Assisting Economic Transition: An RIA Strategy for Developing Countries

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Regulatory and legal frameworks are major constraints on growth in transition countries

- In most transition countries, the domestic policy environment is hostile to private sector start-ups, investment, and innovation.
- Structural and economic policy reforms have accelerated in most countries. But reforms to date have barely changed most legal and regulatory constraints affecting private sector activity.
- Wider and faster reform of the regulatory framework is needed to stimulate investment, boost competitiveness, and create jobs in the formal sector.

Private enterprises produce wealth within well-regulated markets

- Creating more private businesses is important.
- But the real aim of reform is to create competitive markets that reward value, re-allocate resources, and adapt to changing opportunities and risks.
- Changes in ownership through privatization are not enough.
- Poor and inadequate regulatory structures permit abuses and corruption to flourish in emerging markets, undermine investor and consumer confidence, and destroy rather than create economic value.

Investors today are worried about the quality of governance

- Deregulation is an insufficient principle for market reform.
- Focus today is not the size of the state, but its role and its effectiveness, that is, its quality.
- Adapting institutions to new roles and functions that serve social and market needs is vital to public support for growth.
- Conclusion: We need smart government, not small government. Institutional reforms must strengthen both markets and states.

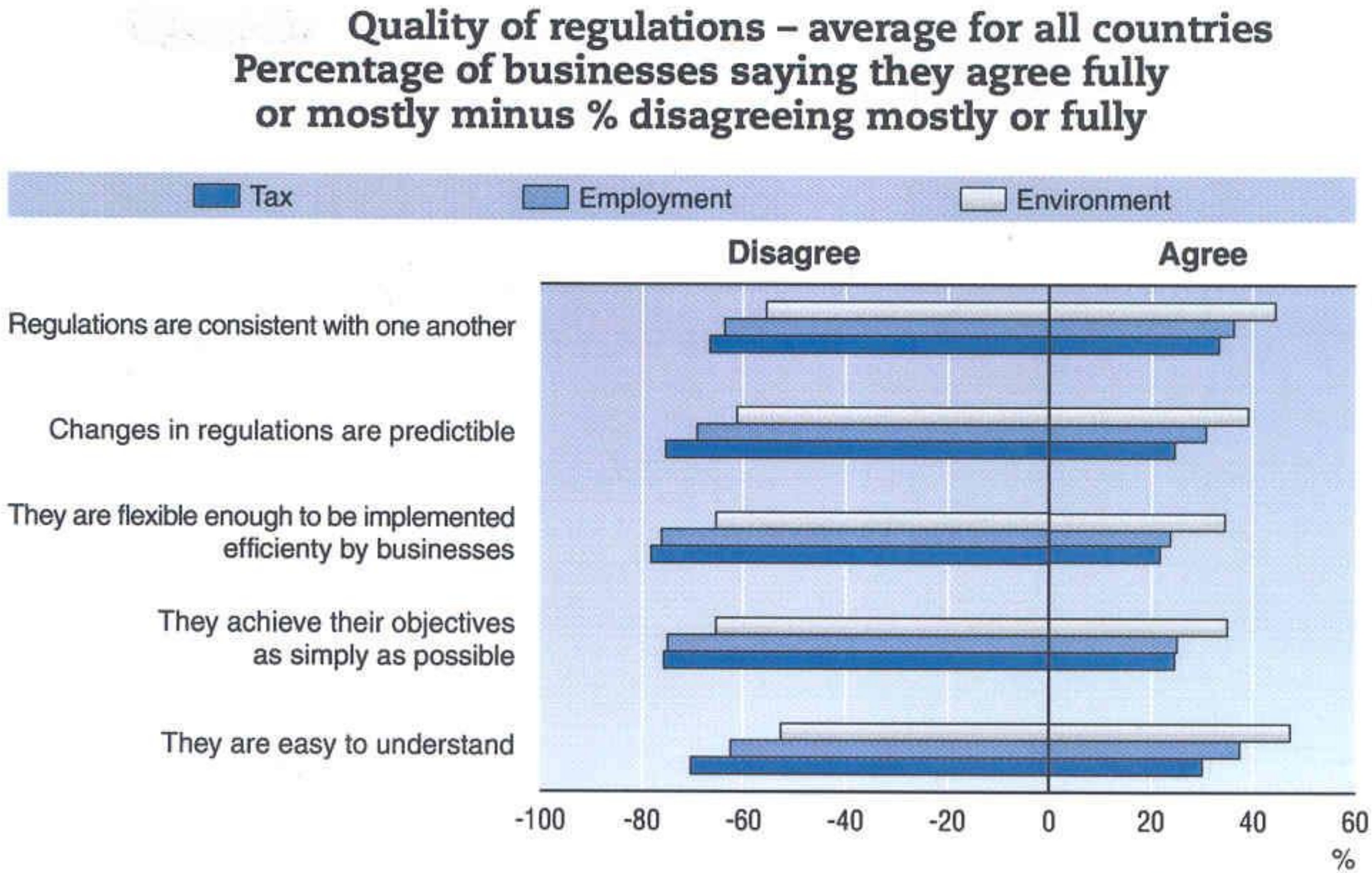
Five characteristics are needed in modern regulatory systems

