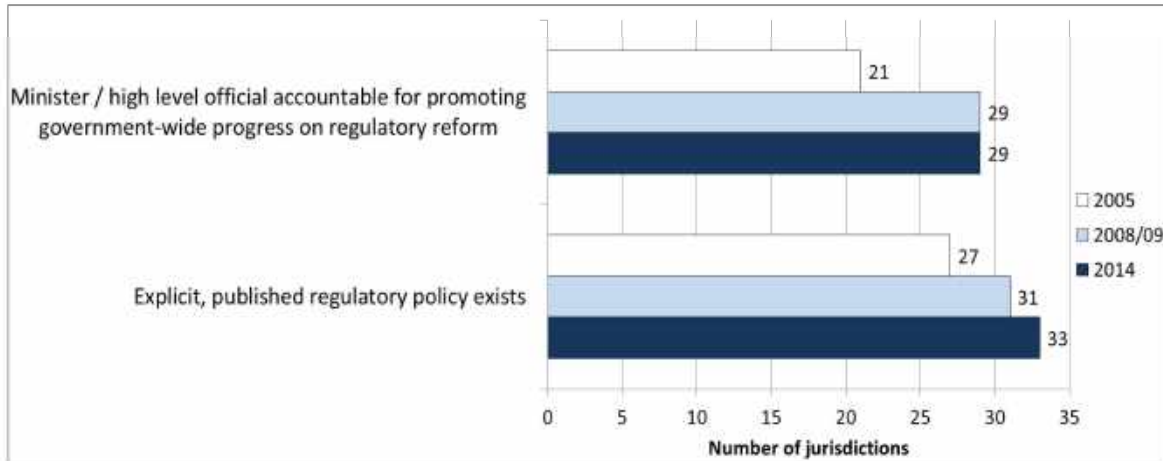
## The state of play of regulatory policy

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- Countries have set themselves a very aspirational standard with the OECD Recommendation
- It is worth it: regulating is one of the three government leverages (with taxing and spending) to support economic growth and well-being and it does not receive as much attention.
- Progress has been made to mainstream and systematise regulatory policy :
  - there are signs of wide adoption of a whole of government approach to regulatory policy.
  - formal requirements in the areas of Regulatory Impact Assessment and Stakeholders' engagement



## Strong political commitment to regulatory policy in OECD countries

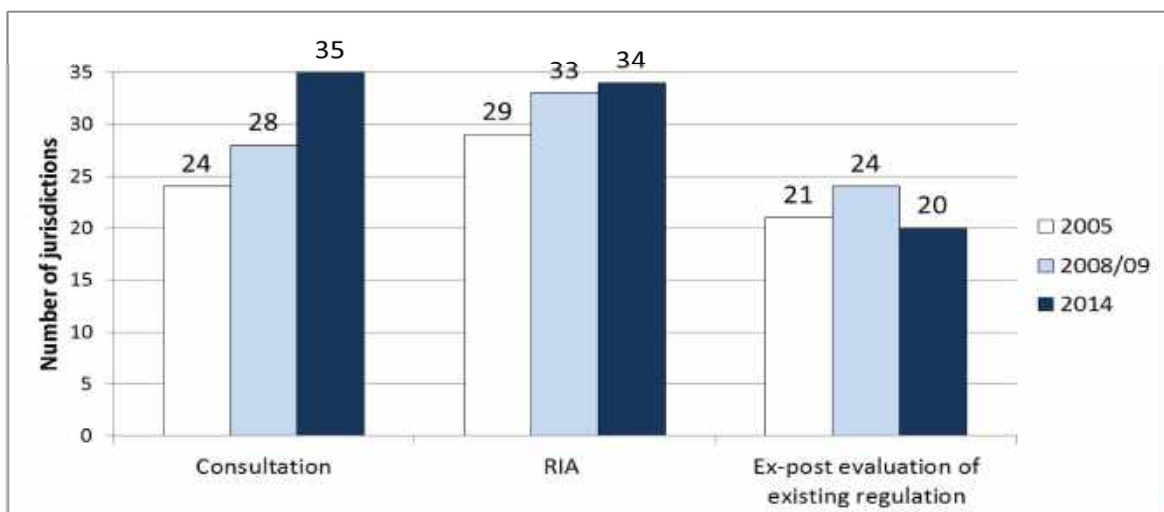


Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Formal requirements are in place



Source: 2015 Regulatory Policy Outlook (forthcoming).

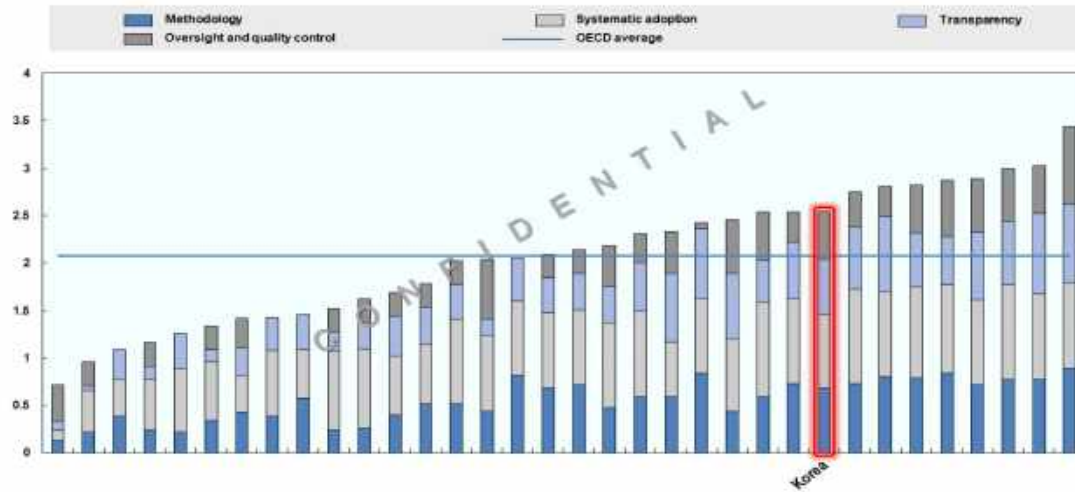
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## Stakeholder engagement in developing primary laws

2015 Indicators of Regulatory Policy and Governance (IREG): Stakeholder engagement in developing primary laws



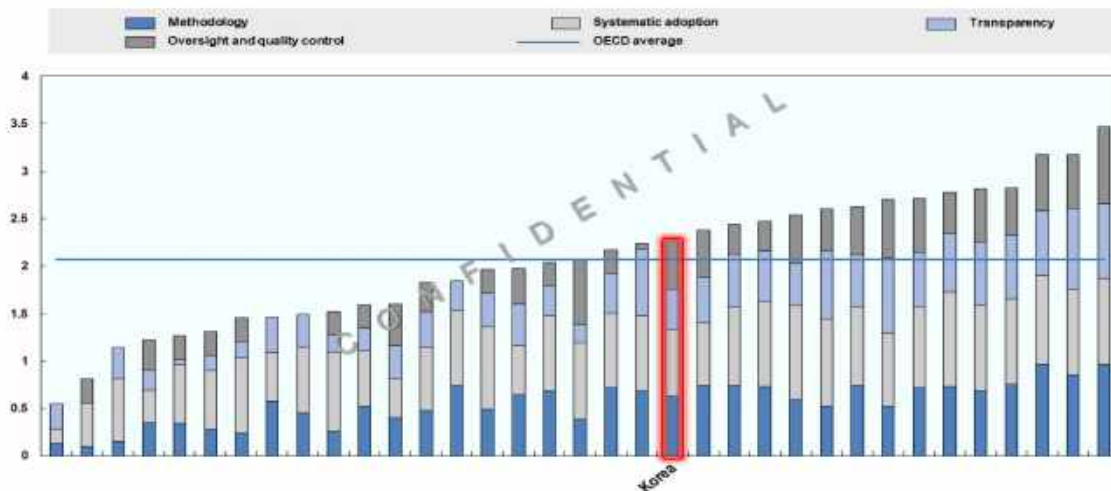
Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 64%).

Source: OECD (2015), OECD Regulatory Policy Outlook 2015, [www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm](http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm)



## Stakeholder engagement in developing subordinate regulations

2015 Indicators of Regulatory Policy and Governance (IREG): Stakeholder engagement in developing subordinate regulations



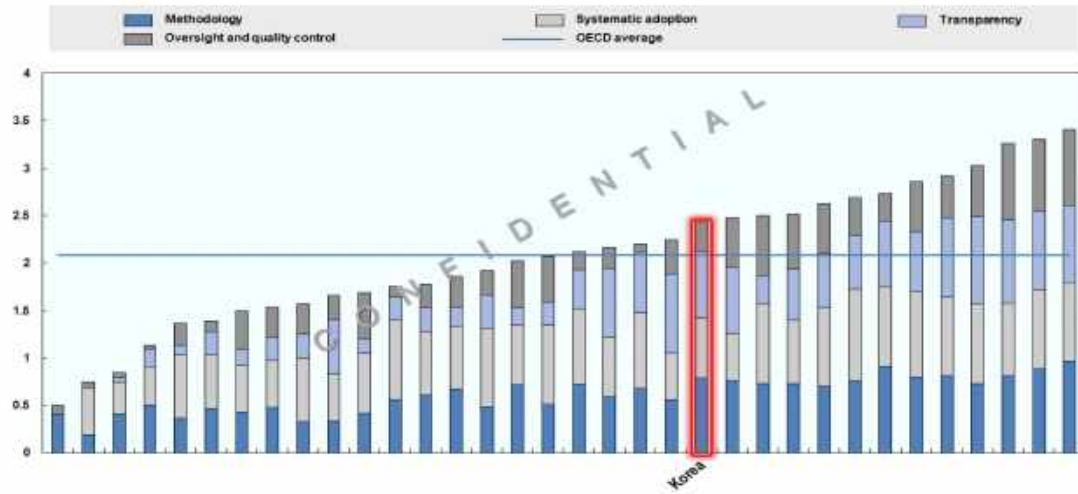
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## Regulatory Impact Assessment for developing primary laws

2015 Indicators of Regulatory Policy and Governance (IREG): Regulatory Impact Assessment for developing primary laws



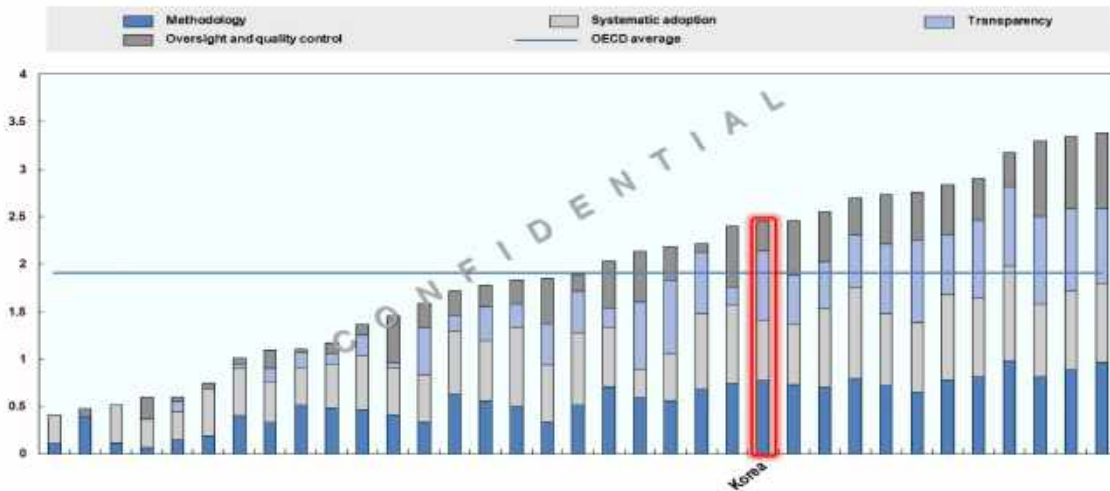
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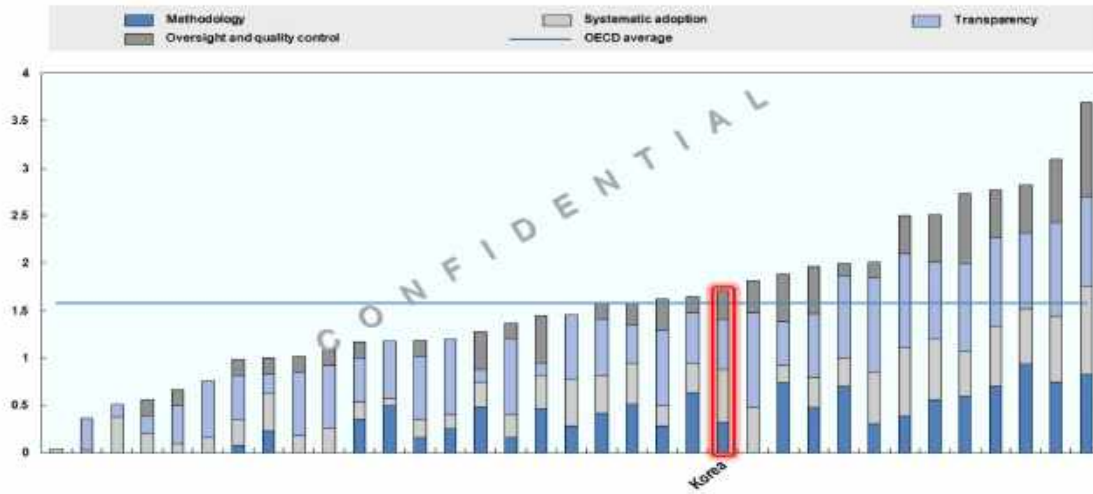
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## Ex post evaluation for primary laws

2015 Indicators of Regulatory Policy and Governance (REG): Ex post evaluation for primary laws



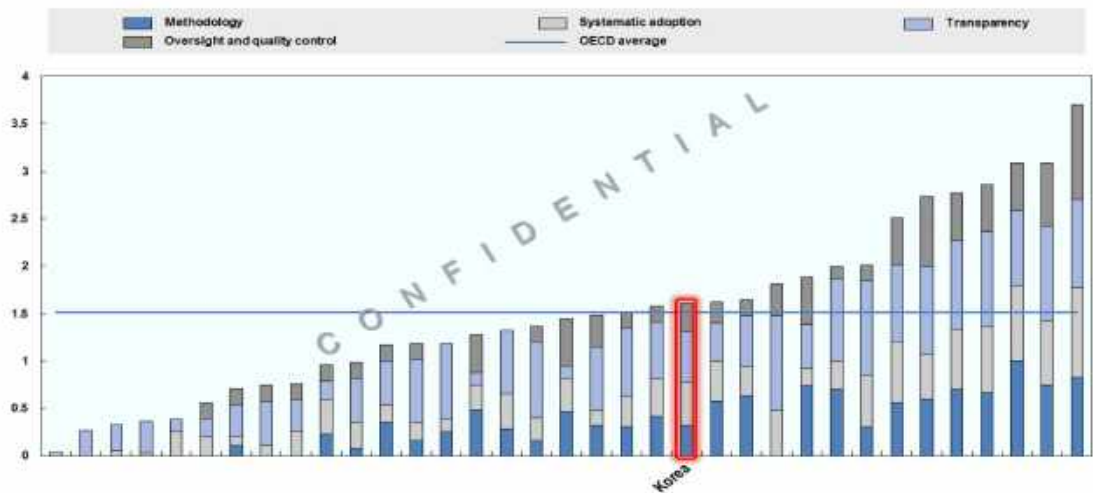
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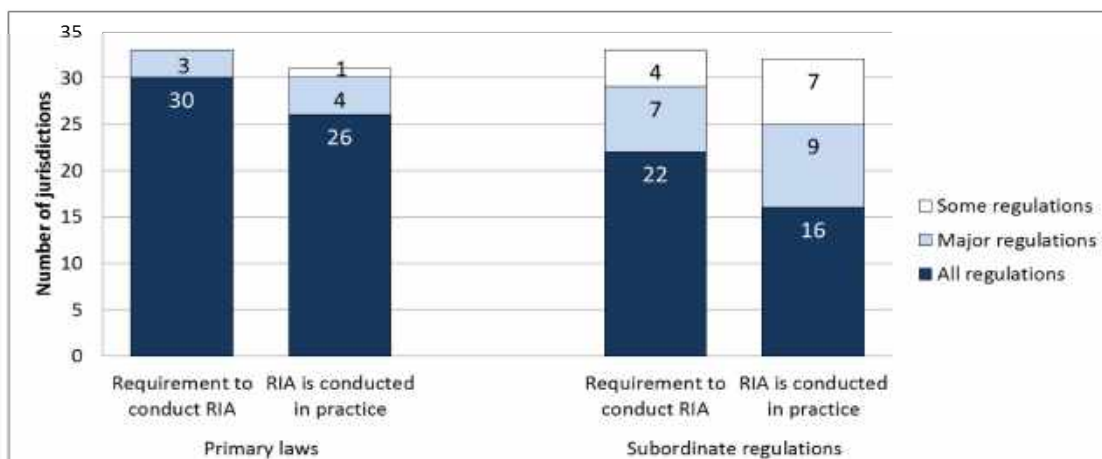


## Making it count – a forward-looking agenda for regulatory policy

- Move away from the procedural approach
- Transition from a strong focus on regulatory design to one on regulatory implementation
- Collect evidence, monitor and evaluate the results to create a virtuous circle
- Mind the governance of regulatory policy: the institutions and actors matter
- Address regulatory impacts beyond national level to sub-national and international



## RIA: Implementation remains behind requirements

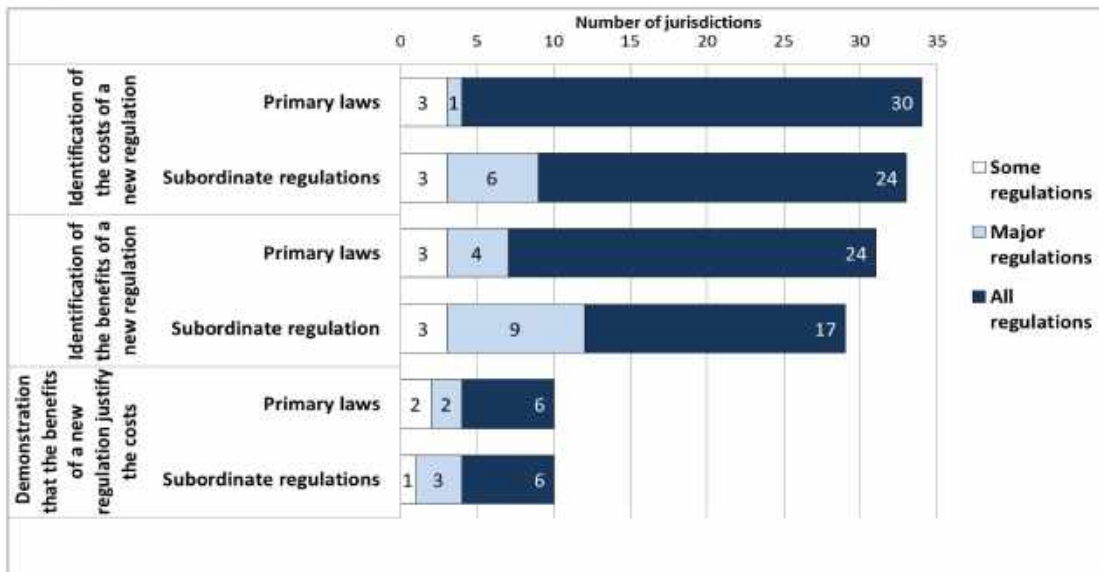


Source: 2015 Regulatory Policy Outlook (forthcoming).

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## RIA: Need to systematise the identification of net benefits

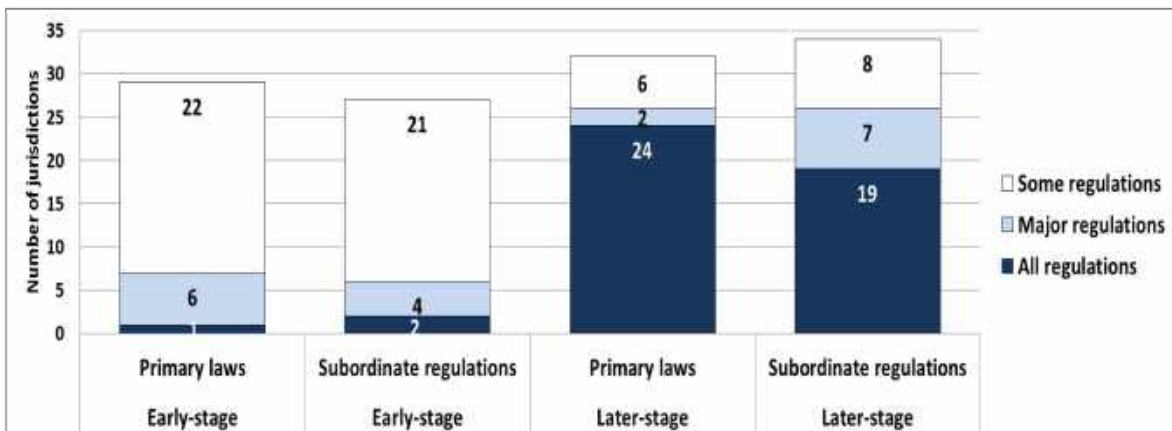


Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Consultation tends to happen at a late stage in the rulemaking process

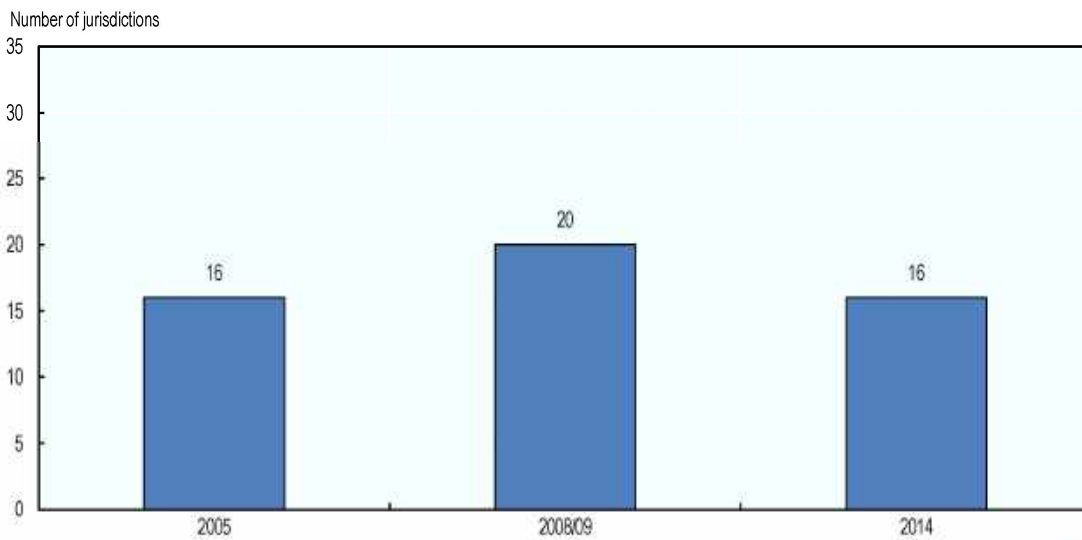


Source: 2015 Regulatory Policy Outlook (forthcoming).

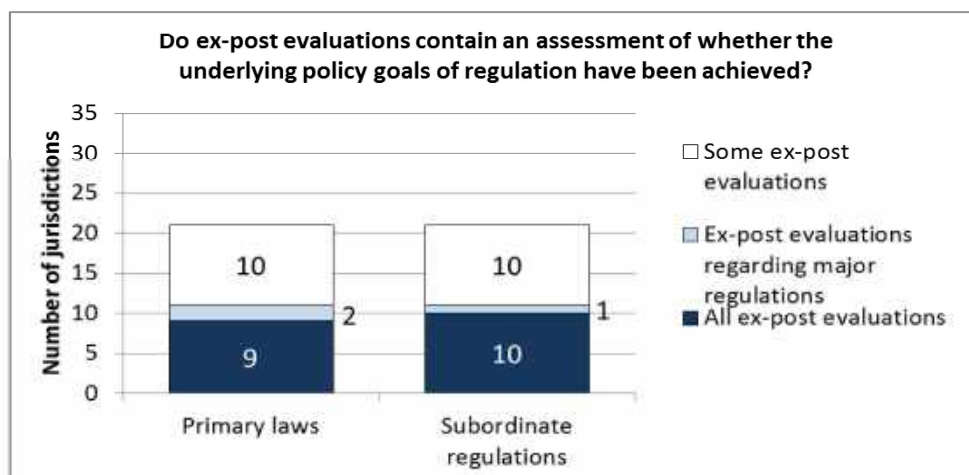
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## In half countries regulators are required to assess the level of compliance & identify enforcement mechanisms



## Evaluation do not focus enough on the achievement of underlying goals of regulation

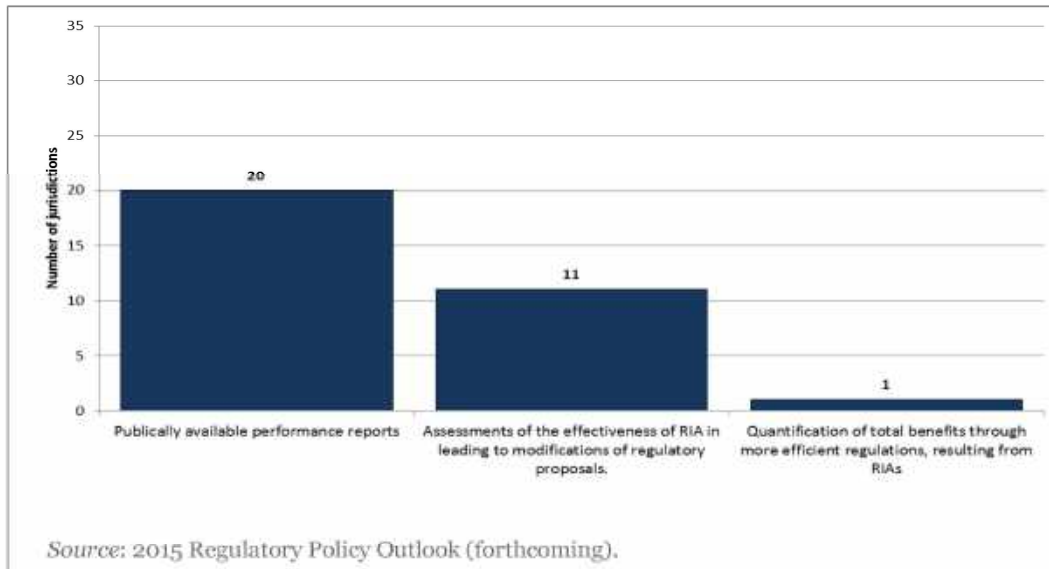


Source: 2015 Regulatory Policy Outlook (forthcoming).

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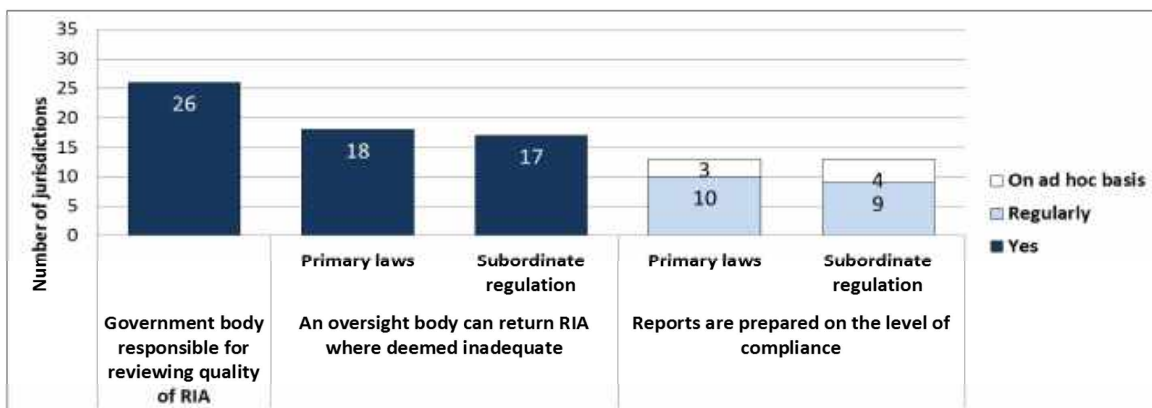
## Develop the evidence on the impacts of regulatory policy



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## RIA oversight can be strengthened.



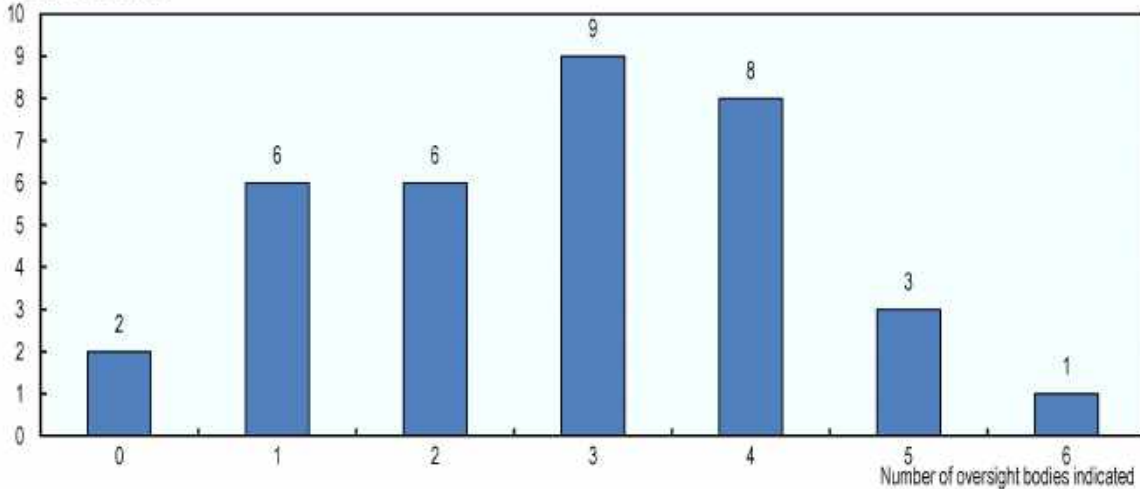
Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Is multiplicity of oversight bodies & heterogeneity of institutional setting justified?

Number of jurisdictions

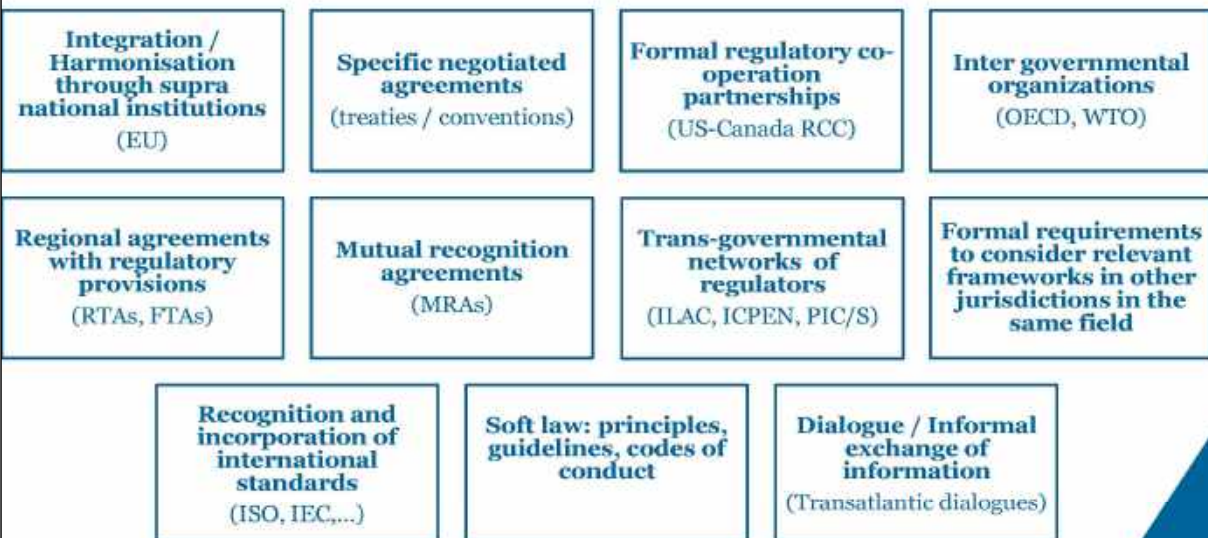


Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Ensuring regulatory quality beyond borders



OECD (2013), *International Regulatory Cooperation: Addressing Global Challenges*





## Further information

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- OECD (forthcoming), *Regulatory Policy Outlook*, OECD Publishing, Paris.
- OECD (2014a), *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris.
- OECD (2014b), *Regulatory Policy and Behavioural Economics*, OECD Publishing, Paris.
- OECD (2014c), *The Governance of Regulators*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris.
- OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing, Paris.
- OECD work on International Regulatory Co-operation:  
<http://www.oecd.org/gov/regulatory-policy/irc.htm>
- OECD work on Measuring Regulatory Performance:  
<http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm>





The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

# session 1

## The Significance of Regulatory Policy and Background to Regulatory Reform

### ■ Moderator

**Filippo Cavassini**

### ■ Speakers

**Filippo Cavassini**

Policy Researcher and Adviser, Regulatory Policy Division, Public Governance and Territorial Development Directorate, OECD

**Se-Jeong Yi**

Senior Research Fellow, Korean Legislation Research Institute

### ■ Panelists

**Daechang Kang**

Visiting Research Fellow, Regulatory Research Center, Korea Institute of Public Administration

**Vandee Suchatkulvit**

Director, Law Reform Directorate, Council of the State, Thailand





**Filippo Cavassini**

Policy Researcher and Adviser, Regulatory Policy Division, Public Governance and Territorial Development Directorate, OECD



**Se-Jeong Yi**

Senior Research Fellow, Korean Legislation Research Institute



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**Vandee Suchatkulvit**

Director, Law Reform Directorate, Council of the State, Thailand











The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform



session 1

1

# The Significance of Regulatory Policy and Background to Regulatory Reform

■ Speakers : **Filippo Cavassini**

Policy Researcher and Adviser, Regulatory Policy Division,  
Public Governance and Territorial Development Directorate, OECD







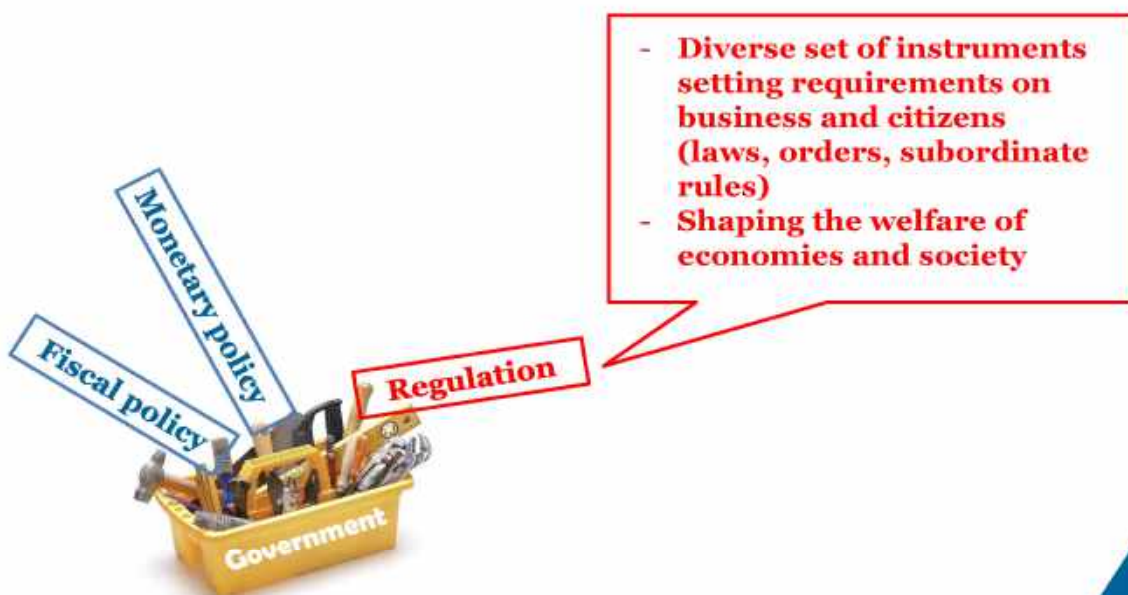
# IMPROVING REGULATION KEY REFORM TRENDS

Filippo Cavassini  
Policy Adviser, Regulatory Policy Division  
Public Governance and Territorial Development Directorate

1<sup>st</sup> Asian Public Governance Forum on Regulatory Reform  
Seoul, 13-14 October 2015  
Session 1



## Regulation as a key lever of formal state power



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## The regulatory lever isn't easy to handle...

Lack of **evidence** to inform policy development

Using regulation to solve problems that need **different tools**

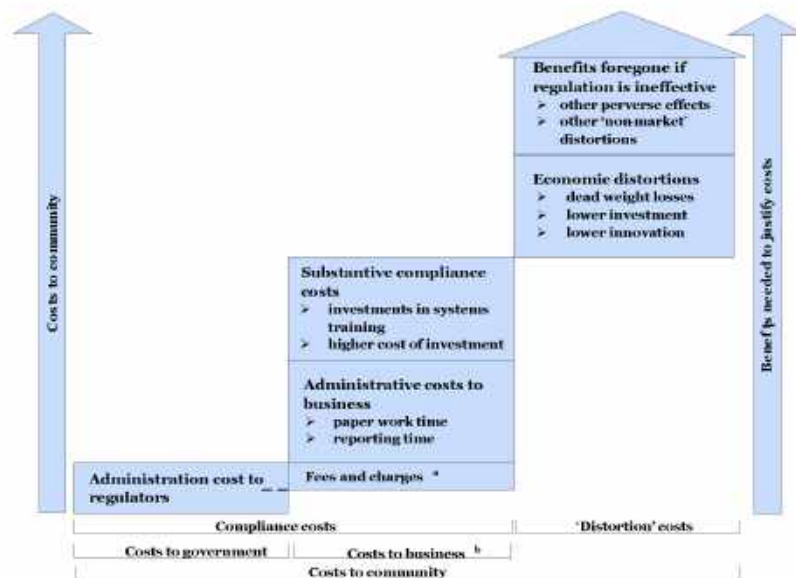
**Status quo bias** of the administration

**Misalignment** between ministerial portfolios and regulatory problems

3



## ...creating costs that need to be accounted for





## Getting a better handle on the regulatory lever can impact outcomes

Well-designed rules and regulations that are efficient and effective

Appropriate institutional frameworks and related governance arrangements

Effective, consistent and fair operational processes and practices

High quality and empowered institutional capacity and resources, especially in leaderships

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## Broad objectives of regulatory policy and governance

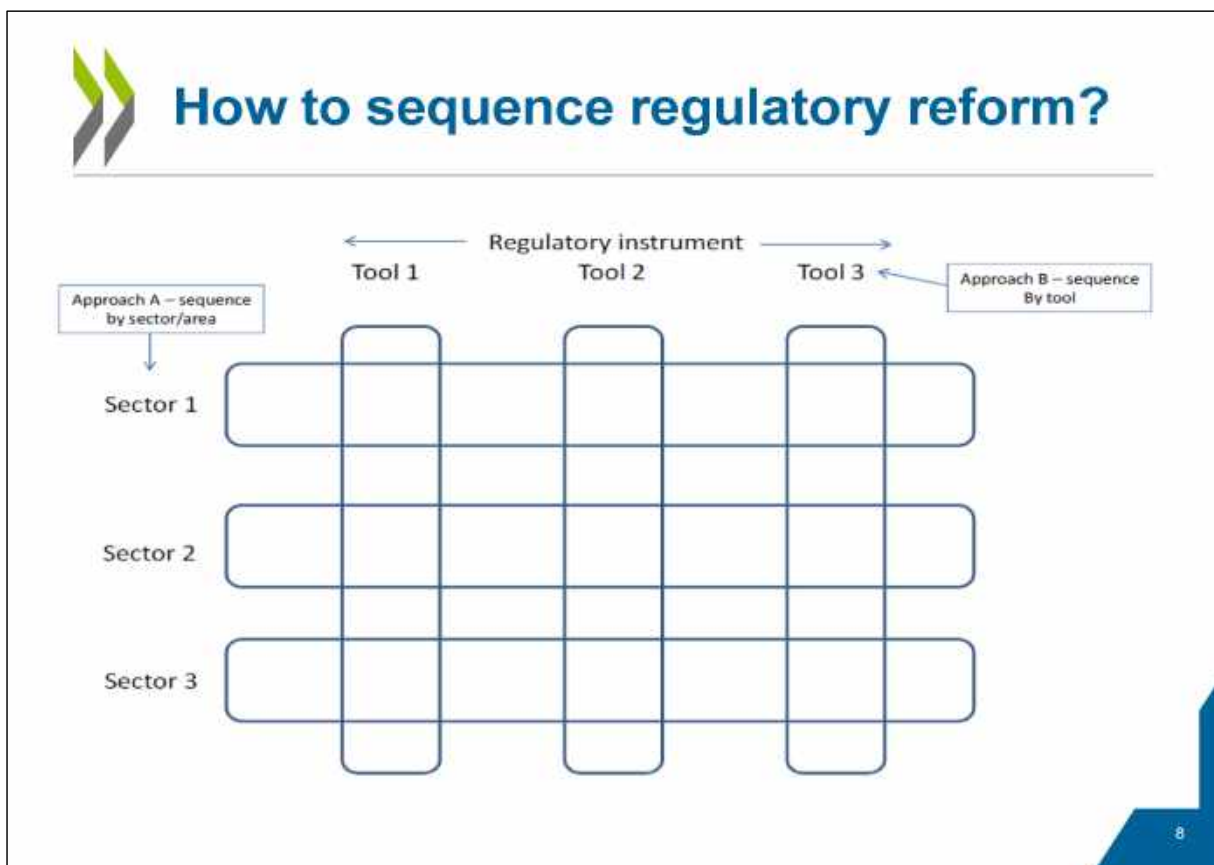
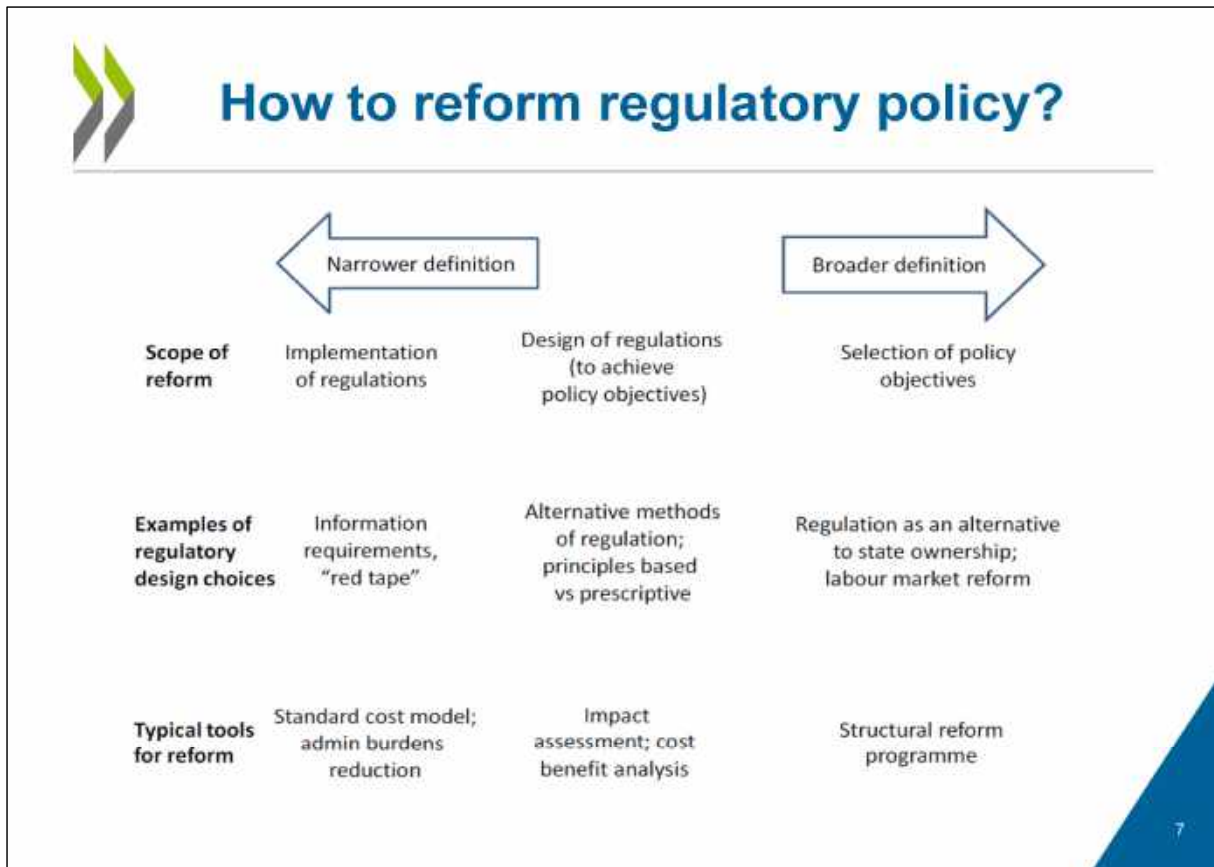
Changing the way government design and deliver regulation to improve outcomes

Improving regulation (and not necessarily deregulating)

Looking at the entire policy cycle (upstream, downstream and outside govt)

Making markets work better

6





## Focusing on some key regulatory instruments/institutions

Strategic Approach	Institutions	Management Tools	Governance
Policy Statement	Oversight Body	Impact Assessment	Whole of Government
Political Leadership	Parliaments	Regulatory Alternatives	National/Sub-national interface
Designated Minister	Ministries/ Policy Units	Simplification and Burden Reduction	Public and Private
	Regulators/ Inspectors	Public Consultation	International Dimension
		Ex-post Evaluation	

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## Oversight bodies

Guardian for ensuring regulatory quality

Generally located in the Executive: COG, Ministry of Finance, Ministry of Economy

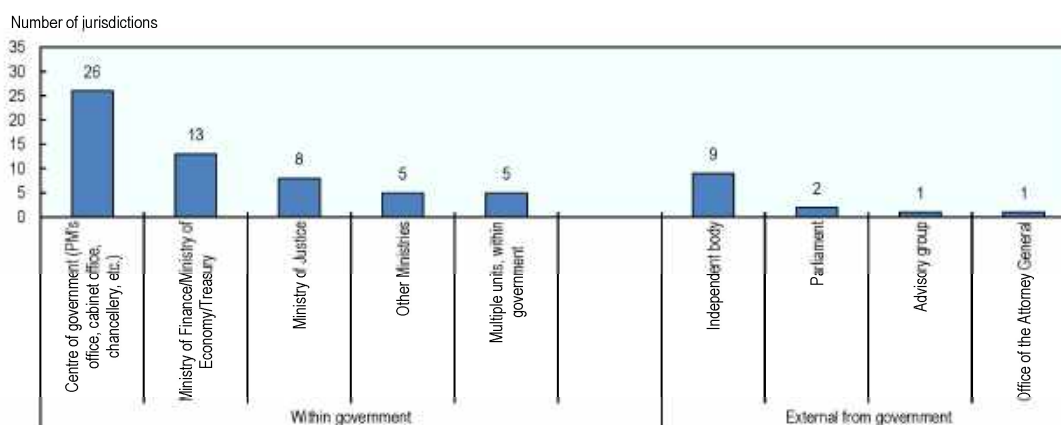
OECD reviews find a fundamental relationship between good regulatory policy and an effective central oversight body

Political commitment as a critical factor supporting regulatory oversight bodies

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## Location of oversight bodies



Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Strengthening oversight

- The mandate for regulatory oversight?
  - To what extent are the regulatory processes formalized?
  - Are the tools and methods of regulatory oversight sufficiently clear?
- The governance of the regulatory oversight body?
  - Does the regulatory oversight body sufficiently communicate its policy within and outside of government?
  - How is co-ordination organized between the oversight body and other agencies at national and sub-national levels?
- How to balance the need for regulatory oversight and political discretion?

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## Stakeholder engagement

A process of communication, consultation and participation that informs the regulatory governance cycle

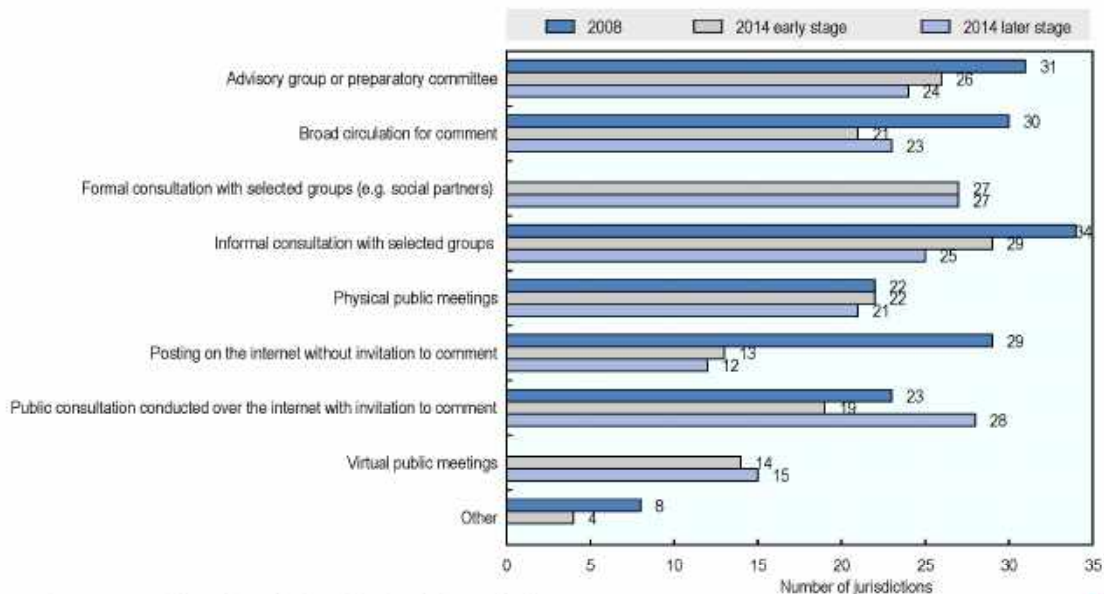
Both an administrative practice and a mind-set

Fundamental for understanding citizens' and other stakeholders' needs

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## Forms of engagement



Source: 2015 Regulatory Policy Outlook (forthcoming).

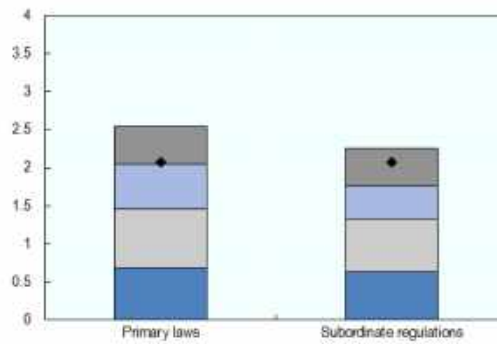
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## Stakeholder engagement in Korea

Stakeholder engagement for developing regulations



Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Engagement – key challenges

*Lack of awareness* - the evidence does not seem to show an increased participation

*Low participation literacy* – insufficient information on how to take part in the policy-making process

*Information overload* – confusing intrinsic and instrumental objectives

*Bad experience due to past record* - many stakeholders do not see the real impact of the consultation process on the final product

*Consultation capture* - smaller players and individuals do not see a real chance to influence the decisions

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## Ex-post evaluation - approaches

Management approaches to minimise compliance and administrative costs

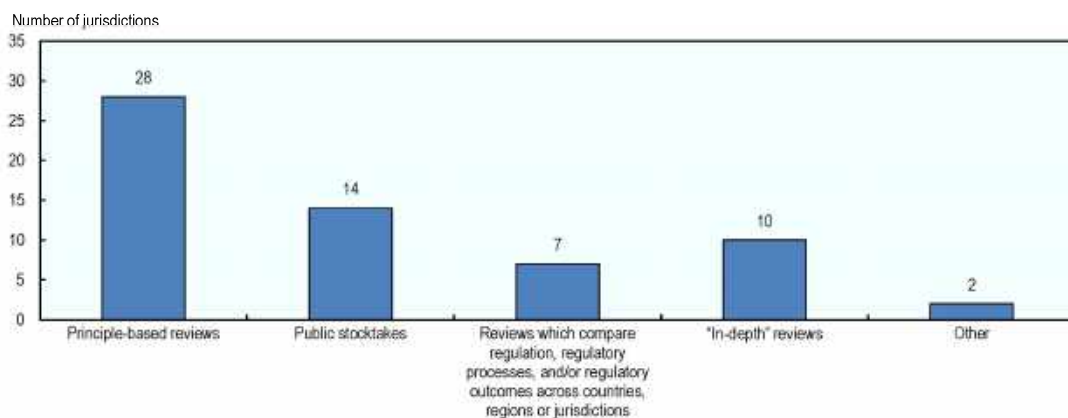
Programmed reviews to ensure that regulation is achieving the intended objectives

Ad-hoc reviews to take stock of regulation, benchmark regulation or address specific issues

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## Purpose of evaluations



Source: 2015 Regulatory Policy Outlook (forthcoming).