- **Security** (legal security, consistent respect for market solutions, predictable enforcement)
- **Transparency** (clear and simple rules, openness through the entire policy process, less corruption)
- **Legitimacy** (must protect safety, health, environment, consumers, public interests)
- **Efficiency** (low-cost rules, orderly and timely decisions, move swiftly to meet market needs)
- **Expertise** (good regulatory skills and understanding of complex markets and technologies)

Reducing regulatory risk is key

- Regulatory risk reduces both the quantity of investment and the value of investment.
- The more uncertain and risky is the legal/administrative environment in which economic activity occurs, the more likely it is that aggressive rent seeking and short-term profit taking will replace longer-term investment in a competitive climate.
- RIA can help reduce regulatory risk.

But regulatory quality is difficult



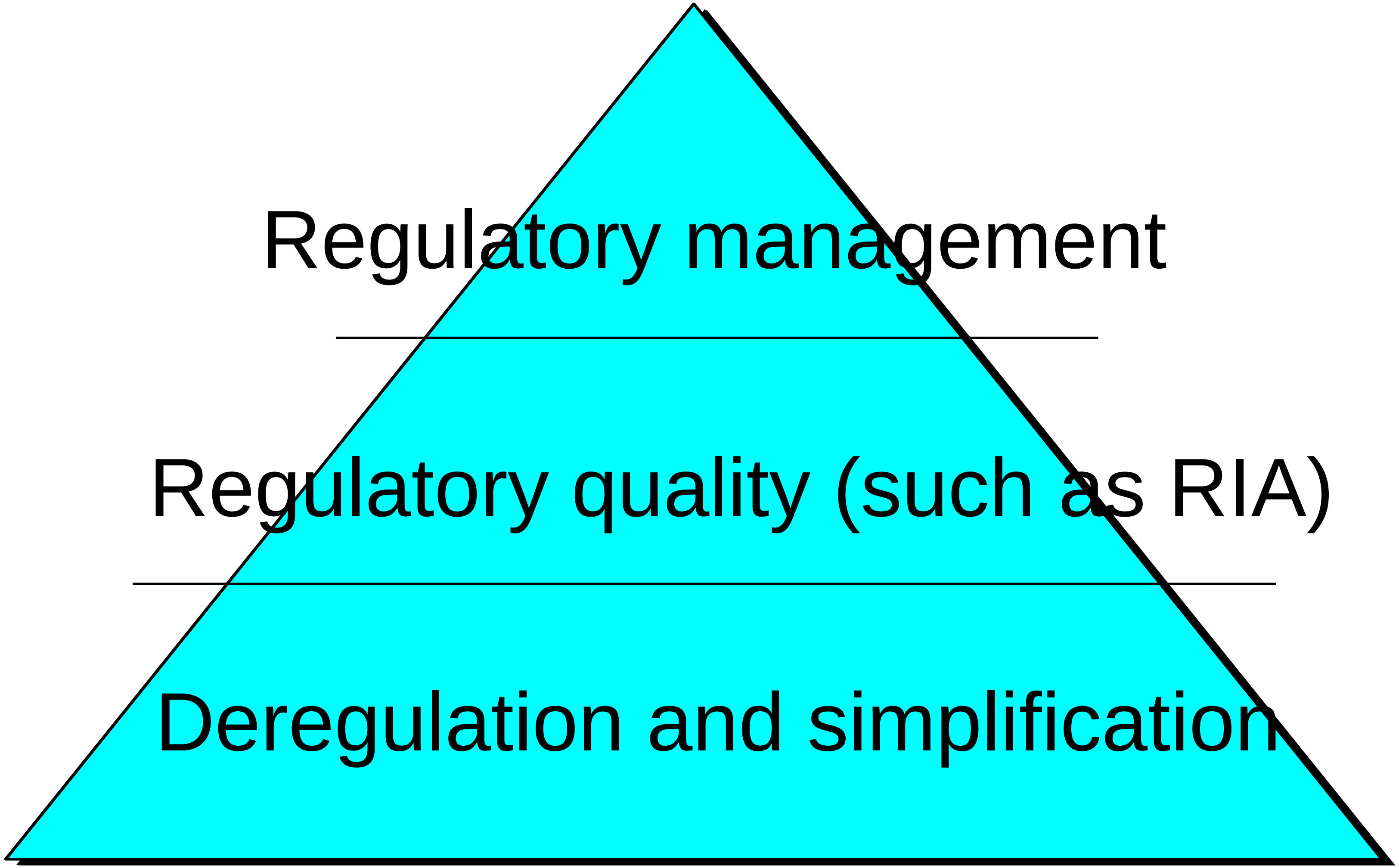
Source: OECD (2001), Businesses' Views on Red Tape. Administrative and Regulatory Burdens on Small and Medium-sized Enterprises, Paris.