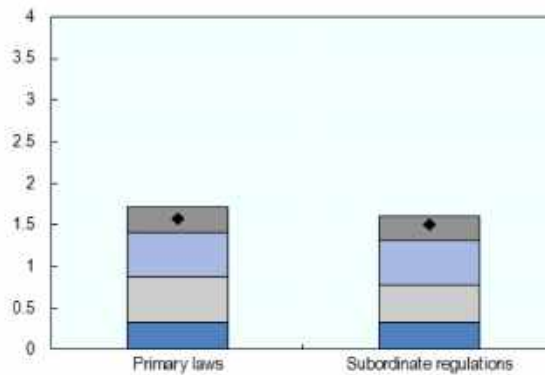
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## Ex-post evaluation in Korea

Ex post evaluation of regulations



Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Ex-post evaluation – key challenges

Ensuring that new regulation and the existing stock are appropriate by looping back evaluation data to law making

Choosing the “right” evaluation approach for the “right” purpose (management, programmed, ad-hoc/screening)

Evaluation require sound governance (who evaluates) and effective consultation (across business, citizens and civil society)

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## Regulators



1. Role clarity
2. Preventing undue influence and maintaining trust
3. Decision making and governing body structure
4. Accountability and transparency
5. Engagement
6. Funding
7. Performance evaluation

<http://www.oecd.org/gov/regulatory-policy/governance-of-regulators.htm>

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## Governance of regulators matters for sector outcomes

Data suggest that independence of sector regulators can help establish a stable and credible framework for investment

Policy mix: incentive price regulation has greater impact on investment when accompanied by independent regulator

Positive effect of independent regulators particularly strong on certain sectors

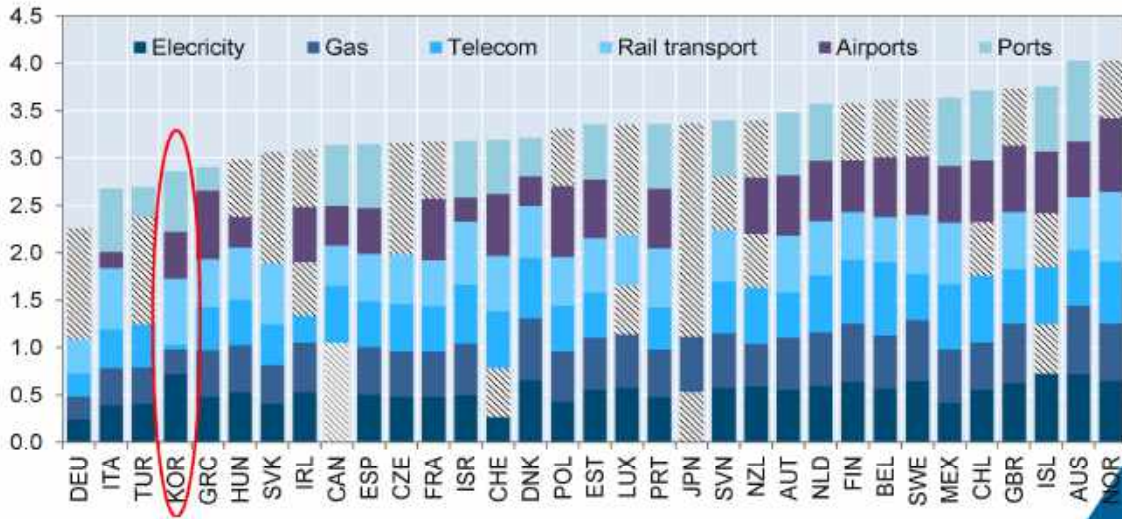
Source: Sutherland, Douglas, et al. (2011), "Public Policies and Investment in Network Infrastructure", OECD Journal: Economic Studies, Vol. 2011/1 [http://dx.doi.org/10.1787/eco\\_studies-2011-5kg51mlvk6r6](http://dx.doi.org/10.1787/eco_studies-2011-5kg51mlvk6r6)

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## Independence

Index scale 0 to 6 from most to least independent



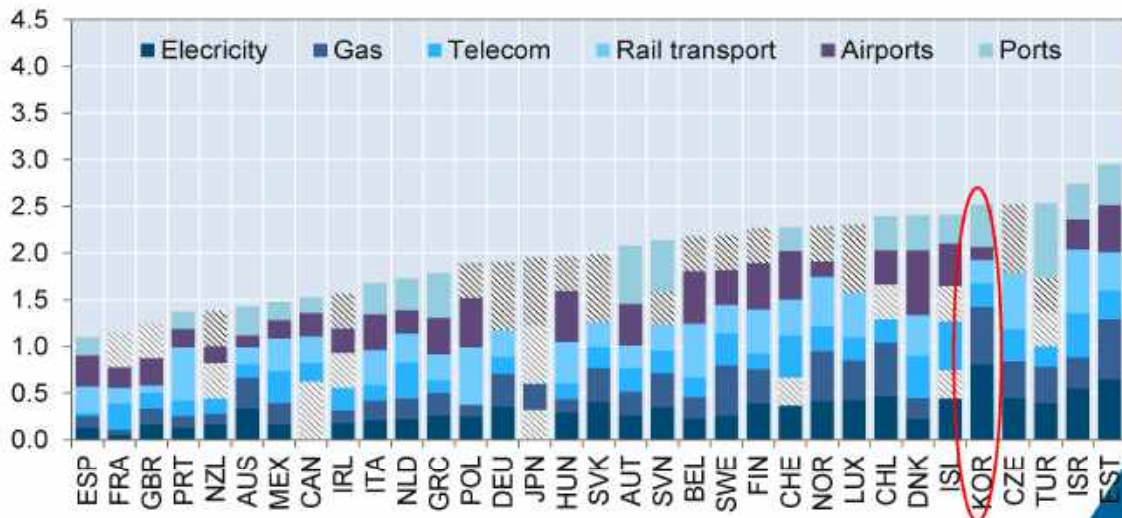
Source: OECD Product Market Regulation Database

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## Accountability

Index scale 0 to 6 from most to least accountable



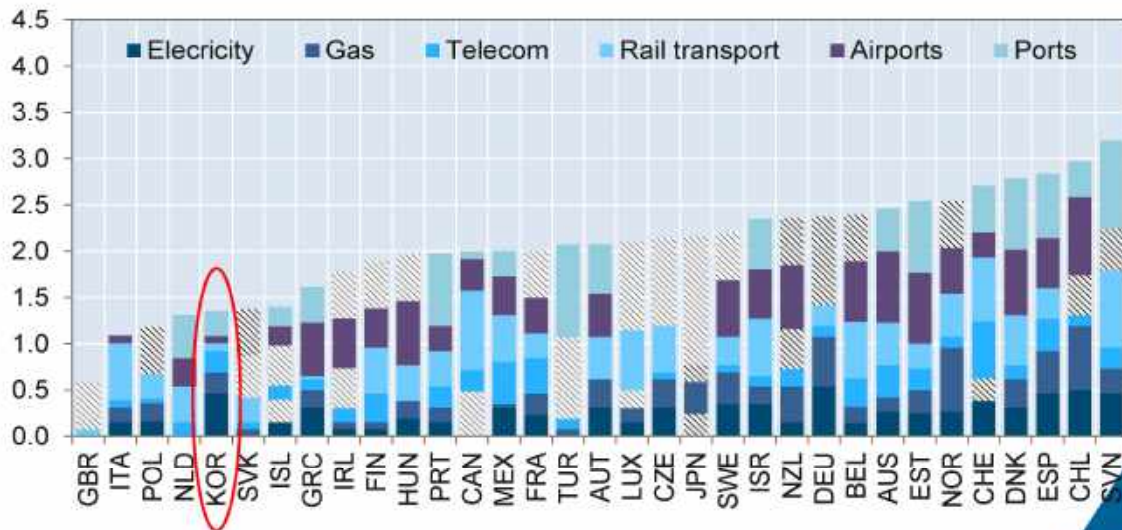
Source: OECD Product Market Regulation Database

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## Scope of action

Index scale 0 to 6 from most to least scope of action



Source: OECD Product Market Regulation Database

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## Enforcement & inspections



1. Evidence-based
2. Selectivity
3. Risk focus & proportionality
4. Responsiveness
5. Long-term vision
6. Co-ordination & consolidation
7. Transparent governance
8. Information integration
9. Clear & fair process
10. Compliance promotion
11. Professionalism

<http://www.oecd.org/gov/regulatory-policy/enforcement-inspections.htm>

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## What makes reform successful?

- **Leadership is critical.** Virtually all OECD research point to the importance of strong leadership – whether by an individual policy maker or an institution charged with carrying out the reform.
- **Take a system wide approach.** The size and complexities of the regulatory system are not always understood or appreciated.
- **The context matters.** Regulatory reform is highly contextual, and should be tailored to suit existing government structures.

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## Challenges to be factored in

- **Successful regulatory policy take time.** The more successful reforms generally took several years to prepare and adopt, and often took longer to implement.
- **Successful reforms take several attempts.** Many of the biggest reform successes followed earlier setbacks.
- **Focus on implementation.** Implementation of even well-designed reforms remains a continual challenge.
- **Early and continuous assessment of results.** Development of the regulatory reform agenda is hampered by a lack of focus on monitoring and evaluation.

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THANK YOU!

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The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 1

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# The Significance of Regulatory Policy and Background to Regulatory Reform

■ Speakers : Se-Jeong Yi

Senior Research Fellow, Korean Legislation Research Institute







## Legislative Method for Efficient Implementation of Regulatory Reform Policy

- Focusing on Amendments to Korea's  
Basic Act on Administrative Regulations -

October 2015

Se-Jeong Yi, Research Fellow  
(Korea Legislation Research Institute)



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- II . Trends of Korean Government's Regulatory Reform
- III . Pushing for Amendments to Basic Act on Administrative Regulations (BAAR) to back up Korean Government's Regulatory Reform
- IV . Major Amendments to BAAR

## I . International Trends of Regulatory Reform



Positive aspects of regulation

- Maintain social order
- Protect the life, health and property of citizens
- Preserve the environment
- Protect consumers, etc.

■ Unnecessary and excessive regulation not only has a negative impact on the people's living but also overburden the nation's administration. Especially from a corporate perspective, it can weaken corporate competitiveness, laying a burden on the whole economy and industry.


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Regulatory reform

➤ It has been one of the top priorities of governments worldwide. The main theme of regulatory reform is easing/ending statism.

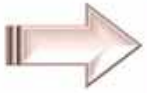
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## I . International Trends of Regulatory Reform




- Recent deregulation and regulatory reform policies of developed countries

Relaxation of public regulation



- Strengthen international competitiveness
- Establish a free-market economy which is predicated on self-responsibility and market principles
- Promote technological innovation
- Reduce burdens on the citizens & Simplify administrative work

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- Eliminate unnecessary regulations which hinder development
- Reduce regulatory stock
- Improve quality and design of regulation
- Reduce regulatory burdens on companies and civil society groups

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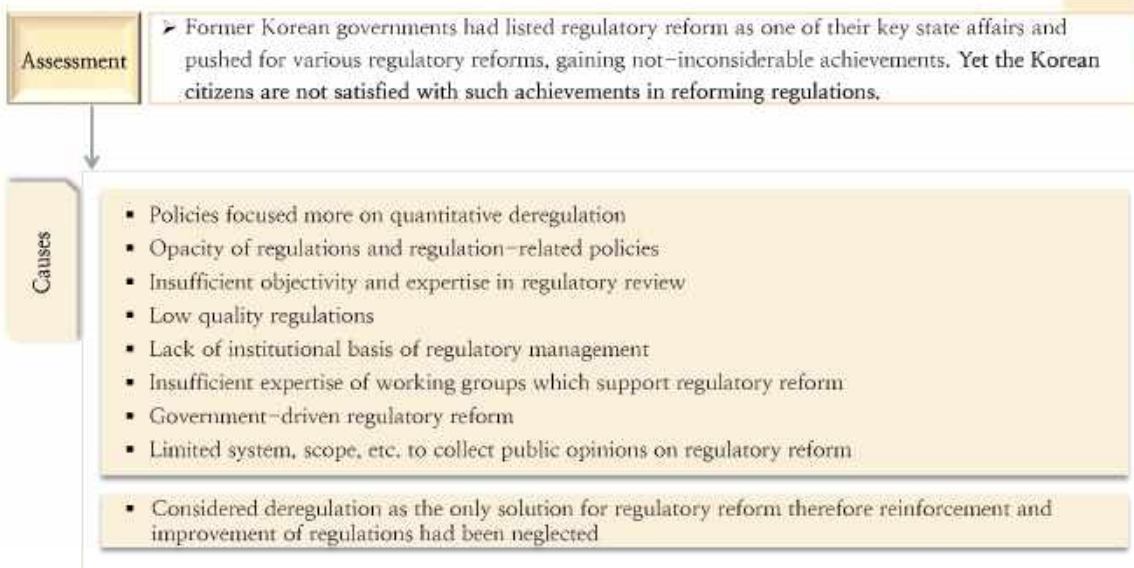
# I . International Trends of Regulatory Reform



	Reactive/Sectoral policies	Proactive/Cross-sectoral policies
Conventional approach to regulatory reform	Deregulation <ul style="list-style-type: none"> <li>Reduce existing regulations consistently</li> <li>Simplify laws</li> <li>Transform state-owned companies and industries into a market economy &amp; Restrain state intervention through privatization</li> <li>Efficiency as an objective for reform</li> <li>Market-oriented (Adjust policies rather than giving full permission)</li> </ul>	Better Regulation <ul style="list-style-type: none"> <li>Establish a set of tools and procedures (Regulatory Impact Assessment, Standard Cost Model, Business Cost Assessment, Sunset Legislation, etc.)</li> <li>Eliminate bureaucracy, Come up with procedures for ex-ante and ex-post assessment in order to improve the target/object and quality of regulation</li> <li>Develop a new regulatory culture (Change the existing culture)</li> <li>Focus on institutionalizing regulatory monitoring network and body</li> <li>Improve regulatory efficiency and effectiveness</li> </ul>
	Re-Regulation <ul style="list-style-type: none"> <li>Extend new regulating means in which new needs of market and technology are reflected</li> <li>Carry out privatization consistently</li> <li>Realign and change the management section : An independent regulatory body suitable for the administrative style</li> <li>New jurisdiction and technology : Adopt IT technologies which correspond to the regulatory purposes</li> <li>Public-Private Partnership (PPP)</li> </ul>	Smart Regulation <ul style="list-style-type: none"> <li>Improve regulation design (Achievement through win-win strategy, More effective and comprehensive reduction in execution costs)</li> <li>Flexible execution</li> <li>Cooperative administration &amp; Flexible regulations</li> <li>Develop abilities (Vesting of authority) &amp; Utilize private economy and social resources (Governance)</li> <li>Promote Voluntary Restraint Arrangements (VRA)</li> <li>Focus on social regulations (labor, social relation, environment, finance, etc.)</li> </ul>

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# II . Trends of Korean Government's Regulatory Reform

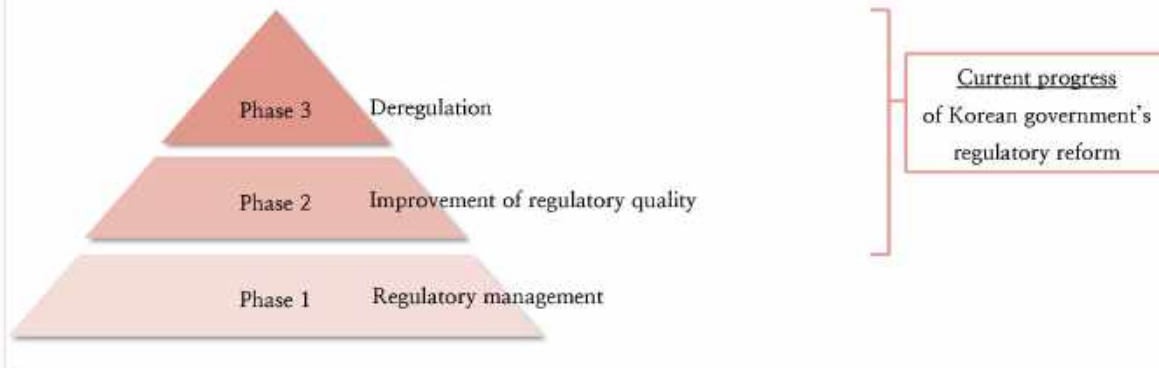


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## II . Trends of Korean Government's Regulatory Reform



[ 3 phases of development for OECD regulatory reform ]



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## II . Trends of Korean Government's Regulatory Reform

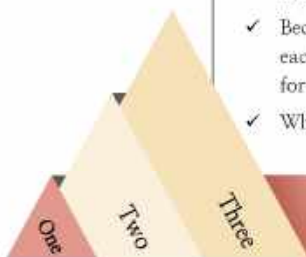


### ※ 3 phases of development for OECD regulatory reform

Early 1980s

- Regulatory reform was initiated in many OECD countries
- 'Elimination of administrative formalism (cutting red tape)' or 'regulatory relief'

- ✓ Particularly pronounced in the US and UK, deregulation started in sectors such as aviation, transportation, railway, natural gas, financial system and telecommunication.
- ✓ The wave of deregulation spread to other countries, riding the current of competition-facilitating deregulation.
- ✓ Although the huge success of deregulation was limited to some of the sectors in some countries, it is apparent that the regulatory reform of Phase 1 was meaningful.
- ✓ However, deregulation was a mere measure to cope with the problems occurred in the past and it could not give an answer regarding how to enforce regulations in the future.
- ✓ Because the focus was only on regulatory means, not on a more extensive system which supports each and every regulation, deregulation had its limitations that it could not derive other themes for regulatory reform.
- ✓ While planning deregulation, other values and policy objectives were not considered sufficiently,



PHASE 1 : DEREGULATION

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## II . Trends of Korean Government's Regulatory Reform



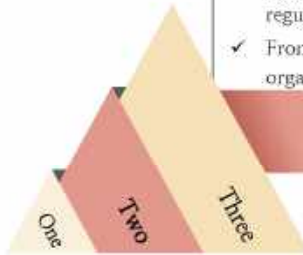
### ※ 3 phases of development for OECD regulatory reform

Resolution of deregulation issues

Better than existing regulations?

- ✓ In order to improve regulatory quality, regulatory reform attempts put greater priority on making excellent regulations in terms of efficiency, flexibility and effectiveness as well as reducing regulations.
- ✓ Improvement of regulatory quality is based on the consideration of how well the decision would function when a regulation is enforced; and it has gained considerable achievement.
- ✓ However, improvement of regulatory quality is intended to 'improve quality of individual regulations.'
- ✓ Improving quality of individual regulations is not enough to deal with systemic issues including regulatory inflation, regulatory cost increase, complexity, consistency, interaction among regulations, legal clarity and systemicity, and transparency and accountability.
- ✓ From a perspective of 'overall function of regulation scheme,' the need for new forms of organizations and new ways of managing and operating the entire administration has arisen.

PHASE 2 : IMPROVEMENT OF REGULATORY QUALITY



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## II . Trends of Korean Government's Regulatory Reform



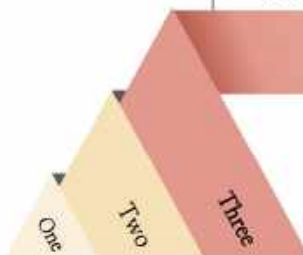
### ※ 3 phases of development for OECD regulatory reform

Regulatory management

➤ It is to set and implement pan-governmental policies systematically regarding how the government exercises its regulatory power.

- ✓ Issues that arise from deregulation and regulatory quality improvement can be resolved in Phase 3 : Regulatory Management.
- ✓ Greater attention is paid to the issues of regulation scheme, achievement and system from a long-term perspective.
- ✓ Regulatory management in Canada, the US and particularly the UK has matured as one of the central management functions of the government that it is executed on a daily basis.
- ✓ In order to manage regulations efficiently, deliberately-designed policy-making system and initiatives for change are required. Also, the government should devote information, human resources and funds to regulatory management.

PHASE 3 : REGULATORY MANAGEMENT



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### III. Pushing for Amendments to BAAR to back up Korean Government's Regulatory Reform



#### Enactment background of Basic Act on Administrative Regulations (BAAR)

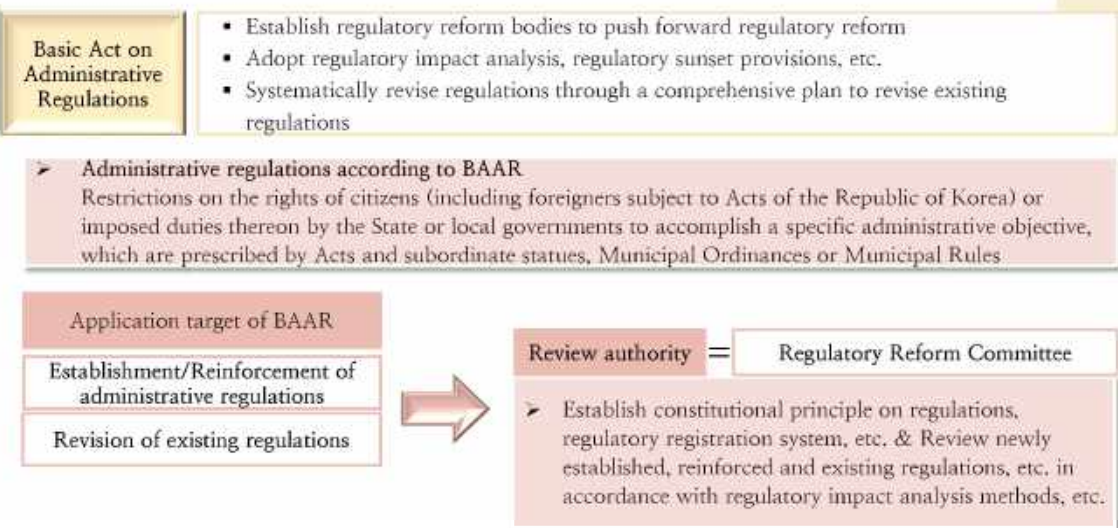


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### III. Pushing for Amendments to BAAR to back up Korean Government's Regulatory Reform



#### Regulatory reform system according to BAAR

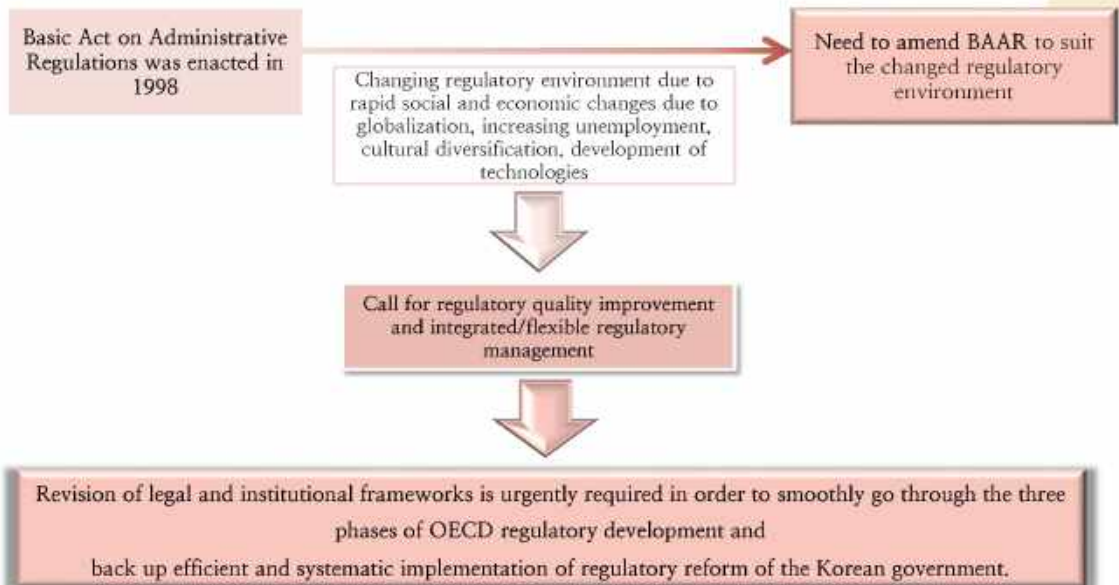


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### III. Pushing for Amendments to BAAR to back up Korean Government's Regulatory Reform



#### Amendment background and need of BAAR



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### IV. Major Amendments to BAAR



#### Integrated and flexible regulatory management

- 1 Introduction of regulatory total amount/cost system
 

The Korean government has been managing regulations in accordance with the Regulatory Reform Committee's comprehensive plan for establishment, reinforcement, review and revision of regulations based on the regulatory registration system under the current BAAR. However, it is difficult to control the constantly growing quantitative and qualitative regulatory burdens.

  - » Introduce a 'regulatory total amount/cost system,' which has been adopted and operated in countries like the UK, to obligate the heads of central administrative agencies to maintain the total amount of corresponding regulatory costs below a certain level
  - » Control the quantitative and qualitative increase of regulatory burdens by mandating that establishment and reinforcement of regulations must be done within their corresponding cost or grade criteria for existing regulations
  - » Make the total of regulatory costs to be managed by the Regulatory Reform Committee (RRC) and disclose the current status to the citizens by mandating the management status of total regulatory costs to be submitted to the RRC and promulgated

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## IV. Major Amendments to BAAR



### Integrated and flexible regulatory management

#### 2 Integrated management of related regulations

The current BAAR has no appropriate or practical measure to handle concurrent improvement of multiple regulations of different government agencies.

- Enable the heads of central administrative agencies, upon their request, together with the Regulatory Reform Committee (RRC) to advise other heads of central administrative agencies to revise their relevant regulations which need improvement

#### 3 Flexible application of regulations

There is an increasing number of difficulties and missed opportunities in pressing ahead with new businesses in the fields where rapid technological development and convergence are taking place due to inapplicability or ambiguous applicability of existing regulations to such businesses.

Regarding matters including the applicability of regulations to the businesses concerned, inquire of the relevant heads of administrative agencies in advance



- The heads of administrative agencies are required to respond promptly to such inquiries in consultation with the RRC and other related heads of administrative agencies.
- Resolve difficulties in pressing ahead with businesses arising from unclear applicability of regulations & Ensure regulatory policies are made from the perspective of market and those who are subject to such regulations

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## IV. Major Amendments to BAAR



### Integrated and flexible regulatory management

#### 3 Flexible application of regulations

Introduction of 'flexible application of regulations'



- In case the RRC determines that flexible application is particularly required to deal with technological development and convergence or economic development,
- The heads of relevant administrative agencies may be advised to exempt, ease or temporarily defer the application of regulations concerned.

#### 4 Differential application of regulations

In some cases, it is inequitable for micro-business owners or small and medium-sized enterprises (SMEs) to be subject to the same regulations imposed on large companies.

Establishment of differential application of regulations

- Allow the RRC to advise the heads of central administrative agencies to consider exemption or easing of regulations imposed on micro-business owners or SMEs below a certain scale
- Improve equality of regulatory burdens & Seek ways to diversify applications of regulations

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## IV. Major Amendments to BAAR



### Improvement of regulatory quality

#### 1 Priority application of Negative Regulation System

When companies or businesses try to enter into the market or carry out business activities, sometimes they are constrained by the 'Positive Regulation System (no principles, yes exceptions)' under the previous ordinances when

Meanwhile individual ordinances have been revised mainly by the Ministry of Government Legislation (MOLEG) to introduce 'Negative Regulation System (yes principles, no exceptions)\*' but the outcome is insignificant.

#### Negative Regulation System\*

A regulatory system that lays down certain matters concerning market entry and business activities to be restricted or prohibited by statutory regulations; others not listed by this system are all permitted.

#### Expansion of Negative Regulation System

Heads of central administrative agencies

Obligate priority application of 'Negative Regulation System'

Regulatory Reform Committee

Advise application of 'Negative Regulation System'

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## IV. Major Amendments to BAAR



### Improvement of regulatory quality

#### 2 Enhancement of effectiveness of sunset provisions

According to the current BAAR, the heads of central administrative agencies are allowed to set retention or reexamination periods upon their judgement for regulations lacking obvious reasons to remain in force.

- However, many agencies have set reexamination periods to be extended automatically so that the purpose of sunset provisions is being undermined.

For regulations which lack obvious reasons to remain in force

Principle

Set retention periods & Review whether to retain or revoke them before the expiry of such periods

Exception

Allow to set reexamination periods only for those regulations for which revocation or easing are deemed necessary based on the review results of their current enforcement status

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## IV. Major Amendments to BAAR



### Improvement of regulatory transparency

#### 1 Improvement of transparency through strengthening regulatory registration

Under Article 6-1 of the current BAAR, the heads of central administrative agencies are obliged to register the title, detail, basis, handling organization, etc. of regulations under their jurisdiction with the RRC.

- Registration of regulations has not been made in time owing to indifference of agencies, unclear registration periods, etc.

- ✓ If regulations are not registered properly, regulatory reform and improvement will not be achieved; and
- ✓ it will remain unclear what burdens are to be laid upon the citizens and companies by what regulations.



Undermining legal stability



Enact the regulatory registration periods to improve the effectiveness and transparency of registration system

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## IV. Major Amendments to BAAR



### Improvement of regulatory transparency

#### 2 Prompt provision of regulatory information & Gathering more opinions on regulatory improvement

The current BAAR has an opinion submission system regarding revocation or improvement of existing regulations. However, this system is being operated perfunctorily due to lack of follow-up measures to handle submitted opinions.

Establishment of regulatory improvement claim system

- Actively gather opinions from the citizens and companies & Reflect more of such opinions in regulatory improvement
- The heads of relevant administrative agencies give responses; If the regulations in question need to be retained, the reasons must be clearly explained to the RRC.

Establishment of electronic system for integrated regulation management & Preparation of operational basis

- Establish an electronic system for integrated management of regulations in order to enhance transparency in regulatory management and provide accurate regulatory information promptly to the citizens and companies

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## IV. Major Amendments to BAAR



### Improvement of other regulatory systems

#### 1 Ex-post assessment of regulatory adequacy and effectiveness

For regulations having a great ripple effect on the economy and society, or newly established or reinforced by legislation by Assembly members, on which no regulatory impact analysis has been conducted, ex-post assessment of their adequacy and effectiveness need to be performed for improvement.



Enable the RRC to perform ex-post assessment of regulatory adequacy and effectiveness

#### 2 Revision of regulations by local governments

In principle, the current BAAR is aimed at central administrative agencies regarding registration, promulgation, establishment and reinforcement review of regulations, revision of existing regulations, etc.

- Since there is no proper management of regulations of local governments, regulatory burdens of the citizens and companies are growing due to the ordinances and regulations of local governments.



Strengthen regulatory management of local governments by obligating them to submit their regulatory revision status to the RRC via the Minister of the Interior

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# Thank You for Your Attention !









The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 1

3

# The Significance of Regulatory Policy and Background to Regulatory Reform

■ Panelists : Daechang Kang

Visiting Research Fellow, Regulatory Research Center, Korea Institute of Public  
Administration





# The Significance of Regulatory Policy and Background to Regulatory Reform (Comment)

The 1<sup>st</sup> Asian Public Governance Forum

Dr. Daechang Kang

Visiting Research Fellow

Korea Institute of Public Administration

13 October (Tues), 2015

## 1. Characteristics of Regulation

- Regulation is Pharmarcon.

by Dr. Choongryul Ryu

- [Pharmacy + Poison] at the Same Time

- Regulation: Rules Set by Gov't to Restraint Freedom or Rights of or Impose Duties on Individuals to Achieve Desirable Social Order

## 1. Characteristics of Regulation (cont)

- Why Regulate?: Due to Limitation of Self-Coordination by Citizens
- Why Regulation?: Considers Easier or Cheaper than Fiscal Policies
- Why Pharmacy?: To Achieve Desirable Social Order
- Why Poison?
  1. Regulation Is NOT Congruent to Change of Environment.
  2. Gov't Officials Are TOO Cautious.

## 2. Implications

- Regulations Are Tend to Be Created Incessantly.
- Regulations Are Tend to Die Hard by Inertia.
- We SHOULD Pursue Regulatory Reform Ceaselessly.

### 3. What to Do to Reform Regulation?

- Check Out the Change of Environment Incessantly
- Remind the Objectives of Regulations Again and Again
- Take Proactive Stance on Regulatory Reform
- Make Gov't Officials MORE Bold about Regulation

### 4. How to Approach Reform Regulation?

- Utilize Regulatory Impact Assessment (RIA) Fully in the Process of Regulatory Reform
- Reinforce Regulatory Impact Assessment (RIA)
- Strengthen Cost-Benefit Analysis for Regulation

## 5. Conclusion

- Regulation is Pharamacon.
- We SHOULD Pursue Regulatory Reform Ceaselessly.

# Thank you!

Daechang Kang (dkang@kipa.re.kr)



The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 1

4

# The Significance of Regulatory Policy and Background to Regulatory Reform

■ Panelists : Vandee Suchatkulvit

Director, Law Reform Directorate, Council of the State, Thailand







# Thailand's experiences on regulatory reform

Vandee Suchatkulvit

Director of Law Reform Section

Office of the Council of State of Thailand

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## Outline

I . Background

II. Application of RIA in Thailand

III. New approach to regulatory reform in  
Thailand

2

## Background

- Issued by the cabinet in 1988, the Rule of the Office of the Prime Minister on Matters to be considered by the Council of Ministers
- The 1988 Rule requires any government agencies submitted draft law to conduct, altogether with the proposing draft law, an analytical statement on social and economic impacts that might be caused by the proposed law

3

## Background

- In 2001, The National Law Reform Committee (NLRC) was appointed to oversee the legal reform (377 laws identified by line ministries as redundant, outdated, or in need of replacement were to be reviewed)
- In 2003, the NLRC has proposed the Cabinet to use the Regulatory Impact Analysis (RIA) as integral part of the policy making

4

## Background

- In 2005, The RIA had been annexed as a part of the Regulation on rules and Procedure for Submission of the matter to the Cabinet
- The RIA become mandatory requirements for all agencies desires to submit the proposal for legislation to the Cabinet for consideration.

5

## Application of RIA

### Key RIA Questions

- What are the objective and goals of the mission?
- Is legislation required for the achievement of the mission ?
- Is the proposed legislation duplicated with others?
- What are burdens of individual caused by the proposed legislation ? Is that legislation value for money?
- Are responsible agencies ready for the enforcement of proposed legislation?
- Is there public consultation on the proposed legislation and what are the results and responses?

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## Application of RIA

### Some problematic and limitations of RIA

- Government agencies consider the RIA process as an administrative burden
- Inadequate way to conduct RIA
- Cost-benefit analysis had never been assessed systematically
- Public consultation practice is used in some cases and less open to all interested parties
- Lack of an oversight institution
- Lack of knowledge and technical skill

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## Application of RIA

### Outcome

- The principles of Thailand's RIA are based on the OECD practice, but the quality of RIA does not meet the original purpose
- The regulatory review processes in Thailand are not yet fully developed
- RIA is not implemented because administrative capacity is poor

8

## New approach to regulatory reform

- Initiated by Law Reform Commission (LRC) with the following main objectives
  - to ease of doing business in Thailand
  - to reduce regulatory costs
  - to provide more transparency and accountability in the public governance

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## New approach to regulatory reform

### Enactment of new law

- The Licensing Facilitation Act, B.E. 2558 (2015)

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## New approaches to regulatory reform

### Key elements of Licensing Facilitation Act :

- Licensing Manual
- Review of licensing and licensing process
- Reduction of license renewal process
- Establishment of Service link Center and One Stop Service Center

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# Thank you

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The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

## session 2

# Regulatory Reform for Balanced Growth and Economic Stimulation


### ■ Speakers

**Karl von Kempis**

Head of Unit, Application of EU Law, Secretariat-General, European Commission

**Heesoon Kim**

Director, Regulatory Reform Policy Division, Office for Government Policy Coordination,  
Prime Minister's Office



### ■ Panelists

**Huda Bahweres**

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**Bui Nguyen Khanh**

Associate Professor & Deputy Director, Institute of State and Law, Vietnam Academy of  
Social Sciences, Vietnam







**Karl von Kempis**

Head of Unit, Application of EU Law, Secretariat-General, European Commission



**Heesoon Kim**

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**Huda Bahweres**

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**Bui Nguyen Khanh**

Associate Professor & Deputy Director, Institute of State and Law, Vietnam Academy of Social Sciences, Vietnam









The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 2

1

# Regulatory Reform for Balanced Growth and Economic Stimulation

■ Speakers : Karl von Kempis

Head of Unit, Application of EU Law, Secretariat-General, European Commission







## **1st Asian Public Governance Forum on Regulatory Reform Seoul October 2015**

**Session 2: Regulatory Reform for  
Balanced Growth and Economic  
Stimulation**

**EU developments**

**Karl von Kempis  
European Commission**



## **The Point of Departure**

***EUROPE 2020:***

*European Union's ten-year growth strategy.*

*It is about more than just overcoming the crisis  
which continues to afflict many of our economies.  
It is about addressing the shortcomings of our  
growth model*



## The Point of Departure

### ***EUROPE 2020:***

#### *5 TARGETS*

- **Employment**
- **R&D**
- **Climate Change and Energy Sustainability**
- **Education**
- **Fighting Poverty and Social Exclusion**



## The Point of Departure

*To translate EUROPE 2020 into action:*

*The 10 PRIORITIES of the Juncker Commission  
(at office since 2014)*

***PRIORITY ONE: New boost for jobs, Growth and Investment***





## The EU: The Union with 28 Member States

- *The EU is a unique economic and political partnership between 28 European countries*
- *Decision-taking on the level of the Union and/or the Member States according to the Subsidiary Principle: As close as possible to the Citizen*
- *Therefore: A number of key decisions to deliver on the Europe 2020 targets to be taken on EU level*
- *However: Results only possible if the Union and all Member States co-operate in close partnership*



## The EU: The Union with 28 Member States

*How does the EU manage to deliver on the 10 PRIORITIES?*

*By a wide range of policy instruments which are all built on close interaction between the Union and the Member States*



## Two Prominent Examples

### ***European Semester:***

*Implementation of the EU's economic rules*

### ***Better Regulation:***

*Designing EU policies and laws so that they achieve their objectives at minimum cost*



## 1<sup>st</sup> Example: European Semester

- Yearly cycle of coordination of economic and budgetary policies
- Created in 2010 and implemented in 2011
- Drawing on the lessons from the economic and financial crisis



## European Semester

### *The objective:*

- **Strengthen the economic and monetary union as a whole;**
- **by working together, long-term solutions are put in place to ensure stability and growth rather than quick fixes driven by short-term objective**



## European Semester

### *The Building Blocks*

- **the European Commission analyses the fiscal and structural reform policies of every Member State, provides recommendations, and monitors their implementation**
- **the Member States implement the commonly agreed policies**



## Phase 1: Start (November)

- **Annual Growth Survey:** Main features of the new jobs and growth agenda
- **Alert Mechanism:** Early warning report to detect and addresses economic trends or imbalances
- **Commission's opinion on the draft budgetary plans** of euro-area Member States



## Phase 2: Analysis (February)

- **"Country Reports"** of the Commission:
  - **In-depth review** for the concerned Member States
  - **Analysis** of the response to last year's country-specific recommendations
- 1 Country Report per Member State and one for the euro area as a whole



## Phase 3: dialogue with the Member States (March/April)

- **Bilateral meetings** between the Commission and the Member States.
- **Country visits.**
- **Member States present their reform agenda and the actions planned** to reach the Europe 2020 objectives (**national reform programmes**) and their budgetary plans.



## Phase 4: Recommendations (May)

- **Commission proposes country-specific recommendations**
  - For the euro area
  - For each Member State (except those under macroeconomic adjustment programme)
  - Basis: analysis of the Commission in the "Country Reports", dialogue with the Member States and assessment of the national programmes
  - Guidance to help Member States to improve their economic and social performance



## Main findings of the Commission (May 2015)

Growth is returning to the EU, with Europe's economies benefitting from many supporting factors at once:

- **oil prices are relatively low**
- **global growth is steady**
- **the euro has continued to depreciate**
- **economic policies in the EU are supportive of growth**



## Main findings of the Commission (May 2015)

However, these developments are short-term. Main remaining challenges:

- **unemployment still intolerably high(9.6%)**
- **Poverty and marginalisation increased**
- **High level of private and public debt continues to weigh on investment and growth in a context of persistently low growth and low inflation**
- **Large investment gap estimated at over EUR 300 bn accumulated over the past six years**
- **Trend of declining productivity growth has not yet been reversed**
- **Population ageing will have big impacts on the future labour force.**



## 2<sup>nd</sup> Example: Better Regulation for Better Results

- Designing EU policies and laws so that they achieve their objectives at minimum cost.
- Ensuring that policy is prepared, implemented and reviewed in an open, transparent manner, informed by the best available evidence
- Backed up by involving stakeholders
- Particular focus on burden reduction and SME



## What is Better Regulation?

- **Legislation/policy making that delivers objectives at least cost and burden**
- **A method - common sense way of working throughout the policy cycle to foster:**
  - high-quality initiatives that are evidence-based; with no unnecessary burdens for business/public authorities
  - transparent participation of all stakeholders;
  - initiatives that actually deliver as foreseen and remain fit for purpose.
- ***Not about weakening social or environmental standards or replacing political decisions.***



Better Regulation – Prepare New Initiative

- **Planning and political validation of each Initiative**
- **Consultation**
- **Impact Assessment**





## **PLANNING: Roadmaps/Inception Impact Assessment**

- **All EU interventions based on a logical link between the problem to be tackled (and its drivers), policy objectives and policy options – common sense!**
- **Instruments: Roadmaps and Inception Impact Assessment**
- **Why Roadmaps and Inception Impact Assessments?**
  - *First opportunity for stakeholders to see what the Commission is doing and to give feedback – credibility and buy-in at stake.*
  - *Opportunity for stakeholders to gear-up and contribute positively*
  - *Commission can seek missing information from stakeholders*



## **PLANNING: Consultation**

- **Consultation is an obligation set up in the European Treaties**
- **Consultation is a formal process by which the Commission collects input and views from stakeholders about its policies**
- **Consultation is a continuous process**
- **Formal consultations complement the Commission's broader interaction with stakeholders (e.g. meetings or exchanges or through permanent platforms for dialogue)**



## PLANNING: Consultation

### ***Public Consultation compulsory for***

- **All initiatives with Impact Assessment**
- **Evaluations**
- **Fitness Checks**

### ***Feedback on***

- **Roadmaps**
- **Commission proposals and accompanying impact assessments**
- **Draft delegated and implementing acts (planned)**



## PLANNING: Impact Assessment

### **Integrated approach**

- All initiatives with significant impacts, from policy defining proposals to implementing measures
- Economic, social and environmental impacts - All benefits and costs
- Comprehensive stakeholder consultation

### **Quality assurance by Regulatory Scrutiny Board (RSB)**

- Impact Assessment needs positive opinion of the Board for initiative to go ahead (Inter-Service Consultation)

### **Transparency**

- Publication of Impact Assessment and RSB opinions once initiative is adopted by Commission



## What are the questions an Impact Assessment should answer?

- |  |                                    |
|--|------------------------------------|
| 1. <i>What is the problem and why is it a problem?</i>       | <b>Problem def<sup>n</sup></b>     |
| 2. <i>Why should the EU act?</i>                             | <b>Subsidiarity</b>                |
| 3. <i>What should be achieved?</i>                           | <b>Objectives</b>                  |
| 4. <i>How can objectives be achieved?</i>                    | <b>Options</b>                     |
| 5. <i>What are options' eco/social/env impacts?</i>          | <b>Impacts</b>                     |
| 6. <i>What is the most effective &amp; efficient option?</i> | <b>Comparison</b>                  |
| 7. <i>How to check that objectives are achieved?</i>         | <b>Monitoring/Eval<sup>n</sup></b> |
| 8. <i>Who is affected and how</i>                            |                                    |
| 9. <i>What do stakeholders think?</i>                        |                                    |



## Better Regulation – Implementation and Application

- **Implementation Plans:**
  - Anticipate implementation problems and facilitate transposition
  - Set in place instruments to assist Member States
- **Better drafting of legal texts:** 24 official languages
- **Monitoring implementation:**
  - Legal check: Transposition and compliance assessments
  - Efficiency check: Assessment of the performance
- **Complaints and infringements**
  - Commission is Guardian of the Treaties
  - Infringements might feed into evaluation



## Better Regulation: Evaluation

### Evidence-based judgement of the extent to which an intervention has proven

- effective and efficient
- relevant given the needs and its objectives
- coherent both internally and with other EU policy interventions
- achieved EU added-value



## Better Regulation: Evaluations

### Fitness Checks:

Comprehensive evaluation covering a group of related measures in one or several policy areas.

**Example:** *Fitness Check of EU Freshwater Policy covering the 1) [Water Framework Directive](#), 2) the [Groundwater Directive](#), 3) the [Directive on Environmental Quality Standards \(EQS\)](#), 4) the [Urban Waste Water Directive](#), 5) the [Nitrates Directive](#) and 6) the [Floods Directive](#).*



## Better Regulation: Evaluation

- **Follow a clearly defined, robust methodology intended to produce objective findings**
- **Assess all significant economic, social and environmental impacts of EU interventions**
- **Ensure appropriate follow-up actions and feed into the decision-making cycle**



## More information

***European Semester:***

[http://ec.europa.eu/economy\\_finance/economic\\_governance/the\\_european\\_semester/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/the_european_semester/index_en.htm)

***Better Regulation:***

[http://ec.europa.eu/smart-regulation/index\\_en.htm](http://ec.europa.eu/smart-regulation/index_en.htm)

***Juncker Commission priorities :***

[http://ec.europa.eu/priorities/docs/pg\\_en.pdf](http://ec.europa.eu/priorities/docs/pg_en.pdf)





The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform


session 2

2

## Regulatory Reform for Balanced Growth and Economic Stimulation

■ Speakers : Heesoon Kim

Director, Regulatory Reform Policy Division,  
Office for Government Policy Coordination, Prime Minister's Office









Office for Government  
Policy Coordination

# Korea's Regulatory Reform to Stimulate Economic Growth

October 13, 2015

**01**

Introduction

**02**

Direction of Regulatory Policies

**03**

How to Reform Regulatory System

**04**

Closing Remarks

국민과 함께하는  
규제개혁

01

# Introduction

01 Introduction

국민과 함께하는  
규제개혁

## Why Regulatory Reform Now?



20,000\$

After achieving  
per capita GDP  
of \$20,000 in 2007  
**7 years of  
stagnation**



Poor consumption  
reduced investment  
lower growth rate  
**Possibility of  
permanently losing  
growth momentum**



To revitalize growth engine  
through fundamental  
changes of regulatory  
reform system

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## Stumbling Blocks of Regulatory Reform

### Over-supply of regulations

Ever-increasing regulations

### Administrative expediency

Discretionary powers of public officials

### Hidden regulation

Window guidance  
Verbal instructions, etc.

### 'Other' regulations

e.g. Assembly legislations

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## 02

## Direction of Regulatory Policies

**02 Direction of Regulatory Policies** 국민공약  
규제개혁

**01 To accelerate regulatory reform to revitalize economy and reduce constraints on citizen's economic activities**

**02 To strengthen regulations on safety and health of general public**


**Looking for better regulation**

- Regulations are products manufactured by governments
- Governments should provide the best quality products to people
- Regulatory reform is a quality assurance program for customers

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**02 Direction of Regulatory Policies** 국민공약  
규제개혁

**Decreasing the number of regulations (quantity control) → Reducing burdens or costs of regulations (quality control)**




**before**

**20% of the existing 10,000 economic regulations to be abolished by 2017**

*\*Focusing on decreasing the amount of regulations by elimination rather than by improvement*

➔



**after**

**To evaluate outcomes by reducing regulatory costs and measuring the level of perceived regulatory reform**

*\*Focusing on making regulations more reasonable and better*

## Regulatory Reform Governance

**01** To commit at the highest political level to an explicit whole-of-government policy for quality regulation

(Recommendation of the Council on Regulatory Policy and Governance, OECD 2012)

**02** Regulatory Reform Governance

- Regulatory Ministerial Meeting
- Regulatory Reform Committee (office : Regulatory Reform Office in PMO)
- Private-Public Joint Regulation Advancement Initiative

**03** Reorganizing Regulatory Reform Office (Oct. 2014) to facilitate the reform of regulatory systems and the improvement of key regulations



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# 03

## How to Reform Regulatory System

## New Approach 1: Regulatory Petition



Provide a channel of regulatory petition to people and companies through [www.better.go.kr](http://www.better.go.kr)

## Regulatory Petition Process: Explanation Procedure

### 1<sup>st</sup> step

The relevant ministry should respond to the petitioner within 14 days and see whether to accept the petition or not.

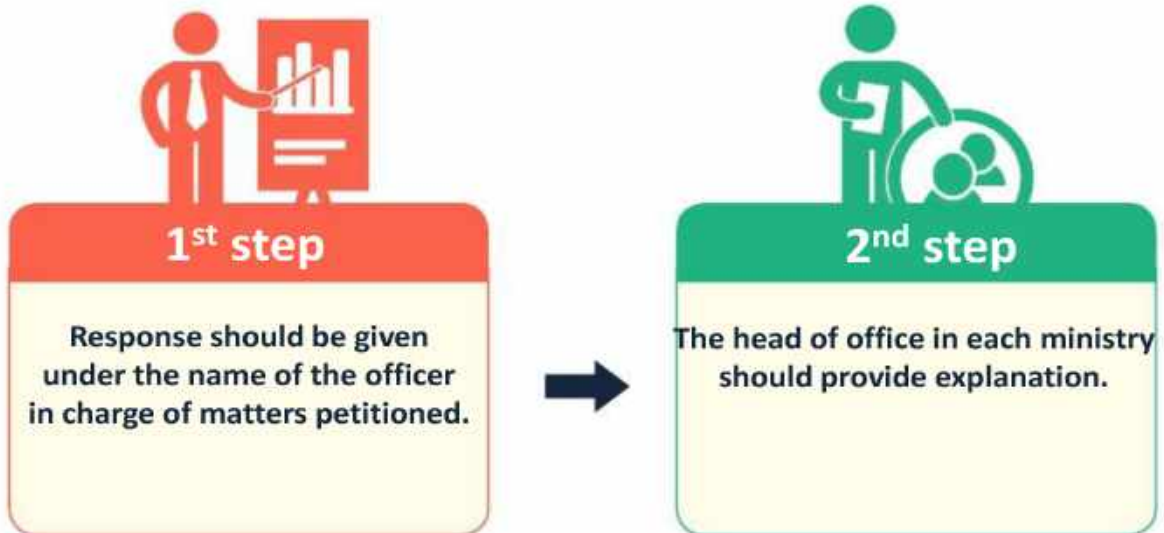
### 2<sup>nd</sup> step

If petition is not accepted, the ministry should explain to the petitioner in detail why it is not acceptable within 3 months.

### 3<sup>rd</sup> step

Regulatory Reform Committee(RRC) has the power to recommend regulatory changes to the relevant ministry if its explanation is not sufficiently justified.

## Regulatory Petition: Mandatory disclosure of person in charge



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## Regulatory Petition: Results

Petition through Internet: easy access, open to everyone



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03 How to Reform Regulatory System Regulatory Cost-in, Cost-out

## New Approach 2: Regulatory Cost-in, Cost-out

1. Introduce new regulation (cost-in)
2. Scrap existing regulation (cost-out)
3. Calculate the net cost inflicted upon the regulated
4. Run pilot projects from July 2014

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03 How to Reform Regulatory System Regulatory Cost-in, Cost-out

## Related Institutions and Roles

```

    graph TD
      A[Government Ministry  
To analyze the regulatory benefits and costs and send the results to the Center] -- 1 --> B[Regulatory Research Center  
To verify regulatory cost analysis statements]
      B -- 2 --> A
      A -- 3 --> C[Regulatory Reform Committee  
To decide whether to adopt the regulation or not]
    
```

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## Key Achievements



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## Future Plans

Pilot projects conducted in 8 ministries from July 2014

6 key ministries added for more pilot projects from April 2015

All government ministries to be applied in the near future

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03 How to Reform Regulatory System Regulatory Information Portal 국민과 함께하는 규제개혁


## New Approach 3: Regulatory Information Portal

Opening information on each regulation through website

Providing all available information on regulations

Resolving regulatory problems

Promoting regulatory reform at all times



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03 How to Reform Regulatory System Regulatory Information Portal 국민과 함께하는 규제개혁



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# Regulatory Guillotine

## outline



# Regulatory Guillotine

## 2014 Achievements

### 01

Business groups cited 153 regulations that they consider to be undue obstacles to business.

### 02

The government reviewed them closely through explanatory sessions with appropriate ministries and devised improvement plans.



- A total of 114 out of 153 proposals for regulatory reforms were accepted (74.5%).
- 23 proposals concerning the Seoul metropolitan area and employment requiring additional discussion were addressed by collecting opinions from the public.
- 16 proposals difficult to accept: proposals that further strengthen regulations, limit competition, and require modifications to regulations that were in effect after undergoing public discussion.

03 How to Reform Regulatory System
Regulatory Guillotine

## Regulatory Guillotine

### 2015 plan

**Regulatory reforms that have far-reaching economic impact and need to be implemented immediately will be addressed through the Regulatory Guillotine System in order to innovate economy (to be completed within 3 months).**

Collect proposals en bloc from economic and industrial groups -> review proposals by competent ministries -> conduct in depth reviews through ministries' explanatory meetings, etc -> Determine improvement plans at private-public joint meetings

Proposals requiring additional reviews due to differences in opinions among competent ministries and other causes were discussed intensively at the Regulatory Reform Committee, mainly by the Regulatory Reform Office, to devise improvement plans.

To identify additional necessary regulatory reforms, economic and industrial groups hold meetings on an as-need basis.

- (example) The Korean International Trade Association proposed 111 regulatory reforms concerning the fine chemical industry(Jan 15).
- Reviewed mainly by the working party on social regulation(the Regulatory Reform Office), and the working party on economic regulation(Ministry of Strategy and Finance).

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03 How to Reform Regulatory System
Regulatory Guillotine

## Regulatory Guillotine

### process

```

graph TD
    BGP[business groups proposals] --> PM[Proposal made]
    PM -- inappropriate --> NA[not applied]
    PM -- appropriate --> IN[Improvement needed]
    IN -- improvement not needed --> AR[alternative review]
    IN -- improvement unneeded --> MSA[ministries submit action plans]
    AR -- alternative unavailable --> RPC[RPC review]
    AR -- alternative proposal --> MSA
    MSA --> IDR[in-depth review]
    RPC -- alternative unavailable --> IDR
    RPC -- alternative proposal --> MSA
    IDR -- no objection --> DASP[Detailed action plans settled]
    IDR --> MSA
    DASP --> TM[take measures]
    
    subgraph T1 [within 7 days]
        IN
        MSA
    end
    
    subgraph T2 [within 20 days]
        IDR
        DASP
    end
    
    subgraph T3 [within 3 months]
        TM
    end
    
```

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## Revision of Framework Act on Administrative Regulations

To provide a legal basis to implement regulatory reforms in a sustainable and systematic manner

- 01 To pursue the revision of laws in order to stipulate methodologies for innovating the above-mentioned system
- 02 Main points: Cost-in Cost-out system, Regulatory Information Portal, Regulatory Petition, changing the purpose provision of regulatory reform, etc.
- 03 Submitted to the National Assembly in August 2014 and pending in the Political Committee



04 Closing Remarks 국회의원들은  
규제개혁을

## Next steps



**Reconcile conflicting interests: it is a matter of political decisions after all**

- Regulations concerning the Seoul metropolitan area, medical services, etc.



**Blind spots: local governments regulations, bills submitted by Assembly Members**

- Methods closely aligned with local governments (regulation delivery)
- The quality of bills submitted by Assembly Members needs to be improved by adopting regulatory reform tools such as Regulatory Impact Analysis, etc.



**Respond to environmental changes such as advances in technology and industrial convergence**

- Fin-tech regulations, convergence industry regulations, etc.

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04 Closing Remarks 국회의원들은  
규제개혁을

Better  
Regulation

# To promote a trustworthy society and a creative economy



Creative Economy

**Eliminating regulations that hinder creativity**



Trustworthy Society

**Eliminating regulations that produce distrust**

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규제개혁

**Thank you.**



Office for Government  
Policy Coordination







The 1<sup>st</sup> Asian Public Governance Forum  
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3

## Regulatory Reform for Balanced Growth and Economic Stimulation

■ Panelists : Huda Bahweres

Senior Advisor, Centre for Regulatory Reform, Indonesia







# Regulatory Reform for Economic Stimulation (Indonesia)

Huda Bahweres  
Centre for Regulatory Research  
Indonesia

## The Economic Agenda



National Development Agenda (NawaCita) is stated in the National Medium-Term Development Plan (RPJMN) 2015-2019.

The Economic Agenda : To achieve economic autonomy by developing strategic sectors and by improving competitiveness in the international market.

The Strategy: To improve high, sustainable and inclusive economic growth, through strengthening agriculture and mining sectors, developing manufacture industries, modernizing service sectors, increasing capacity in science, technology and innovation, fiscal sustainability, improving the competitiveness of SMEs and the availability of job opportunities.

Economic Growth is expected to achieve 7.1% in 2017; 7.5% in 2018 and 8% in 2019.

Income Per Capita ; to increase from (Rp .Thousands) 47,8 Juta (USD 3,918,3) in 2015 to (Rp.Thousands) 72,217 (USD 6,018.1) in 2019

## THE FOCUS



- To boost and strengthen investment.
- To build and improve infrastructure.
- To push strategic sectors; Food , Energy, maritime by maintaining sustainable natural resources and environment.
- To improve the ease of doing business and investment climate.
- To stimulate business and economic activity by minimizing administrative burdens and reducing high-cost economy.
- To develop national connectivity.
- To be ready for ASEAN Economic Community (AEC) 2015

## THE INSTRUMENTS



- Regulatory Reform is one of the instruments to deliver the policies for developing the economy (Stated in the National Medium-Term Development Plan 2015-2019).
- Regulatory reform is the key element to improve efficiency in the economy.
- The establishment of ASEAN Economic Community also underpins the necessary to accelerate bureaucratic, administrative and regulatory reform.
- Regulatory reform is also one of Indonesia's regional commitment in APEC. The Honolulu Declaration 2011 stated the APEC Members to Strengthening Good Regulatory Practices: a whole-government-approach to regulatory management, assess the impact of regulation and promote public consultation.