International good regulation practices are now widely accepted

Lessons from 30 countries and 25 years of initiatives to improve the efficiency and effectiveness of regulation in a market economy lead to several reform approaches for countries in transition:

1. Strategies to organize and sustain market-based regulatory reforms
2. Tools to Improve Regulatory Security
3. Tools to Improve Regulatory Quality (such as RIA)
4. Tools to Improve Implementation of Regulations
5. Tools to Cut Administrative Barriers for SMEs

Three Stages of Regulatory Reform



RIA must fit within a multifaceted reform strategy

In moving to a market economy, regulatory reform in all its aspects is needed – deregulation, re-regulation, simplification, and institution building – in order to:

- Redefine the role of the state, improve its procedures and institutions, and strengthen its regulatory capacities through tools such as RIA
- Adopt international norms of rule-based governance
- Eliminate barriers to entry and unnecessary regulatory costs
- Strengthen regulatory protections and enforcement
- Strengthen legal institutions that protect property rights and market competition against abuses
- Reduce corruption in administrative decisions and inspections

1) Precondition for RIA: Adopt, at highest political levels, a regulatory reform policy

- Every OECD country with an organized and multiyear program of regulatory reform has established an explicit policy statement on reform at the highest levels of government.
- The more complete the principles, and the more concrete and accountable the action program, the wider and more effective was reform.
- OECD Report recommends that countries “adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation”.