# Regulatory Framework

Law 12/2011 on The Formulation of Laws and Regulations with Implementing Regulation through Government Regulation No. 87/2014 covers the general principles for making laws and regulations.

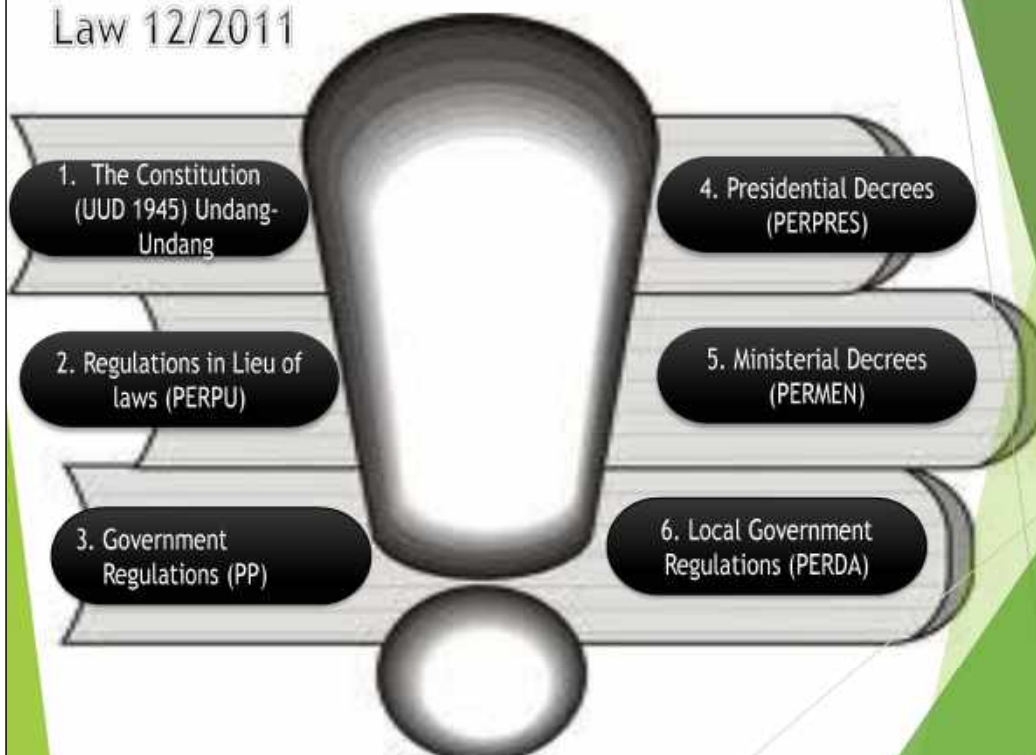
The Planning of Laws making are reflected in the Form of PROLEGNAS (National Legislative Program), a list of laws to be formulated in the respective year, prepared by Ministry of Law and Human Rights based on the Proposals from the Line Ministries and/ or proposed by Legislative.

The Planning of Local Regulations are listed in PROLEGDA (Local Legislative Program), prepared by Local Governments and the Local Legislatives, under the coordination of Ministry of Domestic Affairs.

The principles of good regulatory practices are reflected in the Law and its Implementing Regulation; transparency, accountability, fairness and public participation.

Regulatory Impact Assesment in the form of cost and benefit analysis is introduced.

## Hierarchy of Law and Regulations under Law 12/2011



## Current Regulatory Environment



- ➔ Oversupply of Regulations; Conflicting Regulations, and overlapping regulations, mostly on Local Government Regulations. This is one of the impact of decentralization of 1999.
- ➔ Misinterpretation, difficulty in the implementation and/or create unnecessary burden on the implementation.
- ➔ The planning of Laws and Local Regulations as listed in the Prolegnas and Prolegda, respectively, sometimes are lacked of proper analysis on the need to have the respective laws and regulations.
- ➔ No single authority on the regulatory management; Many agencies involved in the laws and regulations formulations; Ministries, Ministry of Law and Human Rights, Local Government, Ministry of Home Affairs, Legislatives (National and Locals).
- ➔ Increasing numbers of petitions to review the laws and Regulations. Judicial Review on Laws are conducted by the Constitution Courts, while Judicial Review on regulations under laws are the responsibility of by Supreme Courts.
- ➔ Some regulations such as Presidential Instructions and Ministerial Decrees are delivered on ad-hoc basic.

## Regulatory Reform Review by OECD 2012

The review analyzed the situation of regulatory management in Indonesia.

The “big bang” decentralization has transformed the Government of Indonesia (GOI) into one of the most decentralized policies in the world.

However, it results in much regulatory overlap and inconsistencies.

Problems in coordination among agencies responsible for the formulation of laws and regulations.

The regulatory reform in the National Medium-term Development Planning 2010-2014, focuses more on sectoral reform rather than regulatory management systems.



## OECD Recommendations

A commitment to regulatory reform is necessary now to support continuing economic development

An improvement to regulatory management is necessary for Indonesia to realise the economic opportunity.

Regulatory Reform should become central to the economic and institutional reform agenda.

The government should build on existing system to improve the coordination of regulatory management practices.

To establish clear policy frameworks and institutional responsibilities for regulatory reform, by adopting a "whole-government-approach".

This includes: responsibility for co-ordination and oversight of regulatory policy; a commitment to assess the cost-benefit of new regulatory proposals and existing regulations, and; the effective implementation of the principles of transparency and public consultation in regulatory decision making.

It should be achieved through a political commitment to direct all public sector entities, with the primary goal is to control regulations.

There is a need to have a single public sector entity as an oversight body.



## Regulatory Framework under National Development Planning 2015 -2019

The National Development Planning Board (BAPPENAS) has developed a framework for regulatory reform, with the objectives:

1. to direct the planning of laws and regulations based on the National Development Planning,
2. to improve the quality of laws and regulations.

The Steps of Regulatory Reform consist of:

1. Simplification of Regulations;
2. Re-conceptualisation of the formulation of laws and regulations;
3. Restructuring the institutional framework of regulatory making-process;
4. to improve the capacity of human resources in policy making and regulatory formulation.



## Other Actions

Developing the method of simplifying regulations.

Exploring the simple way to conduct cost and benefit analysis.

Developing the Mechanism for Public Consultation, with the assistance of APEC and OECD.

Preparing a Ministerial Decree (Ministry of Law) to adopt the Mechanism for Public Consultation.

Establishing a Regulatory Committee to control the initiatives and proposals of formulating new laws by imposing the requirement to integrate the propose laws and regulations into the planning document.



## Conclusion

The framework of regulatory policy is available based on Law 12/2011.

A lot of effort has been conducted for regulatory reform, however mostly are sectoral reform and administrative reforms.

More efforts need to be encouraged and started for regulatory policy and regulatory management.

OECD Korea Policy Centre may support and assist Indonesia in mplemeting the Recommendation of OECD Regulatory Reform Review 2012.











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## Regulatory Reform for Balanced Growth and Economic Stimulation

■ Panelists : **Bui Nguyen Khanh**

Associate Professor & Deputy Director, Institute of State and Law, Vietnam Academy of  
Social Sciences, Vietnam





**LAW ON PROMULGATION OF LEGAL  
NORMATIVE DOCUMENTS 2015 –  
AN EFFECTIVE LEGAL TOOL FOR  
REFORM REGULATORY SYSTEM OF  
VIETNAMESE GOVERNMENT**

**Assoc.Prof. Dr. Bui Nguyen Khanh  
Graduate Academy of Social Sciences**

- It is true to say that regulations are products made by the Government. Therefore, the Government should provide the people with the best quality products. Then the question is how to ensure the quality. It is not easy to find the answer.

- Sharing experience is one of the shortest ways to seek proper solution. Personally I appreciate the initiative of the OECD Korea Policy Centre to organize the first Asian Public Governance Forum on Regulatory Reform as It gives me an opportunity to learn from you.
- Frankly, I am so impressed with the way to reform regulatory system of Korean Government. Particularly three new approaches:

Three new approaches:

***The Regulatory Petition Approach with three steps.***

---

***The Regulatory Cost-in and Cost-out Approach.***

---

***The Regulatory Information Portal.***

---

**Experience of Korea**

***Firstly, the Regulatory Petition Approach with three steps. The designed procedure is transparent with time bound to respond the need to improve existing legislation or regulations. As a matter of fact, some legislation and regulations introduced by the Legislature or Executive will not be feasible or suitable with actual life after they have been translated into practice for a certain period of time.***

**This means that the public are not satisfied with the products manufactured by the Government and they make complaints about the products. As a manufacturer, the Government shall be responsible for handling the complaints. Thus this new approach is a critical and trustworthy solution.**

***Secondly, the Regulatory Cost-in and Cost-out Approach.*** This will require relevant stakeholders to conduct regulatory research to evaluate the quality of Government products and recommend the Government to scrap existing regulation or to introduce new regulation to meet demand of governance and to underpin the economic and social development of the country. I think this approach could be applied not only in other ministries of the Republic of Korea but also in other countries, and Vietnam is included.

***Thirdly, the Regulatory Information Portal.*** This approach is very meaningful because it will enable the public to access necessary information on regulations. It can be seen as one-stop-shop for regulations. This can also make a great contribution to administration reform.



**I would like to take this opportunity to share with you the experience in my country. In 2008, the Government of Vietnam decided to launch a huge project (Decision No.30 to approve the Scheme of Administrative Procedure Reform) to publish all administrative procedures online on government agencies' websites.**

**At the same time, the Government asked every ministry to review existing administrative procedures and eliminate unnecessary procedures for public services with an aim to release a burden for business and people. This program is highly appreciated by the public and business entities.**

- In 1986, the embarkation of Doimoi/Renovation, Vietnam has produced a great number of legislation and regulations.
- In 2008, the Government of Vietnam launched a huge project (Decision No.30 to approve the Scheme of Administrative Procedure Reform).
- The Law on Promulgation of Legal Normative Documents will become effective on the 1<sup>st</sup> July 2016 (The New Law).

## Experience of Vietnam

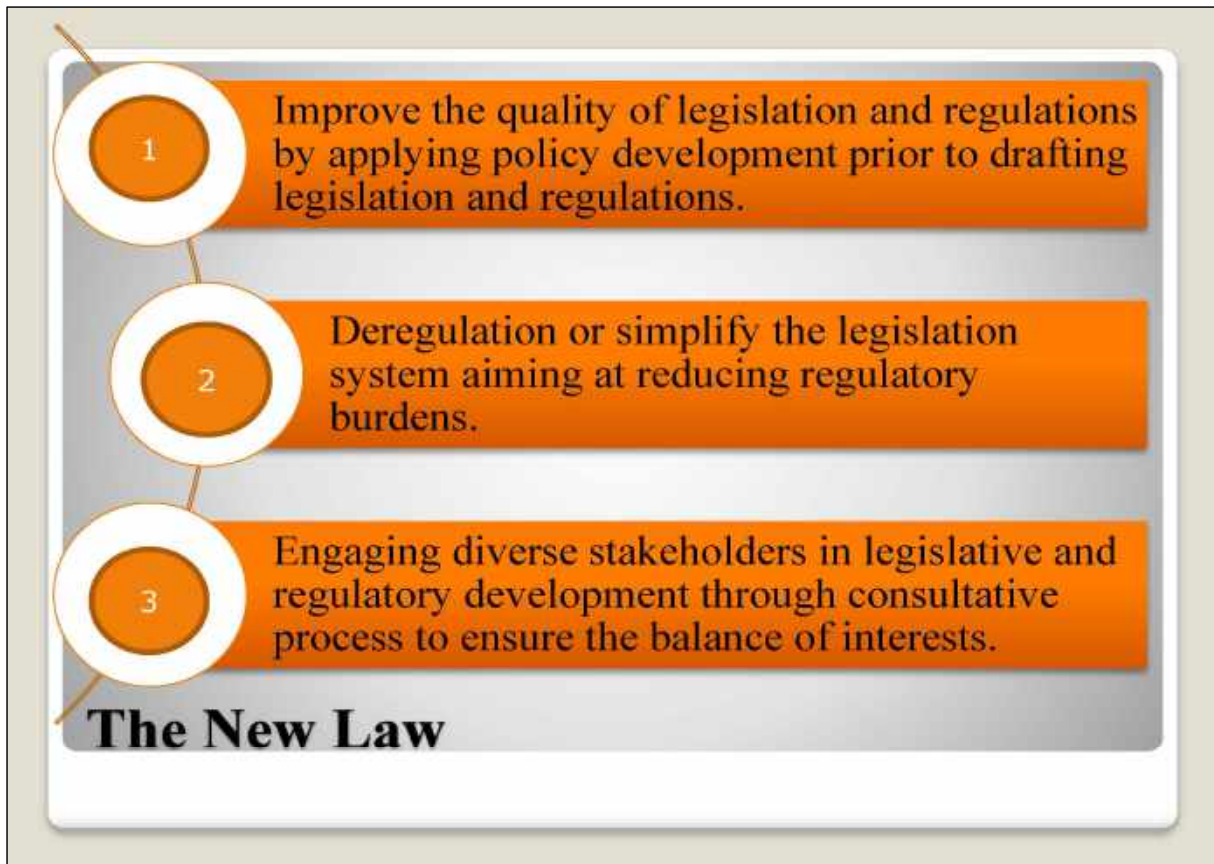
- Legislative reform in 2008

Produced a great number of legislation and regulations

Too many laws and regulations are complicated, inconsistent, duplicated and not durable

A project to revise the Law on Promulgation of Legal Normative Documents

## The experiences of Vietnam



- Reviews of the laws related to promulgation of administrative decisions.
  - Studies of experience of other countries supporting development of the draft Law.
  - Surveys and assessment of the practice of promulgation of administrative decisions in some selected provinces.
- Key tasks in 2015**

- Development and approval of main directions of the draft Law.
- Development of a Report on regulatory impact assessment of the draft Law, which will form the basis for development of the draft Law.
- Conduct impact assessment of key and fundamental policies / contents / issues of the draft Law.

### **Key tasks in 2015**

- In short, legislative and regulatory reform is in need for public governance, especially, for the member states of near future TPP and FTAs as well as for the entire the world to respond the climate change.
- This reform will bring about more competitive advantages for the nation and promote a trustworthy society and a creative economy.

### **Conclude**

Thank you!





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## session 3

# Stakeholder Engagement in Regulatory Policy

### ■ Moderator

**Pascal Schuster**

### ■ Speakers

**Pascal Schuster**

Senior project manager in charge of Better regulation and Cutting Red Tape strategy, the Prime minister's office, France

**Yong Hyeon Yang**

Associate Fellow, Research Division, Center for Regulatory Studies, Korea Development Institute

### ■ Panelists

**Peter Saunders**

First Assistant Secretary, Department of the Prime Minister and Cabinet, Australia

**Roziana HJ. Othman**

Senior Manager, Regulatory Review, Malaysia Productivity Corporation, Malaysia







Pascal Schuster

Senior project manager in charge of Better regulation and Cutting Red Tape strategy, the Prime minister's office, France



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Othman, Senior Manager, Regulatory Review, Malaysia Productivity Corporation, Malaysia









The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 3

1

## Stakeholder Engagement in Regulatory Policy

■ Speakers : **Pascal Schuster**

Senior project manager in charge of Better regulation and Cutting Red Tape strategy,  
the Prime minister's office, France







SIMPLIFICATION

**STAKEHOLDER ENGAGEMENT IN REGULATORY POLICY**

Pascal SCHUSTER,  
Prime minister's services (France)



**STAKEHOLDER ENGAGEMENT : WHAT FOR (1/2) ?**

"To allow users, who know best, to tell us what works and what doesn't work and what should be changed" – **A webmaster**

"Stakeholder engagement ? At least, it makes citizens aware of the regulations to come and potentially allows them to amend the drafts : so it can prevent protests or contentious procedures any kind" - **A quality manager**

"Makes sure that the proposed draft rule fits the needs of business and society" - **A ministry of economy senior official**

"Three goals from my point of view : 1<sup>st</sup> : identifying pending issues and solving them upstream ; 2<sup>nd</sup> : helping entrepreneurs to anticipate entry into force of new regulations ; 3<sup>rd</sup> : fostering compliance among business" – **A "S.M.E. Panel test" operator**

"stakeholder engagement should help check out whether a regulatory proposal is fit-for-purpose and promote "zero-regulation" options" - **A legal adviser**



## STAKEHOLDER ENGAGEMENT : WHAT FOR (2/2) ?

### MAIN AIMS OF STAKEHOLDER ENGAGEMENT :

- **DATA/INFORMATION** GATHERING ;
  - **GREATER PARTICIPATION OF CITIZENS** IN RULEMAKING ;
  - **ACCURATE REVIEWS** OF EXISTING REGULATIONS ;
- + COMPLIANCE ?**



## STAKEHOLDER ENGAGEMENT : WHO MONITORS ?

- **Prime minister's services, ministry for the economy**, various government departments (legal affairs)...
- ... within the French „**Choc de simplification**“ launched 2013...
- ... in line o.c. with the **O.E.C.D. recommendations, E.U. Guidelines** on Stakeholder consultation, etc.







## **STAKEHOLDER ENGAGEMENT : WAYS & MEANS**

### **THE HISTORICAL ROLE OF COLABORATIVE BODIES :**

- 500 CONSULTATIVE COMMITTEES ;
- A NEW IMPETUS WITH THE 2014 SET UP „**BUSINESS SIMPLIFICATION COMMITTEE**“.



## **STAKEHOLDER ENGAGEMENT : CONSULTATION WITH BUSINESS (1/2)**

### **STILL VOLUNTARY FOR DEPARTMENTS BUT STRONGLY RECOMMENDED & FOSTERED THROUGH :**

- VOCATIONAL TRAINING, RELEASE OF DEDICATED HANDBOOKS ;
- MANDATORY REFERENCE TO THE CONSULTATIONS IN THE IMPACT ASSESSMENTS ;
- **PROPORTIONALITY FIRST.**





## STAKEHOLDER ENGAGEMENT : CONSULTATION WITH BUSINESS (2/2)

### SEVERAL OPTIONS :

- ENGAGEMENT WITH **TRADE-ASSOCIATIONS** ;
- **DIRECT CONSULTATION** WITH ENTREPRENEURS ;
- NEW : THE „**S.M.E. PANEL TEST**“



## STAKEHOLDER ENGAGEMENT : ONLINE CONSULTATION TO SEEK CITIZENS' VIEWS

### 1. UPSTREAM :

- **PUBLIC AGENTS => ISAP 2013** : one-off & follow-up
- **USERS => „www.faire-simple-gouv.fr“** : an ongoing-process

### 2. DOWNSTREAM : *online & open consultations on draft subordinate regulations „www.legifrance.gouv.fr“*



./..



## STAKEHOLDER ENGAGEMENT : CHANGE IN MINDSET & PRACTICES NEEDED

### DRIVERS ARE AVAILABLE :

- **STRONG POLITICAL WILL ;**
- **NO OR FEW OUTSOURCING ;**
- **SYSTEMATIC FEEDBACK TO CONSULTEES**



## STAKEHOLDER ENGAGEMENT

# THANK YOU !







The 1<sup>st</sup> Asian Public Governance Forum  
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session 3

2

## Stakeholder Engagement in Regulatory Policy

■ Speakers : Yong Hyeon Yang

Associate Fellow, Research Division, Center for Regulatory Studies,  
Korea Development Institute





Session3  
Stakeholder's engagement

# How to mitigate biases in regulatory design

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Center for Regulatory Studies, Research Division

2015. 10

Korea's Leading Think Tank **KDI**

## CONTENTS

**KDI**

- I. Stakeholder Engagement in Regulatory Design**
- II. Biases in Regulatory Design**
  - ① Cost-bearer and beneficiary
  - ② Business and non-business sector
  - ③ Existing businesses and potential entrants
  - ④ Large enterprises and SMEs
  - ⑤ Characteristics of departmental tasks
  - ⑥ Intra-departmental coordination
- III. Conclusions**

## I. Stakeholder Engagement in Regulatory Design

## I. Stakeholder Engagement in Regulatory Design



### Need to collect stakeholder opinions in regulatory design

- Collect opinions through early identification of stakeholders in the regulatory design process
- Important to clearly understand the impacts of regulation by reviewing stakeholder opinions

### < OECD(2014): Positive effect of stakeholder engagement >

- Lead to higher quality of regulations based on collection of diverse ideas and opinions and improve citizens' and stakeholders' trust in government
- Increase sense of ownership among interested parties and lead to better compliance with regulations
- As a consequence, stakeholder engagement is more likely to contribute to the legitimacy of the decision making process



## I. Stakeholder Engagement in Regulatory Design



### □ Biases due to asymmetries in stakeholder engagement

- Asymmetric effects of regulation on stakeholders
  - Cost-bearer is different from beneficiary
  - Different level of compliance cost/burdens under single regulation
- Some stakeholders express their opinions more often than others
  - Failures to identify stakeholders
  - Different levels of incentives to express opinions
  - Absence of key stakeholders in public hearings
  - Absence of capacity(or agency) to arbitrate where conflicting opinions exist among stakeholders
- As a consequence, interest/opinions of particular stakeholder groups may reflect greater influence in regulatory design
  - Possibility for 'abuse' exists

### □ Need to correct these biases in regulatory design

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## II. Biases in Regulatory Design

## II. Biases in Regulatory Design

### ① Cost-bearer vs. Beneficiary



#### □ Conflicts between cost-bearers and beneficiaries

- Those who bear the costs are not those who receive the benefits
- Opinions of cost-bearers may relatively have a stronger influence
  - Costs occur immediately in monetary terms, but
  - Benefits accrue over a long period in non-monetary terms
- Leading to failures in introducing regulations with positive net social benefits

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## II. Biases in Regulatory Design

### ① Cost-bearer vs. Beneficiary



#### □ Case Study

- The Reform of Act on Allocation of Trading of Greenhouse Gas Emissions Allowances
  - Main content: CO<sub>2</sub> emissions report and certification, trading emissions rights
  - Costs: administration costs relating to verifications, use of resources in regulated-businesses (time, capital, etc.), opportunity costs (costs for purchasing extra rights due to surplus amounts of CO<sub>2</sub>)
  - Benefits: social benefits including reduced fatality and medical costs, improved productivity, reduced natural disaster, etc (Korea Institute of Public Administration, 2010)
- Benefits are accrued over a long period and are difficult to quantify

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## II. Biases in Regulatory Design

### ① Cost-bearer vs. Beneficiary



#### □ How to mitigate biases

- Evenly collect opinions through directly engaging with cost-bearers and beneficiaries in the early stages of regulatory design
  - When collecting opinions on compliance cost burdens, distinguish information on 'implementation challenges and key issues' from 'complaints'
  - Identify beneficiaries and put effort to reflect their opinions
- Decision-making after careful analysis of regulatory costs and benefits based on collection of stakeholder opinions
  - Investigate regulation's necessity, main affected groups, and the extent of its impact

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## II. Biases in Regulatory Design

### ② Business and non-business sector



#### □ Potential bias in Cost-in, Cost-out (CICO) policy

- Scope of CICO policy includes any new regulations which impose a direct net cost on business
- Regulatory design may be biased toward reducing business costs while less considerations are taken for indirect costs and benefits
- ※ UK attempts to mitigate potential bias through scrutiny of the Impact Assessment (IA)

#### □ Potential bias toward business in Korea's system

- Implementing CICO without ensuring the substantiality of Regulatory Impact Assessment (RIA) may lead to bias
- In particular, since RIA is not required for deregulations, departments may be inclined to deregulate at the expense of non-business sector under CICO

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## II. Biases in Regulatory Design

### ② Business and non-business sector



#### □ Case Study

- Reform of KS assessment certification system (Case of CICO)
  - Main content: reduced requirement standards and partially reduced provisions on assessments
  - Cost-benefit analysis: reduced costs and direct net costs from repealed provisions on assessments
- Although direct business costs are reduced citizens, the products users, (non-business sector) were less considered
  - Deregulatory action focused on direct business costs without taking into account the risks and safety of product users, and other additional costs

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## II. Biases in Regulatory Design

### ② Business and non-business sector



#### □ How to mitigate bias

- Put focus on net social economic benefit rather than on business by taking into account costs and benefits of all stakeholders through scrutiny of Regulatory Impact Assessment (RIA)
  - Collect opinions of all stakeholders(citizens, civil organizations, businesses, government) influenced by the regulation throughout steps of RIA
- ※ UK government collects stakeholder opinions from early stages of the regulatory design when conducting the IA

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## II. Biases in Regulatory Design

### ③ Existing businesses and potential entrants



#### □ Bias from omitting impacts on potential entrants

- Scope of analysis is limited to existing business while potential entrants are excluded
  - Regulatory barriers to entry may limit the reflection of potential entrants in the analysis
- Moreover existing business may influence regulatory decisions by harmonizing opinions

#### □ OECD(2011)

- Regulations that raise entry/exist costs make entry more difficult, which reduces competition to the advantage of existing business
  - i.e. unnecessarily high level of product tests, education, or skills required

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## II. Biases in Regulatory Design

### ③ Existing businesses and potential entrants



#### □ Case study

- Reform of Registration Standards of Passenger Car Transportation Services (Case of CICO)
  - Main content: increased number of funeral vehicles with minimum registration standards  
(Currently) more than 1 vehicle → (After) more than 5 vehicles(metropolitan city)/3 vehicles(cities and counties)
    - \* Applied to new entrants
  - Cost-benefit analysis: no additional costs imposed on existing businesses (provisional conclusion)
- Although no additional costs are imposed on existing businesses, entry costs for potential entrants may be increased
- Harmonized opinions among existing businesses may result in further disadvantages for potential entrants

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## II. Biases in Regulatory Design

### ③ Existing businesses and potential entrants



#### □ How to mitigate biases

- Identify possibilities of entry of potential entrants taking into account the current market structure
- Regulatory design based on direct consultation with and/or information gathering from potential market participants
  - i.e. mechanisms such as Korean government' s Regulatory Reform Sinmungo\*

\* Channel of regulatory petitions established to directly hear from citizens and to efficiently response to voices in following 3 steps:  
 “ministry responses → ministry explanation (if petition is not accepted) → recommendation on regulatory changes”

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## II. Biases in Regulatory Design

### ④ Large enterprises and SMEs



#### □ Differences in relative burden of compliance costs

- Regulations with smaller net economic costs but with higher level of burden on small and medium-sized enterprises(SMEs) are likely chosen
  - Because costs and benefits of large enterprises and those of SMEs are given the same weight
  - But even the same costs are relatively more burdensome on SMEs
- Meanwhile, regulations may include certain level of government subsidies for SMEs

#### □ Difference in absolute size of costs and benefits

- Since the absolute size of regulatory compliance costs and regulatory reform benefits of SMEs are small, their impact on regulatory decision-making process is minimal
- Therefore, regulatory decision-making is more likely to be influenced by impacts on large enterprises

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## II. Biases in Regulatory Design

### ④ Large enterprises and SMEs



#### □ Case Study

- Deregulation of Liquor Tax Law (Case of CICO)
  - Main content: reduced tax from 72% to 5% or 30% (in partial sections) and improved facility standards, administrative process and distribute channels for small beer manufacturing companies
- Increased benefits for small beer manufacturing companies and consumers and reduced benefits for large enterprises are expected
- However, since expected benefits were small, changes were made to the original proposal
  - Annual net benefit of 50 million won~240 million won expected
  - In the end, tax was reduced to 32% or 42% for small beer manufacturing companies

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## II. Biases in Regulatory Design

### ④ Large enterprises and SMEs



#### □ On the contrary, cases of deregulation in favor of SMEs

- Distribution Industry Development Act and Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises (SMEs)
  - Main content: restrictions and obligated holidays imposed on Super Supermarket(SSM)
  - Although SSM may cause failures of small and family-run stores in the neighborhood, increased unemployment and monopoly, it may also lead to increased distribution productivity, competition among distributors, and consumer benefits
- Although full economic impacts were difficult to assess due to closely intermingled costs and benefits, opinions of certain stakeholders were strongly reflected and led to regulation's implementation
  - Result focused on protecting SMEs rather than in scrutiny of RIA

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## II. Biases in Regulatory Design

### ④ Large enterprises and SMEs



#### □ How to mitigate bias

- Fully reflect the opinions of both large enterprises and SMEs taking into consideration that SMEs have less opportunities to voice their opinions in comparison to large enterprises
- Implementing RIA with relatively higher weight on costs of SMEs is desirable
- Meanwhile, standards are needed to prevent excessive government subsidies provided for SMEs

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## II. Biases in Regulatory Design

### ⑤ Characteristics of departmental tasks



#### □ Disregard for task characteristics

- Often demands made on departments to take deregulatory actions do not regard for task characteristics of the relevant department  
It may be reasonable for departments in charge of the environment, safety, welfare, and social safety network to continuously strengthen existing regulations and make new regulations
- May lead to deregulatory actions advantageous to businesses while sacrificing values that need to be protected

#### □ Case Study

- Reform on Enforcement Decree of the Ship Safety Act  
Main content: eased restriction on ship' s age(20 yrs→30 yrs), revision of regular engine–evaluation required for passenger ships (engine running time 7000 hrs → 9000 hrs), changes made to restrictions on cargo anchors on deck(lashing devices→square ropes), penalty for non–use of container attached plate, etc.
- Public safety regulation eased to maximize economic feasibility, effectiveness and to increase business profits

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## II. Biases in Regulatory Design

### ⑤ Characteristics of departmental tasks



#### □ How to mitigate bias

- Take it into account that regulatory reform may have the negative effect of undermining the purpose of the existing regulation and consider changes in enforceability of regulations as well
- Appropriate amount of regulations by the department need to be determined based on the characteristics of its tasks

If regulatory reform is enforced without regard for differing characteristics it may result in a decrease in social welfare  
Reform focused on quantification (managing number & costs of regulations) should be avoided

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## II. Biases in Regulatory Design

### ⑥ Intradepartmental coordination



#### □ Need for intradepartmental coordination

- Since divisions proposing the IN regulations differ from those proposing the OUT regulations under the Cost-in, Cost-out Policy, strong and effective coordination mechanism is needed  
Since CICO Policy restricts regulatory costs by department, all of its regulations need to be managed systematically  
Need to identify all of its regulations and coordinate demand for new regulations by its divisions accordingly  
UK: Better Regulation Executive (BRE), Better Regulation Task Force and Policy Team, Regulatory Policy Committee (RPC), Reducing Regulation Sub-Committee (RRC)

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## III. Conclusions

## III. Conclusions



### □ Keys to effective regulatory design

- Need to clearly recognize the purpose of regulatory design and pay attention to potential asymmetric effects and stakeholder bias
- Thus, measures to encourage active stakeholder engagement and regulatory support mechanisms are important to correct the bias
  - ✧ Resolving potential bias in regulatory design will not only lead to mitigating conflicts but greater regulatory compliance while increasing consensus on and trust in regulatory decisions

### III. Conclusions

#### ① Active Stakeholder Engagement



##### ❑ Channels for stakeholder engagement in Korea

- Stakeholder petitions received in pre-announcement of legislation
- Regulatory Reform Sinmungo, 'removing pricks from under the nails'
- Collecting opinions from the regulated, stakeholders, and experts prior to deciding on the preferred regulation is recommended

##### ❑ However, it can't be evaluated as enough

##### ❑ Needs to further strengthen stakeholder engagement

- Stakeholder engagement is possible in all stages of regulatory design (OECD[2014])
- Early stage of regulatory design: pursue active outreach of policy issues, focus on identifying relevant stakeholders
- Consultation stage of regulatory design: identify potential stakeholder bias, clearly recognize and understand each party's costs and benefits through public consultation and interactive communication

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### III. Conclusions

#### ② Support schemes



##### ❑ Efficient and effective control tower

- Need a mediator in order to identify potential bias in stakeholder engagement and to resolve conflicting interests
- Consider a control tower in charge of regulatory design

##### ❑ High quality Regulatory Impact Assessment (RIA)

- Need to identify costs and benefits based on diverse stakeholder opinions collected in the early stage of regulatory design
- Need to devise methodologies that fairly weigh costs and benefits of each stakeholder
- Recently, Automated Regulatory Cost-Benefit Assessment System was implemented aimed to improve quality, expertise, and efficiency of Regulatory Impact Assessment and outreach efforts to raise departmental awareness may be key to its success

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The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform



session 3

3

## Stakeholder Engagement in Regulatory Policy

■ ■ Panelists : Peter Saunders

First Assistant Secretary, Department of the Prime Minister and Cabinet, Australia







## Session 3

# Stakeholder engagement in regulatory policy: Panelist Commentary

1<sup>st</sup> Asian Public Governance Forum on Regulatory Reform  
Seoul, 14 October 2015

**Peter Saunders**  
Department of the Prime Minister and Cabinet  
Australia

<http://www.dpmc.gov.au/office-deregulation>  
[www.cuttingredtape.gov.au](http://www.cuttingredtape.gov.au)

1

## Why engage stakeholders?

- Engaging stakeholders costs time and money – why do it?
- Pascal Schuster's presentation answers the question
  - Governments need information and views from stakeholders to better evaluate impacts and make better choices – governments have no monopoly on wisdom
  - Greater participation not only gets a more informed decision and a better result but also builds consensus and legitimacy
  - Reviews of existing regulation will be much better with practical and informed input from those affected
  - Compliance with regulation is likely to be better if stakeholders have been consulted

2

## Who are stakeholders?

- Different groups – different concerns/views and interests and motivation/ capacity to participate in consultation
  - Businesses/ consumers/ lobby groups/ the general population
  - Those who are regulated/ those who benefit directly or indirectly from regulation (may be the same)
  - Current participants in an industry/ potential new entrants
  - Concentrated interests (motivated/ organised) / dispersed interests (less motivation individually, less likely to be organised)
    - Potential for bias (Yong Hyeon Yang's presentation)
  - Regulators themselves – legitimate concerns/ self interest
  - Taxpayers/voters

3

Department of the Prime Minister and Cabinet

## What are we engaging stakeholders about?

- We need to engage stakeholders on different questions
  1. On the **priorities for regulatory reform** (what are the greatest concerns of business and other stakeholders, what should governments concentrate their efforts on first?)
  2. For a **new area of regulation**,
    - engagement early with stakeholders will allow improvements in regulatory design and effectiveness and help to minimise unnecessary regulatory burden/ unintended consequences as well as informing stakeholders that new regulation is coming
    - When the new regulation is drafted, it can be tested in detail with stakeholders and optimised, balancing stakeholder views
    - When the regulation is finalised, engaging stakeholders again will inform them and assist in implementation and compliance

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Department of the Prime Minister and Cabinet



## What are we engaging stakeholders about? (2)

3. When we are reviewing existing regulation,
  - Engaging stakeholders early in regulation review will help identify whether the main issues are with the *design* or the *administration* of regulation or with both
  - Stakeholders may have better or up to date information on *effectiveness* and *costs* of the existing regulation
  - Stakeholders may have fresh ideas about
    - *Other ways to address the policy problem* the regulation is addressing e.g. behavioural techniques
    - *Less burdensome* or *more effective* regulatory design
    - Better ways to implement or encourage compliance

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Department of the Prime Minister and Cabinet

## Getting balance from stakeholder consultation

- Different groups – different interests/motivations/incentives
- Avoiding/correcting for bias – Yong Hyeon Yang’s presentation – Beneficiaries vs cost bearers
  - Need to avoid just paying attention to the squeaky wheel
  - Stakeholders views valuable but may just “talk their own book”
  - Get other views to balance; encourage debate/compromise
    - For example, the views of public interest advocacy groups may need to be sought to balance views of affected businesses on environmental or social issues
    - Potential new entrants vs incumbents (Uber)
- seek full range of views so government can decide in the public interest even if there are strong opposing views

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Department of the Prime Minister and Cabinet

## Consultation mechanisms

- High Level Business/government forums – Business Simplification Committee (France); Regulatory Reform Committee (Korea)
- Citizen engagement – Sinmungo (Korea); websites etc inviting citizens to comment or provide reform ideas [faire-simple.gouv.fr](http://faire-simple.gouv.fr)
- Regular consultations with organisations representing small and large businesses, professions and others
- Dedicated advocate bodies – [Red Tape Commissioner Victoria Australia](#)
- Consultations on particular regulatory proposals as part of RIA
  - Full public consultation – media, written comments, Parliament
  - Targeted consultation – limit to those most affected
  - Confidential consultation – very sensitive proposals
  - Post decision consultation – if earlier consultation not possible

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## Consultation through Regulatory Impact Analysis (RIA)

- Australia's RIA requirements were strengthened in 2014
- For new regulatory proposals the [Guide to Regulation](#) prescribes:
  - minimum consultation requirements
  - when different types of approach are most appropriate (e.g. public or targeted) and what forms they can take
  - best practice stakeholder consultation (e.g. consultation periods of at least 30 days)
- *Consultation with stakeholders is one of the topics explored in a Massive Online Open Course (MOOC) on RIA to be launched soon by Australia's Office of Best Practice Regulation – everyone will be able to register free of charge: <http://riamooc.com>*



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Department of the Prime Minister and Cabinet



Australian Government  
Department of the  
Prime Minister and Cabinet

## Session 3

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The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

session 3

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## Stakeholder Engagement in Regulatory Policy

■ Panelists : Roziana HJ. Othman

Senior Manager, Regulatory Review, Malaysia Productivity Corporation, Malaysia





**The First Asian Public Governance Forum on Regulatory Reform,  
13-14 Oct 2015 @ Seoul Korea**



## **Stakeholder Engagement in Regulatory Policy**

**By**  
**Roziana Othman**  
**Smart Regulation**  
**Malaysia Productivity Corporation**  
**Kuala Lumpur, Malaysia**

**MPC** - **GOOD REGULATORY PRACTICE** *for better quality*

### **CONTENT**

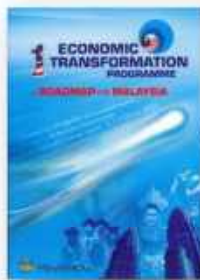
- 1. Malaysia's Scenario towards Improvement in Rule-making Process**
- 2. Importance of Public Consultation and Stakeholder Engagement**
- 3. The Guiding Principles for Public Consultation**
- 4. Stakeholder Mapping**
- 5. Public Consultation Process**
- 6. Examples of Consultations and Engagements on Good Regulatory Practices (GRP)**
- 7. Impact of Public Consultation in Regulatory Policy**

## Mandate under 10<sup>th</sup> Malaysia Plan

MPC is responsible for the conception, implementation and sustainability of modernising business regulation initiative



MPC to spearhead a comprehensive review of business regulations and improve processes and procedures to increase productivity and competitiveness of major economic sectors (*Chapter 3; pages 73-74*)



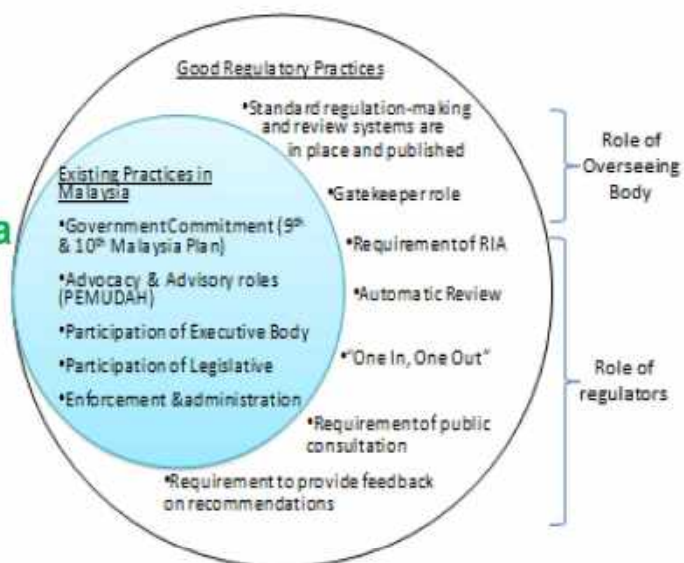
MPC will provide support to NKEAs by reviewing and recommending changes to existing regulations and policy with a view to remove unnecessary rules and compliance costs and improve the speed and ease of delivery (*Executive Summary; page 25*)

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## Comparative Analysis : Key Aspects of Quality Regulatory Management System

### Elements to Ensure Quality of Regulations

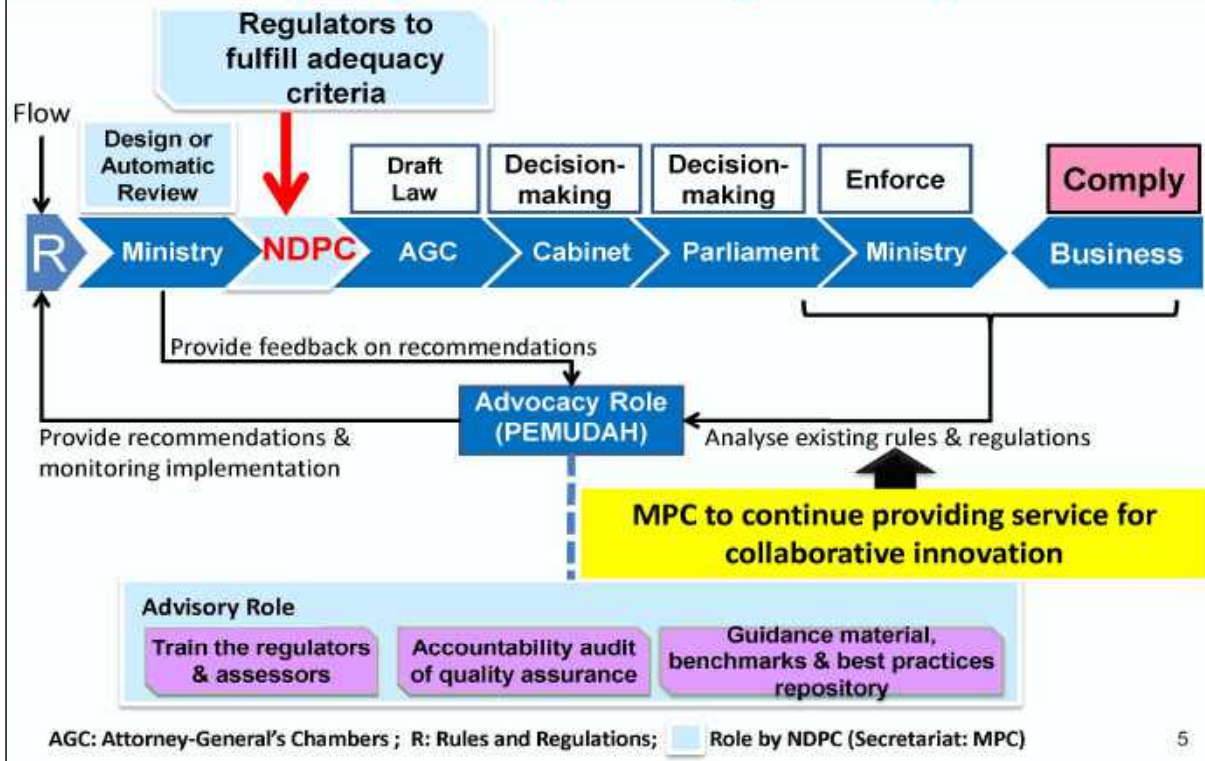
- ✓ Benchmark International **Good Regulatory Practice**
- ✓ Conform to **Adequacy Criteria**
- ✓ Requirement of **RIA**
- ✓ Public Consultation
  - **Transparency**
  - **Accountability**
- ✓ Standard Regulation-making
  - **Structured**
  - **Systematic**



4



## Improvement in the Rule-making Process (Quality Regulatory Management System)



5

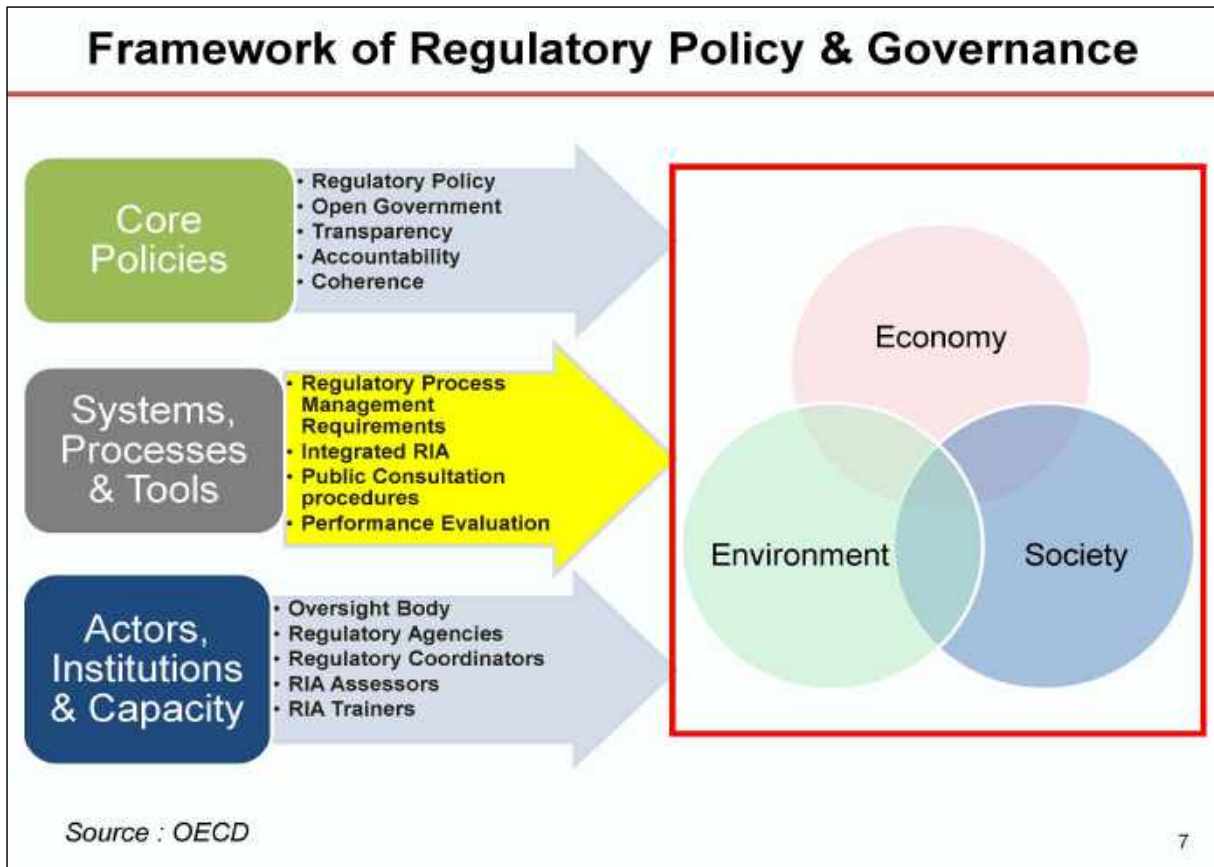
## Transformation through enhanced engagement and consultation with citizens (Business Community and the public)



### Special Taskforce to Facilitate Business

- ✓ Established on 7 February 2007
- ✓ Oversees regulatory reforms to facilitate business
- ✓ Reports directly to the Prime Minister
- ✓ Inclusive Public-Private sector collaboration

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## Documents on Regulatory Policy

**National Policy on the Development and Implementation of Regulations**

*Provides a systematic guideline based on best practices adopted from other countries*

Reference should be made to the government circular on National Policy on the Development and Implementation of Regulations issued by the Chief Secretary to the Government of Malaysia on 15 July 2013 (*Pekeliling Am Bilangan 1 Tahun 2013*)

**Best Practice Regulation Handbook**

*Tool to facilitate the implementation of Best Practice Regulation system and provides detailed guidance for the implementation*

**Quick Reference Best Practice Regulation Handbook**

*Summarised version of Best Practice Regulation*

**Guideline on Public Consultation Procedure**

*Establish guiding principles and requirements for carrying out an adequate public consultation exercise*

## Importance of Public Consultation and Stakeholder Engagement

Two-way process to seek and receive views of stakeholders, business, affected parties and general public on proposed changes in policy

Stakeholder, experts, regulators, Business community, Employees, NGOs, Interest groups, Citizen

- Online platforms operate 24/7
- Website
- Portal
- Social media



- ✓ Promotes transparency and accountability
- ✓ Improves awareness and understanding
- ✓ Encourages public ownership and commitment

- As early as possible - Integral part of RIA process
- Informal dialogue prior to a more formal consultation to obtain initial feedback & gain an understanding of the issues
- Early stage of impact assessment to gather inputs
- Various stages of the policy making process

**MPC** **Public Consultation through RIS Portal**

Home RIA Registration News & Events Article & References Reports Survey FAQ Contact Us

GRP Performance

Home **Public Consultations**

Public Consultation is a platform that enables Malaysian citizens to provide feedback on RIS topics. Please select any of the titles listed below to continue.

Public Announcement: PUBLIC CONSULTATION ON REDUCING THE TIME TAKEN TO PAY LABOUR TAX IN MALAYSIA

Posted on November 19, 2014 by admin

Focus Group of Paying Taxes (FGPT) under Special Task Force to Facilitate Business (PEMUDAH) is seeking the public's feedback on the initiative for SMEs to embark on a full fledge Bank Payroll System to prepare, file and pay labour taxes. Thus, members of the public, business community and related stakeholders...[Read More](#)

Guideline on Public Consultation Procedures

Posted on October 17, 2014 by admin

**POSITIVE PUBLIC ACCEPTANCE ON DEVELOPMENT OF NATIONAL REGULATION THROUGH PUBLIC CONSULTATION**

Public consultation is a structured effort to improve national policy

<http://ris.mpc.gov.my>

## Elements of Regulatory Impact Analysis (RIA)



1. Identify the Problem or Issues
2. Explain the Objectives
3. Identify a Range of Alternative Options (Regulatory and Non Regulatory)



4. Provide Adequate Impact Analysis (Cost, Benefits and Risks)



5. Describe How Consultation was Conducted
6. Clearly State Conclusion and Recommended Option
7. Provide Strategy to Implement and Review

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## The Guiding Principles for Public Consultation

- Principle 1 : Transparency with accessibility
- Principle 2 : Accountability
- Principle 3 : Commitment
- Principle 4 : Inclusiveness that is equitable
- Principle 5 : Timely and informative
- Principle 6 : Integrity with mutual respect



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# Stakeholder Mapping



- Step 1** Start with long list of stakeholders
- Step 2** Prepare Influence-Interest Matrix to target stakeholders by degree of interest and degree of influence
- Step 3** Identify where capacity building is needed for effective stakeholder participation and highlight gaps in stakeholders

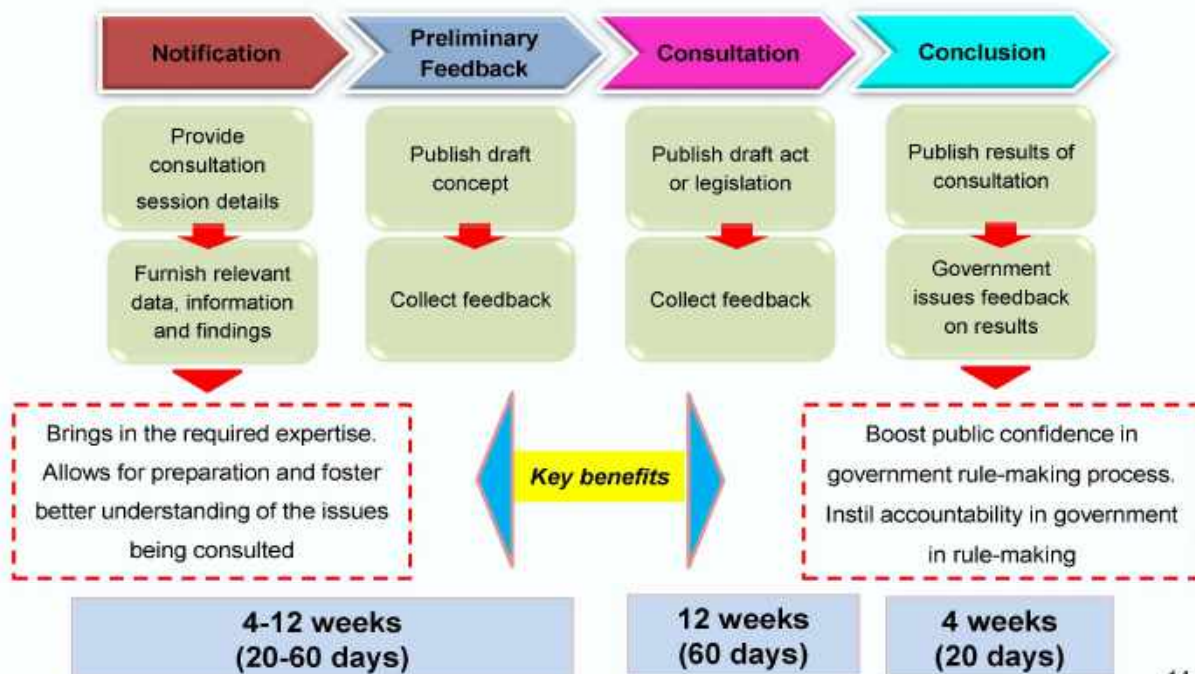
## Influence-Interest Matrix

Influence/Interest	Low Influence	High Influence
Low Stakes (concerned)	Lowest priority stakeholder group	Useful for decision and opinion formulation
High Stakes (implicated)	Important stakeholder group (perhaps needing empowerment)	Most critical stakeholder group

Source : Jacobs, Cordova and Associates

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# Public Consultation Process



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### Consultation and Engagement with Industries on GRP



- **Removing unnecessary rules**
- **Reduce cumbersome and bureaucratic procedures**
- **Lowering regulatory burden allows companies to operate more efficiently**
- **Reduce compliance cost**
- **Assess the impact on economy**

**We need business community and Citizen to tell us their regulatory problems and participate in public consultation**

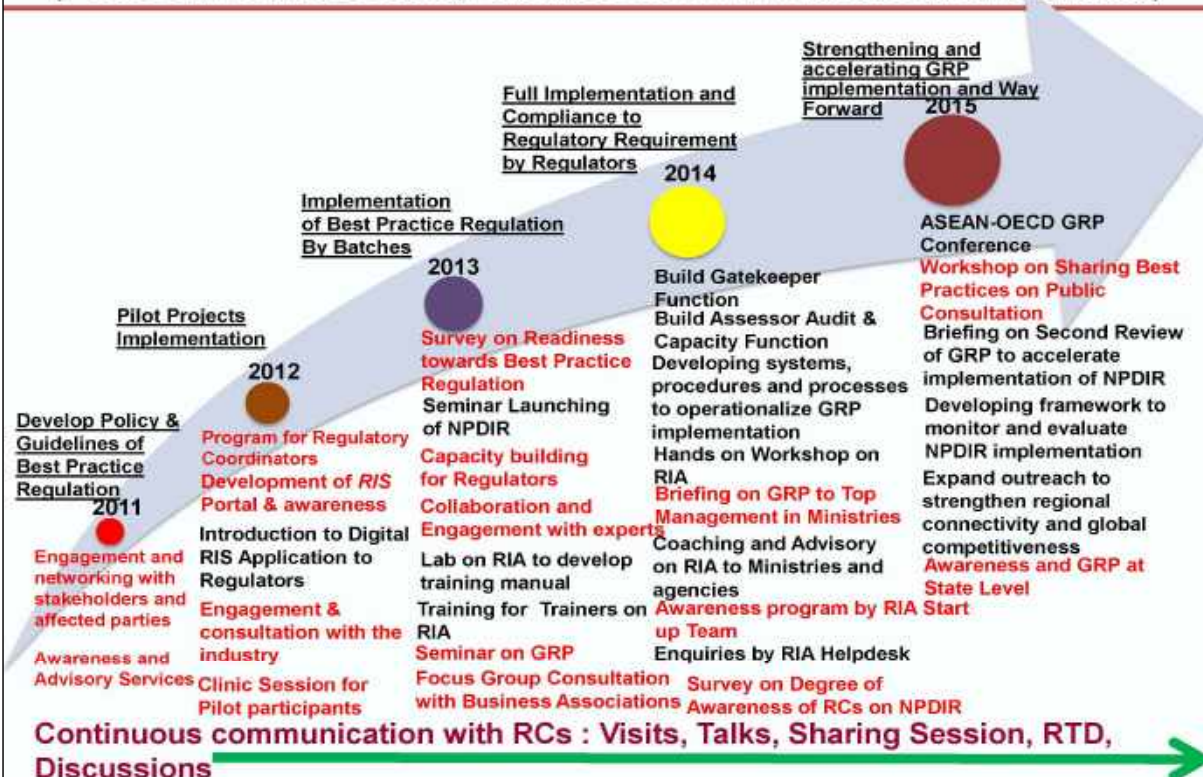
## Engagement and Networking on GRP

1. MPC is working with other agencies such as Malaysian Administrative Modernisation and Management Planning Unit (MAMPU), National Institute of Public Administration (INTAN), Attorney General's Chambers (AGC) under the ambit of the Special Task Force to Facilitate Business (PEMUDAH).
2. Engagements were also done with experts of international organisations e.g. Regulatory Reform Group, The Netherlands, Office of Best Practice Regulation (OBPR) Australia, Australian Government Productivity Commission (AGPC), Regulatory Impact Assessment Team (New Zealand Treasury) and Jacobs, Cordova and Associates to acquire expertise assistance.
3. Collaboration with Organisation for Economic Cooperation and Development (OECD) to undertake full implementation of GRP has completed.



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### Roadmap of GRP Implementation (Focus on Public Sectors, Business Communities & Citizen-centered)



## Impact of Stakeholders Engagement in Regulatory Policy

### RED TAPE CHALLENGE AT FEDERAL LEVEL

**RM729million Compliance Cost**

SPR Methodology

Abolish  
32

AS IS  
735

TO BE  
454

### RED TAPE CHALLENGE AT STATE LEVEL

**2,546 licenses were reviewed**

**Compliance Cost RM1.7 billion**

Reduce Approval Time

Reduce Procedures

Increase Process Efficiency

Reduce Waiting Time

Reduce Compliance Cost

### REDUCING UNNECESSARY REGULATORY BURDEN

Industry	: Oil & Gas	<b>Reduce 89% Processing time</b>
Subject	: Free Zone Customs Cargo Clearance	
Compliance cost saving	: RM150million	
RURB	: Streamline processes	

	Time Saving	Procedure
Before	: 265 minutes	5
After	: 30 minutes	3

### REDUCING UNNECESSARY REGULATORY BURDEN

Industry	: Transportation	<b>Reduce 75% Processing time</b>
Subject	: Commercial Vehicle Licensing	
Compliance cost savings	: RM61million	
RURB	: Remove Unnecessary Process and Documentations	

	Time Saving	Procedure
Before	: 4 months	8
After	: < 1 month	5

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## Like to Know More?

- Visit MPC Website: [www.mpc.gov.my](http://www.mpc.gov.my)
- Visit RIS Portal: [ris.mpc.gov.my](http://ris.mpc.gov.my)
- E-mail: [regulatoryreview@mpc.gov.my](mailto:regulatoryreview@mpc.gov.my)

- MPC offers the following services to the ministries and agencies:
  - 1 ½ day Hands-on Workshop on RIA
  - RIA Clinics and Coaching Session
  - RIS Assessment





The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform

## session 4

# Assessing the Socio-Economic Impact of Regulations


### ■ Moderator

**Filippo Cavassini**

### ■ Speakers

**Filippo Cavassini**

Policy Researcher and Adviser, Regulatory Policy Division, Public Governance and Territorial Development Directorate, OECD



**Jonghan Lee**

Director Regulatory Research Center, Korea Institute of Public Administration

### ■ Panelists

**Ariunjargal Tsedenbal**

Senior Officer, Legal Reform Policy Department, Ministry of Justice, Mongolia





Filippo Cavassini

Policy Researcher and Adviser, Regulatory Policy Division, Public Governance and Territorial Development Directorate, OECD



Jonghan Lee

Director, Regulatory Research Center, Korea Institute of Public Administration







The 1<sup>st</sup> Asian Public Governance Forum  
on Regulatory Reform


session 4

1

# Assessing the Socio-Economic Impact of Regulations

■ Speakers : **Filippo Cavassini**

Policy Researcher and Adviser, Regulatory Policy Division,  
Public Governance and Territorial Development Directorate, OECD







# REGULATORY IMPACT ASSESSMENT KEY TRENDS

Filippo Cavassini  
Policy Adviser, Regulatory Policy Division  
Public Governance and Territorial Development Directorate

1<sup>st</sup> Asian Public Governance Forum on Regulatory Reform  
Seoul, 13-14 October 2015  
Session 4



## 2012 Recommendation on Regulatory Policy and Governance



Adopt *ex ante* impact assessment practices:

- **proportional** to the significance of the regulation
- include **benefit cost analyses** that consider the welfare impacts of regulation
- take into account **economic, social and environmental impacts**
- identify **who is likely to benefit and who is likely to bear costs**

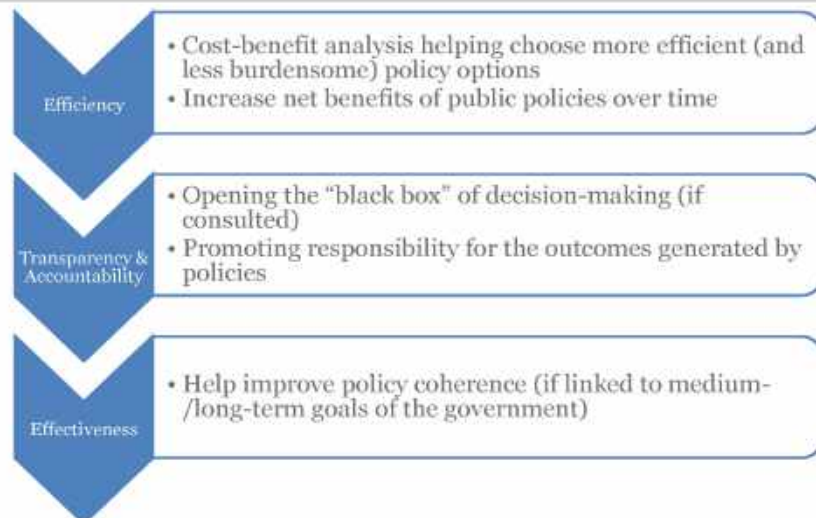
<http://www.oecd.org/gov/regulatory-policy/2012-recommendation.htm>

## What is RIA?



3

## Why is RIA important?



4





## Key RIA Steps



1. Analysis of status quo
2. Identification of need for regulation
3. Analysis of alternative policy options
4. Consultation
5. Collection of information
6. Identification of preferred option
7. Detailed cost-benefit analysis
8. Input to drafting

5



## RIA mechanics

### Requirements

- Thresholds/triage
- Analytical scope
- Consultation

### Methodology

- Cost-benefit analysis
- Cost-effectiveness analysis
- Multi-criteria analysis

### Checks

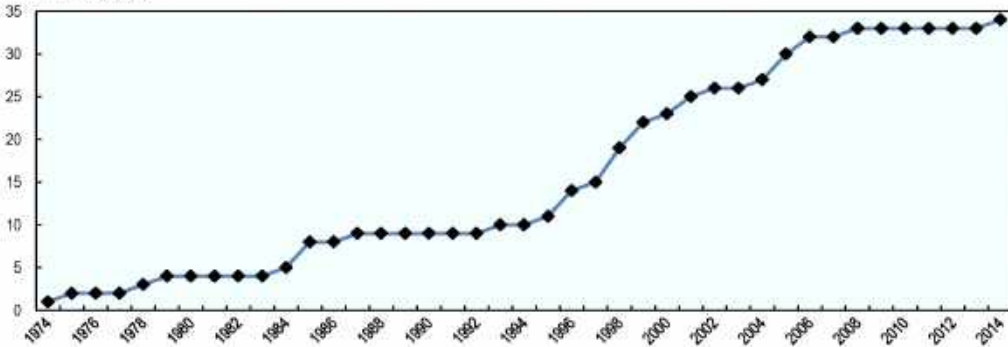
- Within drafting ministry
- Outside drafting ministry
- Independent body

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## RIA continuously gaining importance across OECD countries

Number of jurisdictions



Source: 2015 Regulatory Policy Outlook (forthcoming).

**CONFIDENTIAL**

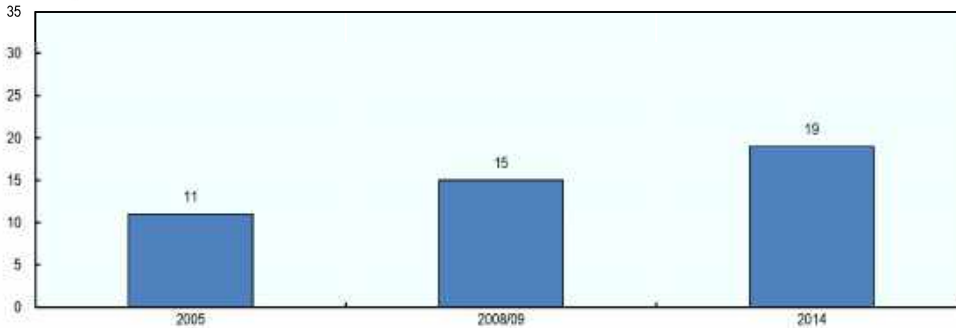
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## Parliaments taking an increasing interest in RIA

Number of jurisdictions with a parliamentary body responsible for regulatory policy

Number of jurisdictions



Source: 2015 Regulatory Policy Outlook (forthcoming).

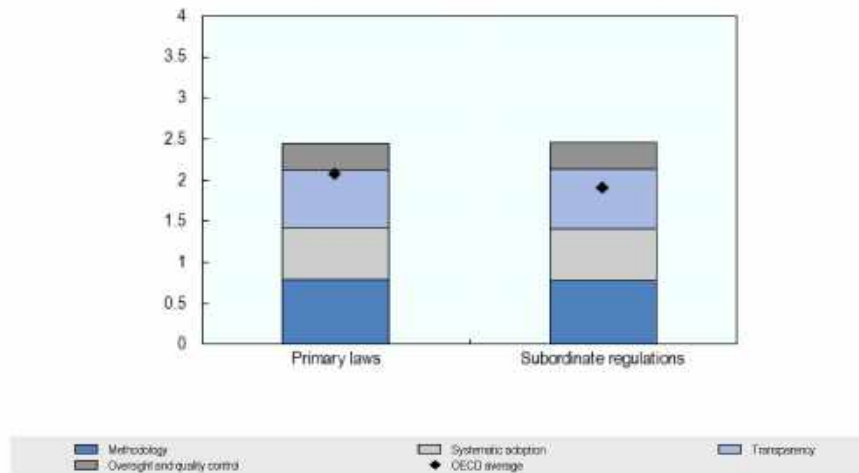
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## RIA in Korea

Regulatory Impact Assessment (RIA)



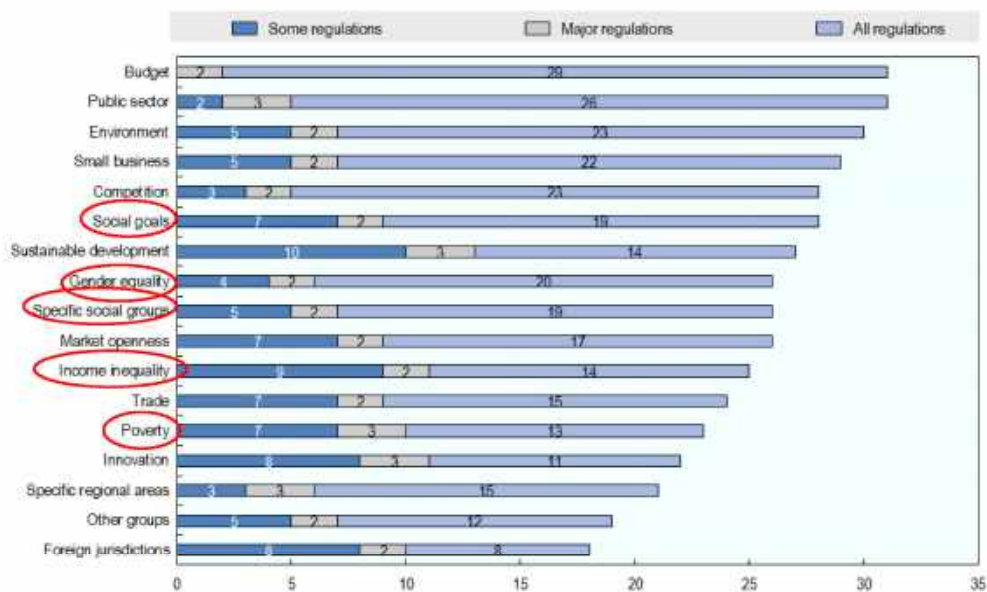
Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Assessing impacts on budget and costs (some focus on inclusion)



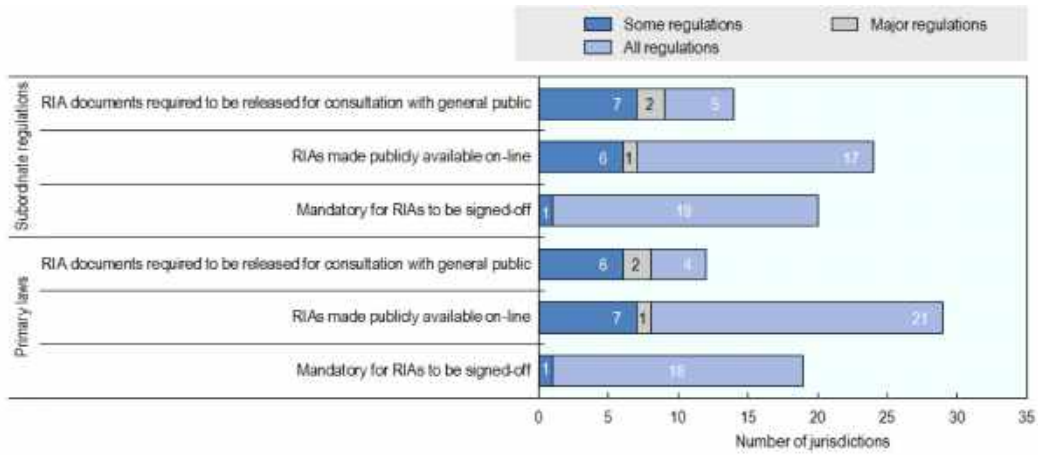
Source: 2015 Regulatory Policy Outlook (forthcoming).

**CONFIDENTIAL**

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## RIA could be more widely consulted



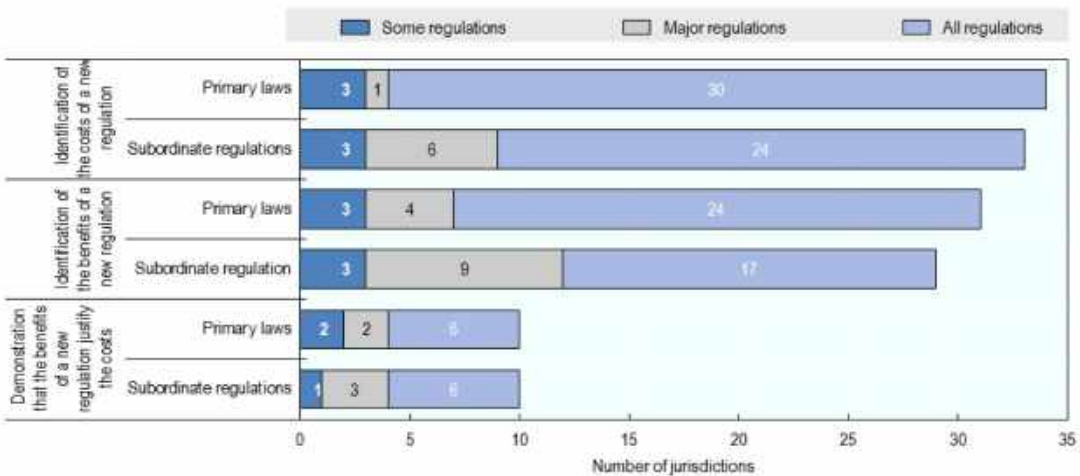
Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Net benefits could be systematically identified



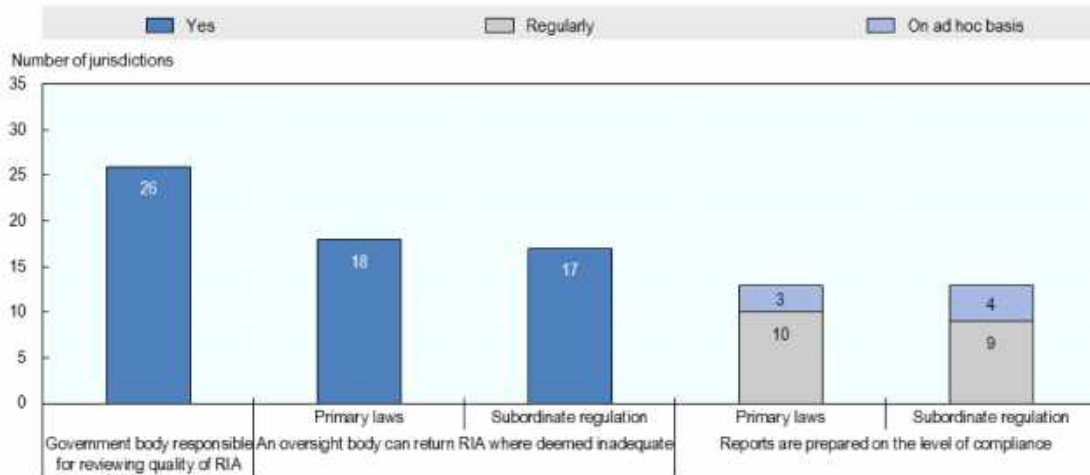
Source: 2015 Regulatory Policy Outlook (forthcoming).

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## Stronger challenging functions could ensure that regulation is “fit-for-purpose”



Source: 2015 Regulatory Policy Outlook (forthcoming).

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## RIA - closing the implementation gap

- Most RIA processes would need to be ***better integrated in the policy-making process (at an early stage)***
- Many countries are pondering issue of ***proportionality***
- The ***systematic quantification of cost and benefits*** is not widespread
- ***Requirement to consult*** on RIA is still evolving
- The framework of ***central oversight*** varies considerably
- Overall, ***challenge function*** remains weak across OECD



## Further information

- [Regulatory Policy Outlook](#) (forthcoming)
- [Regulatory Policy in Perspective: A Reader's Companion to the OECD Regulatory Policy Outlook, Chapter 2: RIA and regulatory policy](#) (forthcoming)
- [Implementing Good Regulatory Practice in Malaysia](#) (2015)
- [Sustainability in Impact Assessments: A Review of Impact Assessment Systems in Selected OECD Countries and the European Commission](#) (2012)
- [Integrating the Environment in Regulatory Impact Assessments](#) (2011)
- [Regulatory Impact Analysis: A Tool for Policy Coherence](#) (2009)
- [Introductory Handbook for Undertaking Regulatory Impact Analysis](#) (2008)
- [Building an Institutional Framework for Regulatory Impact Analysis: Guidance for Policy Makers](#) (2008)
- [Indicators of Regulatory Management Systems](#) (2007)
- [RIA in OECD Countries and Challenges for Developing Countries](#) (2005)

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# THANK YOU!

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## Assessing the Socio-Economic Impact of Regulations

■ Speakers : Jonghan Lee

Director Regulatory Research Center, Korea Institute of Public Administration







# Economic impact of regulatory policy and use of Regulatory Indicator

Jong-Han Lee

Presentation to APG Forum on Regulatory Reform  
14 October 2015  
Seoul, Korea

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## Contents

### Korean Cost-In, Cost-Out

1. Introduction
2. OECD regulatory indicators
3. World Bank regulatory indicators
4. Korea in regulatory indicators
5. Industrial regulatory indicator

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# INTRODUCTION

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## Introduction

- How to measure economic impact of regulatory reform
  - Intended consequence of regulatory reform: improvement of economic efficiency
  - Policy objective: reducing regulatory burden on businesses and stimulating growth of GDP
  - Regulatory management: ongoing control over regulatory flow, systematic revision of regulatory stock
- How to evaluate regulatory policy
  - Contingent regulatory reform to ongoing regulatory policy
  - Regulatory policy as a governance: “the process by which government, when identifying a policy objective, decides whether to use regulation as a policy instrument, and proceeds to draft and adopt a regulation through evidence-based decision making(OECD, 2011)”
  - Regulatory policy encompassing overall process of regulatory management
  - Complexity in evaluating regulatory policy: what is pertinent criteria to evaluate regulatory policy

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## Introduction

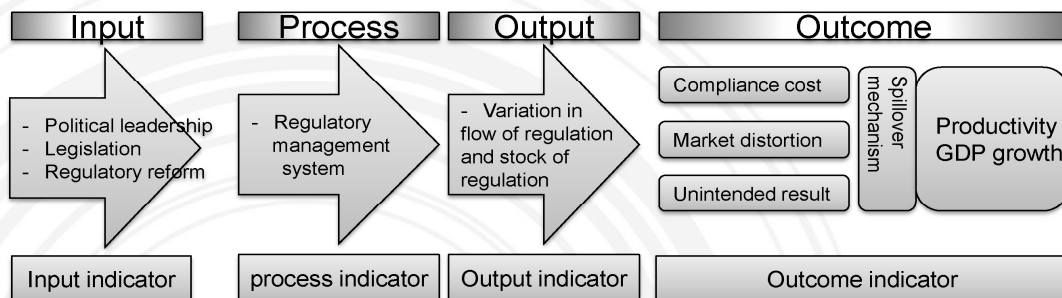
### ▪ Evaluating performance of regulatory policy

Objective Subject of evaluation	Policy Implementing performance	Economic performance
Individual Regulation	Regulatory life cycle analysis(ex post) Regulatory reform case analysis(ex post)	Regulatory Impact Analysis(ex ante) Static equilibrium analysis(ex ante/ex post)
Collective Regulation	Government performance evaluation(ex post)	Econometric analysis(ex post)

- Policy implementing performance: To the overall process of policy implementation, evaluation logic model applies with properly set policy objective
- Economic performance: Evaluating economic consequence of regulatory policy by measuring GDP growth

## Introduction

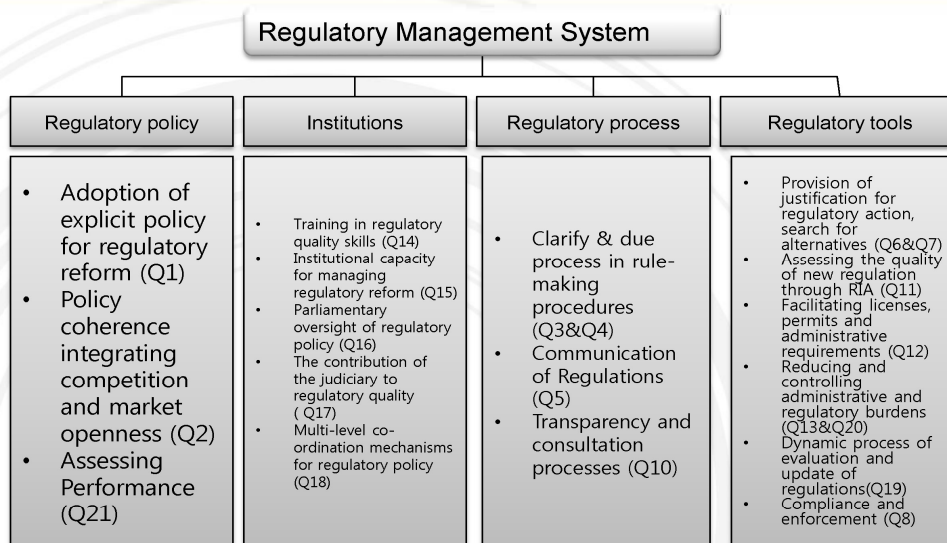
### ▪ Regulatory policy life cycle



- Proper indicators needed to evaluate whole policy process
- Evaluating economic performance needs measuring output and outcome indicators
- Various regulatory indicators produced to compare regulatory performance between nations
- Specifically output oriented regulatory indicators need to be developed to measure economic impact of regulatory policy

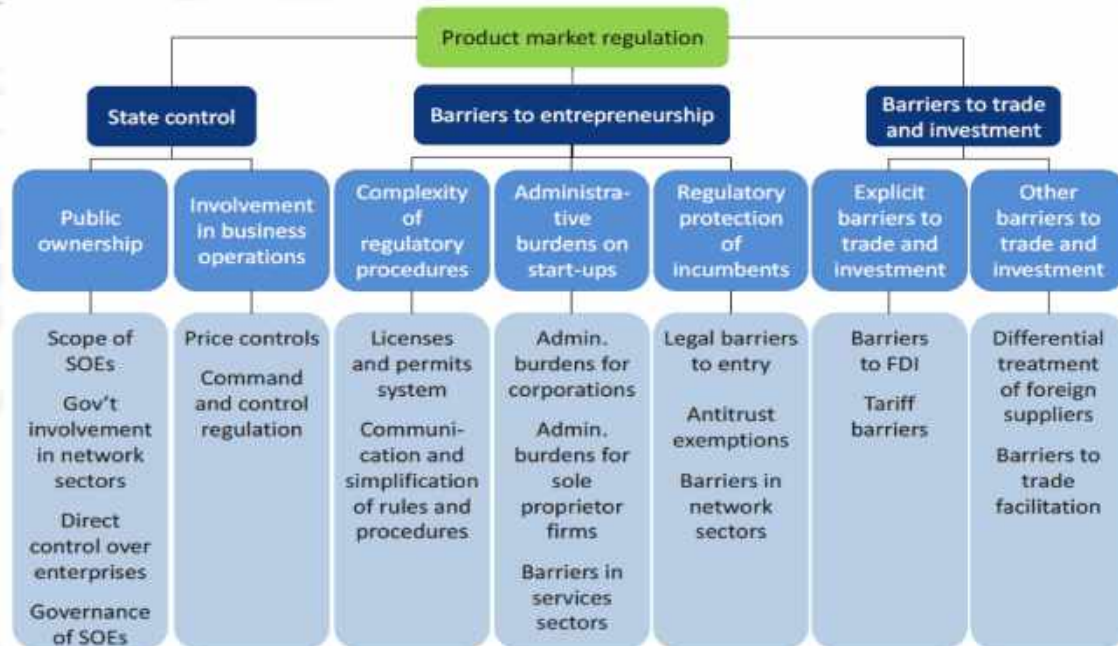
# OECD REGULATORY INDICATORS

## OECD RMS Indicator



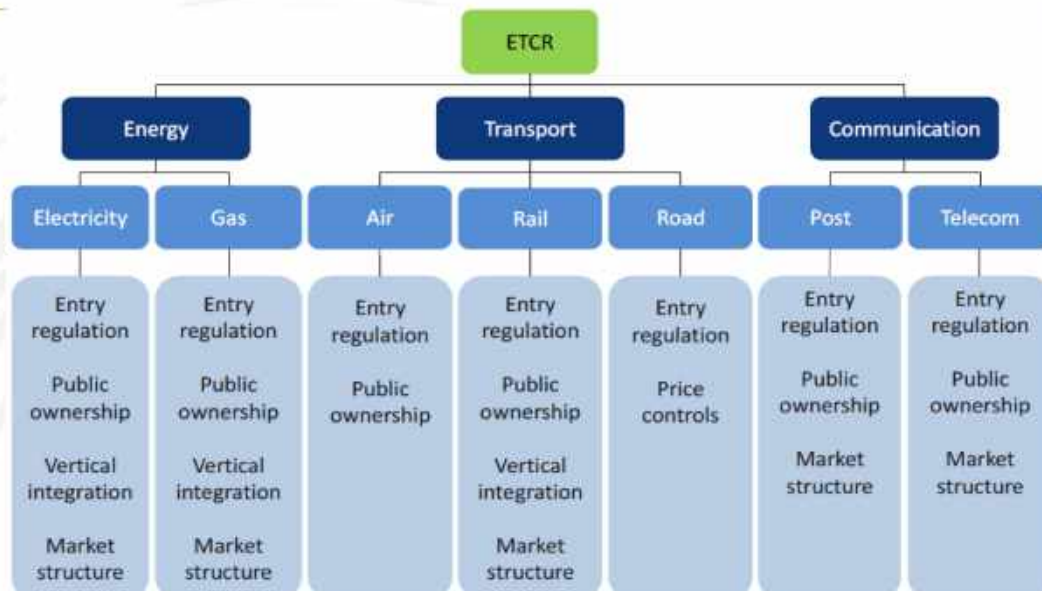
- RMS indicator is constructed to ensure OECD member countries' regulatory quality management based on checklist survey
  - Useful for comparing regulatory management system between OECD countries and its evolution

## OECD PMR Indicator



- PMR measures economy-wide regulatory intensity based on hard data rather than soft data

## OECD NMR(ETCR) Indicator



- Energy, transport, and communication sector's regulatory intensity is measured based on survey data

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## OECD NMR(PSR+RDR) Indicator

Professional services


Legal		Accounting		Engineering		Architecture	
Entry regulation	Conduct regulation	Entry regulation	Conduct regulation	Entry regulation	Conduct regulation	Entry regulation	Conduct regulation
(Shared) exclusive rights	Prices & fees	(Shared) exclusive rights	Prices & fees	(Shared) exclusive rights	Prices & fees	(Shared) exclusive rights	Prices & fees
Education requirements	Marketing/advertising	Education requirements	Marketing/advertising	Education requirements	Marketing/advertising	Education requirements	Marketing/advertising
Compulsory chamber membership	Form of business	Compulsory chamber membership	Form of business	Compulsory chamber membership	Form of business	Compulsory chamber membership	Form of business
Quotas	Inter-professional cooperation	Quotas	Inter-professional cooperation	Quotas	Inter-professional cooperation	Quotas	Inter-professional cooperation

- NMR indicator consist of anti competitive regulation in network industry and service sector like professional services and retail distribution
- Retail distribution indicator consist of 6 sub indicator: registration & licensing, special regulation of large outlets, protection of existing firms, regulation of shop opening hours, price controls, promotion/discounts

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# WORLD BANK REGULATORY INDICATORS

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## World Bank Doing Business Indicator

### Complexity and cost of regulatory processes

Starting a business	Procedure, time, cost and paid-in minimum capital to start a limited liability company
Dealing with construction permits	Procedure, time and cost to complete all formalities to build a warehouse
Getting electricity	Procedure, time and cost to get connected to the electrical grid
Registering property	Procedure, time and cost to transfer a property
Paying taxes	Payment, time and total tax rate for a firm to comply with all tax Regulations
Trading across borders	Documents, time and cost to export and import by seaport

### Strength of legal institutions

Getting credit	Movable collateral laws and credit information systems
Protecting minority investors	Minority shareholders' rights in related-party transactions and in corporate governance
Enforcing contracts	Procedures, time and cost to resolve a commercial dispute
Resolving insolvency	Time, cost, outcome and recovery rate for a commercial insolvency and the strength of the insolvency legal framework
Labor market regulation	Flexibility in employment regulation, benefits for workers and labor dispute resolution

- Since 2004, Doing Business indicator enlarged survey topics and target nations
  - In 2004, 5 topics with 133 nations surveyed. In 2012 11 topics with 183 surveyed
  - Specifically designed to compare ease of doing business between surveyed nations
  - Also useful to compare business regulation of each nation states

## World Bank Doing Business Indicator

Feature	Advantage	Limitations
Use of standardized case scenarios	Makes the data comparable across economies and the methodology transparent	Reduces the scope of the data and means that only regulatory reforms in the areas measured can be systematically traced
Focus on largest business city	Makes the data collection manageable(cost-effective) and the data comparable	Reduces the representativeness of the data for an economy if there are significant differences across locations
Reliance on expert respondents	Ensures that the data reflect the knowledge of those with the most experience in conducting the types of transactions measured	Results in indicators that do not measure the variation in experiences among entrepreneurs

- Advantage and limitation of Doing Business methodology gives more clear idea to measure economic impact of regulatory policy
  - Standardized case scenario makes it easy to produce necessary regulatory data by focusing survey only on standardized case not on all cases concerned
  - Reduced scope of data is not a limit because not all regulatory cases need to be examined. Focusing target is efficient under the given time and money constraints

## World Bank Governance Indicator

- Governance indicator composed of 6 dimensions
  - Voice and accountability
  - Political stability
  - Government effectiveness
  - Regulatory quality
  - Rule of law
  - Control of corruption
- Since 1996, produced every 2 years, since 2002, produced annually
- Regulatory quality measures frequency of distorting market policies like price controls, improper banking supervision, and onerous regulatory burdens on business
- Unobserved Component Model(UCM) is used to eliminate heterogeneity in the process of weighting different results of various institution's survey data
- Most of data used to produce regulatory quality data are based on subjective survey data

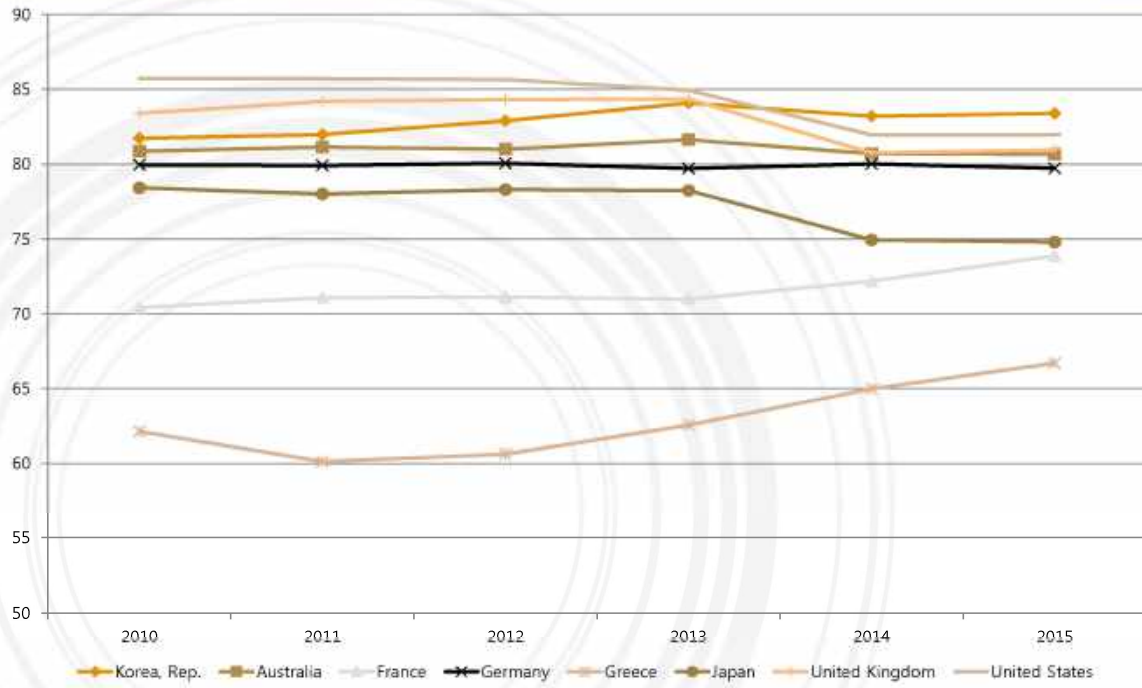
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## KOREA IN REGULATORY INDICATORS

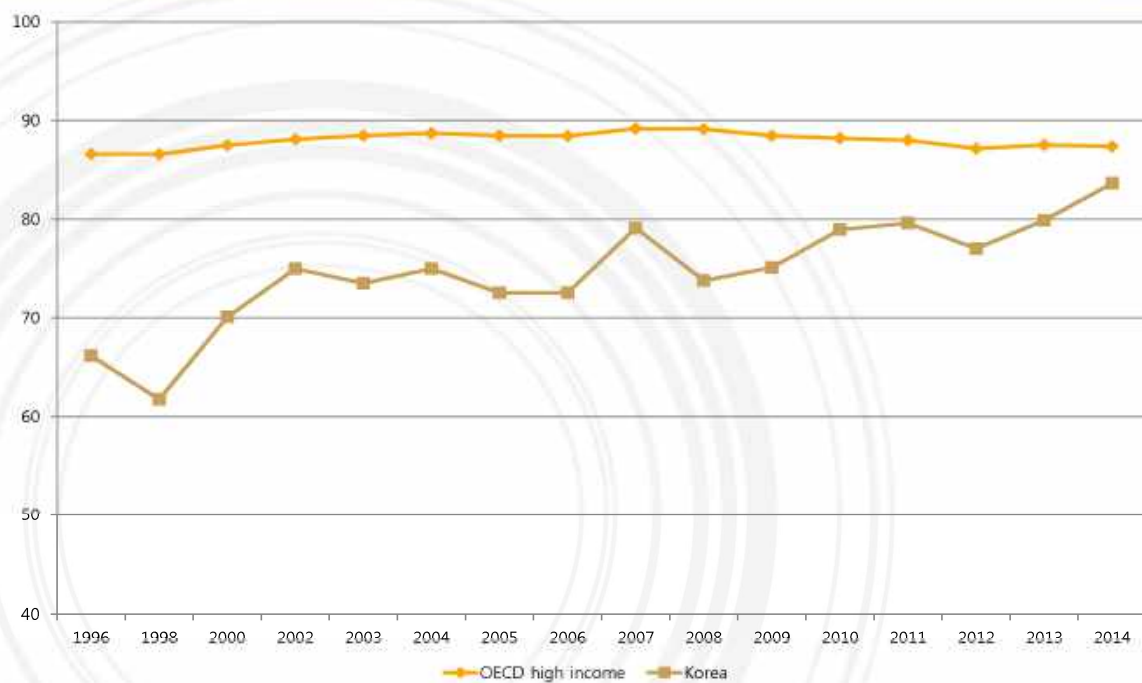
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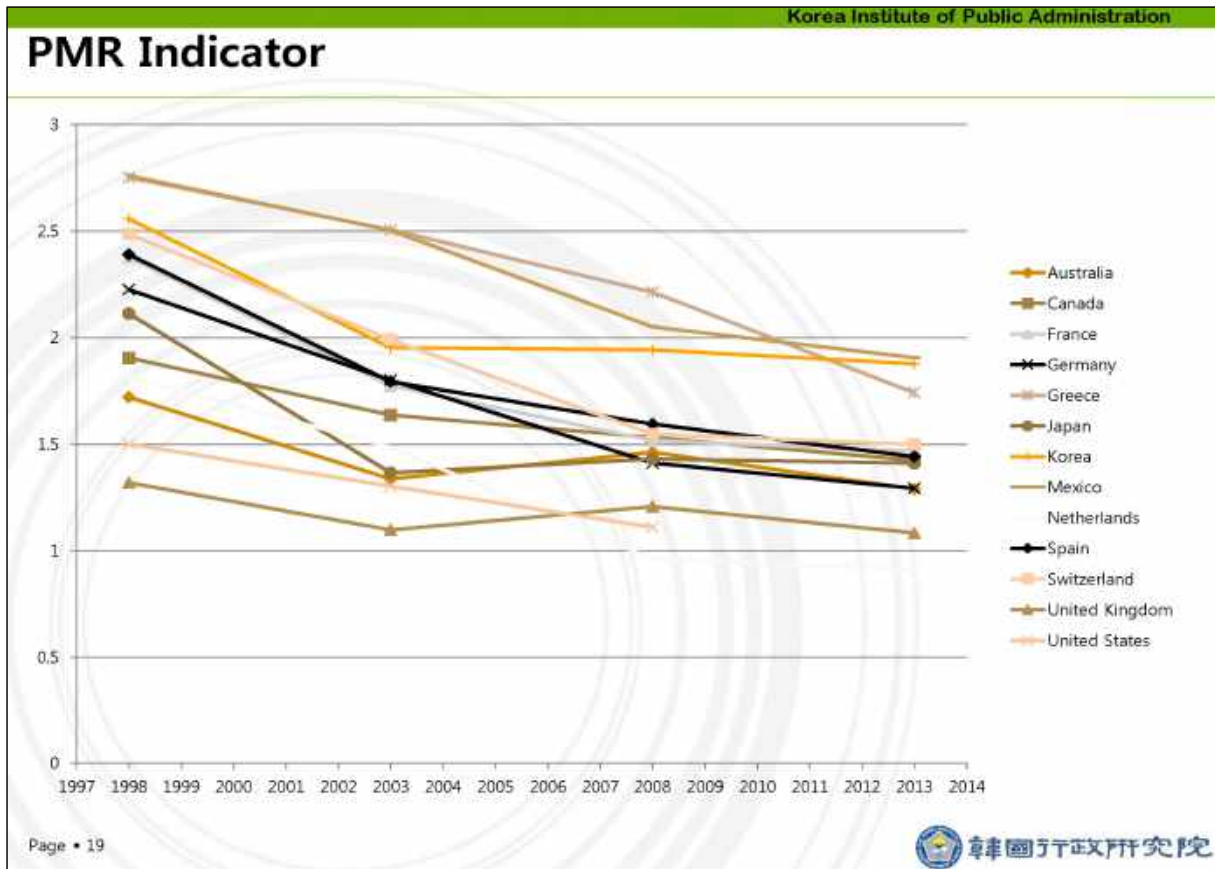


## Doing Business Indicator



## Regulatory quality of Governance indicator





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# INDUSTRIAL REGULATORY INDICATORS

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## Review on Regulatory indicators

- Regulatory indicators
  - Common characteristics: National level, economy-wide sector, survey data, more soft data than hard data, subjective data
  - Advantages: national regulatory rigidity, regulatory reform effectiveness, economic impact estimation
  - Disadvantage: Absence of sub-national level indicator, such as industrial level regulatory policy indicator makes it difficult to estimate economic impact of regulatory policy in sectoral level of a country
- Limits of economic impact estimation using regulatory indicators
  - Various studies estimated economic impact of regulatory policy using such indicators like PMR, Governance indicators, Doing business indicators etc.
  - But, a unit change in regulatory variable returns same marginal effect on economies excluding national context of regulatory institutions
  - Difficult to give policy implications with industrial characteristics or policy priority to regulatory policy decision-makers in nation level
- Limits of case specific regulatory studies
  - Case studies on the impact of entry barriers or effects of financial regulations in specific sectors could not easily be generalized to other sectors

## National level industrial regulatory indicator

- Overview
  - An output indicator of regulatory policy
  - Representation of regulatory change caused by government policy
  - Including regulatory intensity, sectors(social, economic, or administrative) of regulation, characteristics(entry, price, transaction, quality, input, performance, market-incentive) of regulation, regulatory change

- Making Industrial regulatory indicator

$$RI_j = \sum_{i=1}^n (RCI_{ij} \times \sqrt{WR_{1i} \times WR_{2i} \times WA_i \times WT_i})$$

- $RI_j$  : j industry regulatory indicator
- $RCI_{ij}$  : i regulation's connectedness with j industry
- $WR_{1i}$  (weights on types): economic=3, social=2, administrative=1
- $WR_{2i}$  (weights on characteristics): entry=4, price=3, transaction=2, quality=1, input=4, performance=2.5, market-incentive=1

## National level industrial regulatory indicator

- $WA_i$  (weights on change): reinforce=1.5, deregulation=0.5, repeal=-1, new=1
- $WT_i$  (weights on administration type)
  - PA(permission/approval/license/patent/agree/designation/recommendation)=4
  - IS(test, examination, recognition, confirmation, proof, restriction)=3
  - OS(administrative sanctions, orders, civil penalties)=2
  - IR(information requirements, registration, report, submission)=1
- Regulatory connectedness with industry(RCI)
  - Al-Ubaydli & P.A. McLaughlin(2012) analyzed text of federal regulation using industrial keywords of American Standardized Industrial Classification
  - Let portion of search matching count of specific keywords of an industry in a title of Code of federal regulations determine industry connectedness of regulation
  - Authors measured regulatory stringency with degree of restriction in regulatory text instructions

## National level industrial regulatory indicator

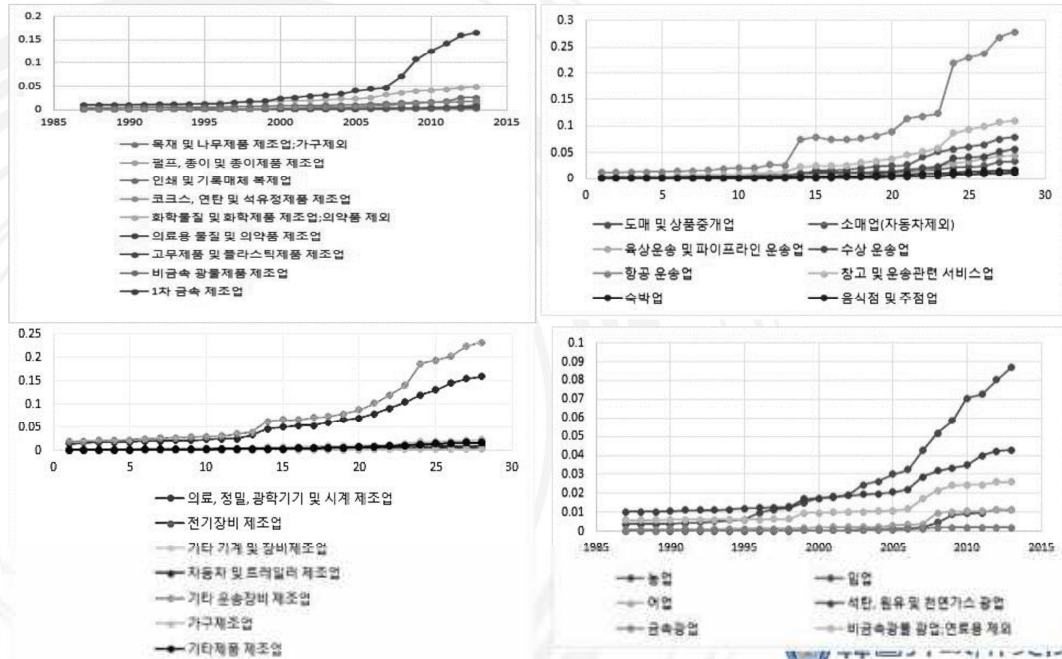
- In same ways, using industrial keywords in Korean SIC at three digits level produced industrial connectedness of regulation
- Keyword search matching count means industrial relatedness of regulations
- Proportion of matching count of regulation 1 with industry j means regulation 1's connectedness value with industry j(RCI).
- RCI search matching count of regulation I with industry j/total search matching count:  $M_{ij}/\sum M_{ij}$ ,  $i=1,\dots,n$ (regulation),  $j=1,\dots,m$ (industry)
- Industrial regulatory indicator = RCI x Weights of regulation

Regulation	Industry 1	...	Industry j	...	Industry m
Reg 1	$M_{11}$	...	$M_{1j}$	...	$M_{1m}$
...	...	...	...	...	...
Reg I	$M_{i1}$	...	$M_{ij}$	...	$M_{im}$
...	...	...	...	...	...
Reg n	$M_{n1}$	...	$M_{nj}$	...	$M_{nm}$
Total	$\sum M_{i1}$	...	$\sum M_{ij}$	...	$\sum M_{im}$

## Evolution of industrial regulatory indicator

- Evolution of regulatory stock

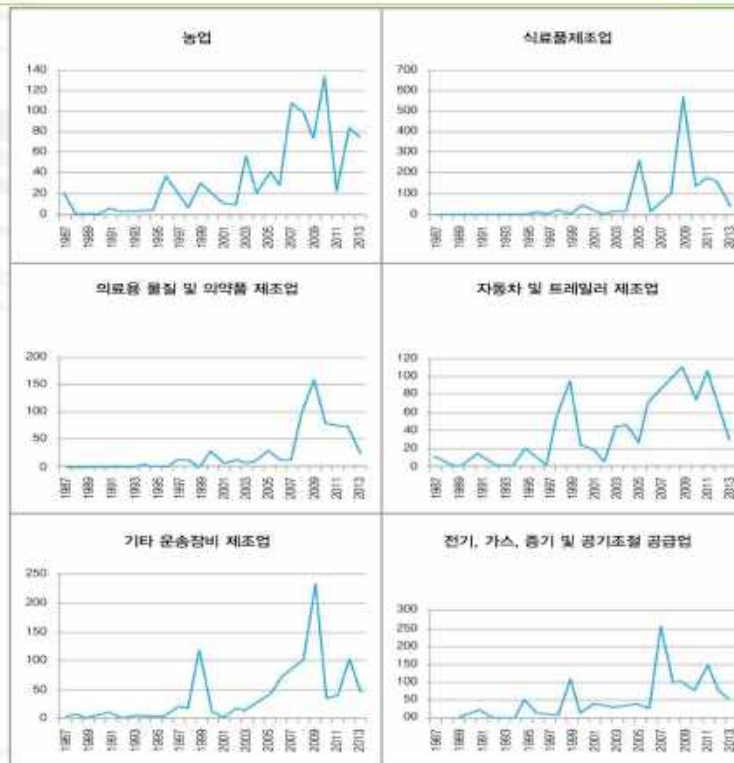
- After Mid-2000 regulatory indicator increases in considerable number of industries



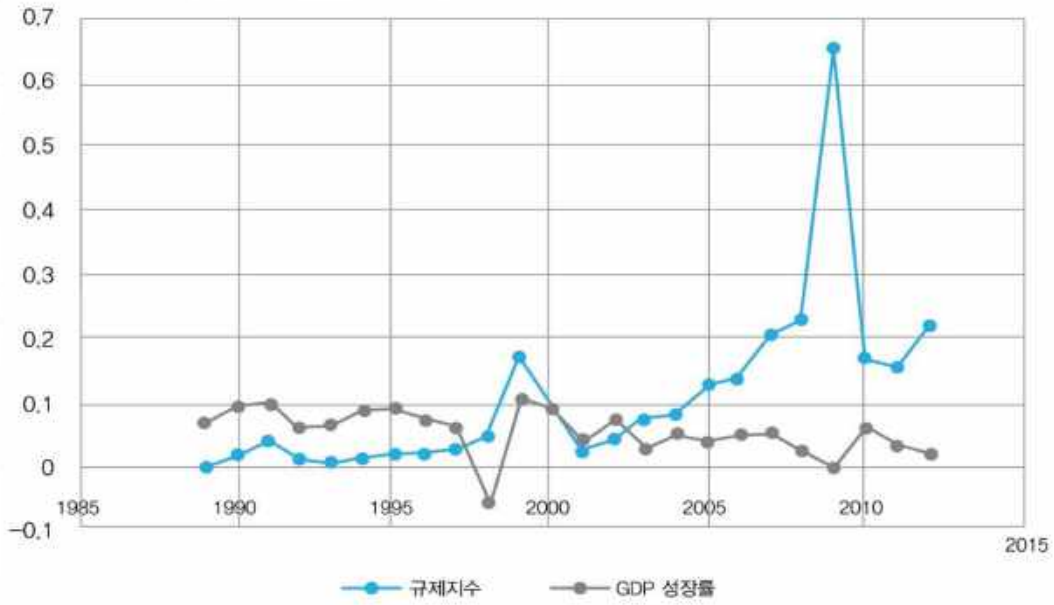
## Evolution of industrial regulatory indicator

- Evolution of regulatory flow

- Effects of searching for unregistered hidden regulations in 2009 and 2010
- In most of industries, regulatory indicator increased after 2005 despite government's effort of regulatory reform
- But after 2010, regulatory indicator returns to decrease trend



## Evolution of industrial regulatory indicator





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## Assessing the Socio-Economic Impact of Regulations

■ Panelists : Ariunjargal Tsendenbal

Senior Officer, Legal Reform Policy Department, Ministry of Justice, Mongolia









**ASSESSING THE SOCIO-  
ECONOMIC IMPACTS OF  
REGULATIONS:  
*MONGOLIA***

**WHAT'S THE REGULATION?**

**In Mongolia,**

- **Constitution**
- **International treaty**
- **Specific law**
- **Other normative acts**



## WHAT'S THE SOCIO-ECONOMIC IMPACTS?

- Social
- Economic
- Environmental
- Human rights

## ASSESSMENT PROCESS:

Provisions of the assessment /before/

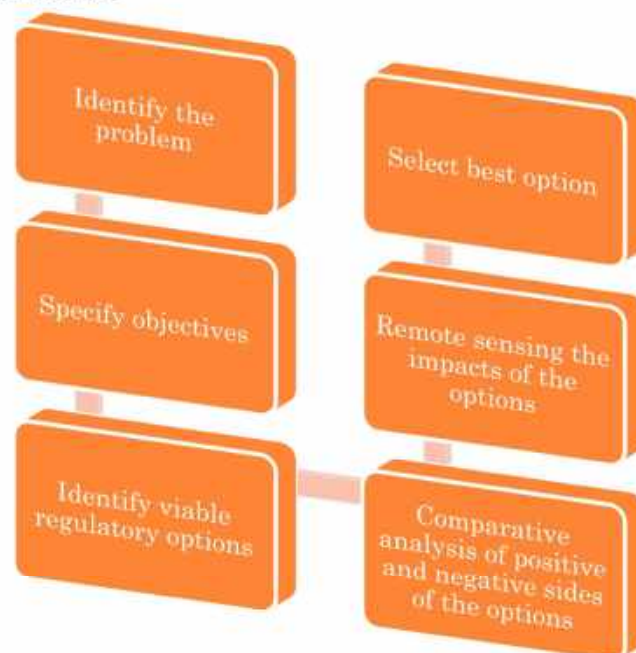
- “Law on the Procedure of Elaboration and Submission for Consideration of Law, and other decisions of the State Great Hural (Parliament)” /1997, 2001/
- Guidelines of evaluating the impacts of draft laws” adopted by Minister of Justice /2010/

## ASSESSMENT PROCESS:

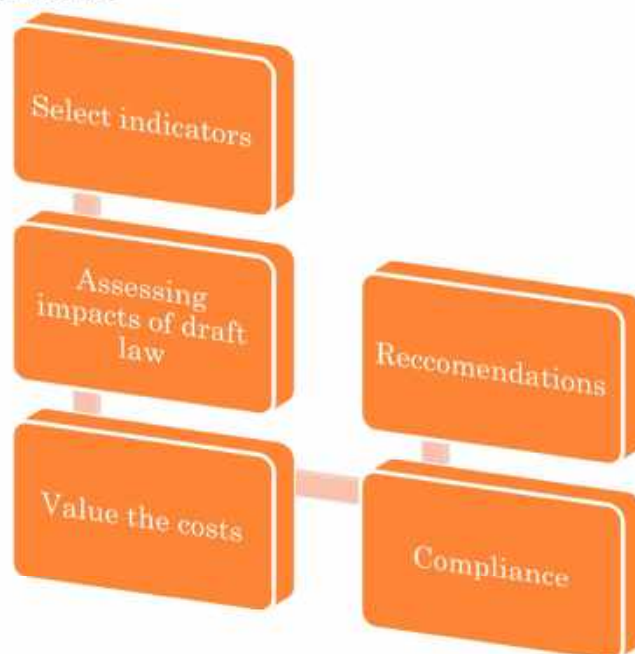
Provisions of the assessment /now/

- Law on Legislation
- General Administrative Law
- Guidelines:
  - Guidelines of envisaging the need for the law
  - Guidelines of assessing the effects of draft law
  - Guidelines for implementation of the draft law cost estimates
  - Guidelines of evaluating consequences of the legislation

## ASSESSMENT PROCESS: INITIAL ASSESSMENT



## ASSESSMENT PROCESS: FINAL ASSESSMENT



## ASSESSMENT PROCESS: PROBLEMS

- Checklist or Questions? Approaches to assess the impact of regulations
- In which stage?
- Should all impacts have to be assessed?

THANKS FOR YOUR ATTENTION



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