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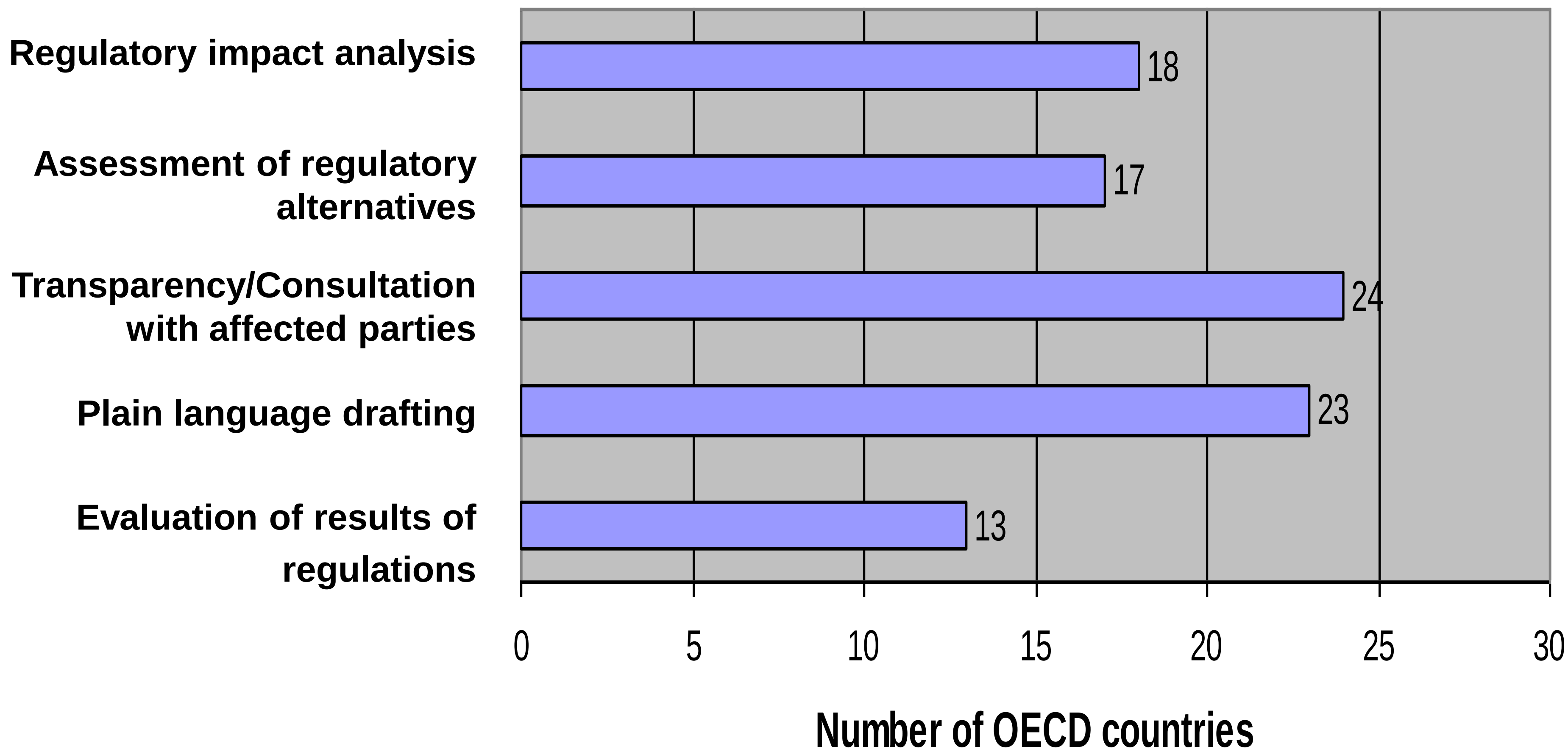
Some regulatory quality tools contained in regulatory reform policies in 28 OECD countries



Spectacular use of regulatory policies in economies in transition

- Czech Republic, Hungary and Poland transitions required massive programs of deregulation and re-regulation, complete rebuilding of institutional framework, and strong transparency and accountability measures.
- This was possible by adoption of coherent regulatory policies with strategic and systemic approaches to building regulatory policies, tools and institutions.
- In Hungary, "regulatory reform….central to policies of democratisation, marketisation, public administration modernisation, devolution to local government and harmonisation with EU legislation."

2) Precondition for RIA: Adopt government-wide principles of good regulation

- It is essential to explicitly define regulatory quality, especially in a transition country, where understanding of market needs is low.
- Most governments have issued instructions to regulators about the quality of their regulatory decisions.
- These commonly take the form of checklists and decision criteria.
- Regulators must show that their proposed regulations will meet these quality standards BEFORE they adopt them.

The OECD Checklist for Regulatory Quality

1. ***Is the problem correctly defined?***
2. ***Is government action justified?***
3. ***Is regulation the best form of government action?***
4. ***Is there a legal basis for regulation?***
5. ***What is the appropriate level (or levels) of government for this action?***
6. ***Do the benefits of regulation justify the costs?***
7. ***Is the distribution of effects across society transparent?***
8. ***Is the regulation clear, consistent, comprehensible and accessible to users?***
9. ***Have all interested parties had the opportunity to present their views?***
10. ***How will compliance be achieved?***

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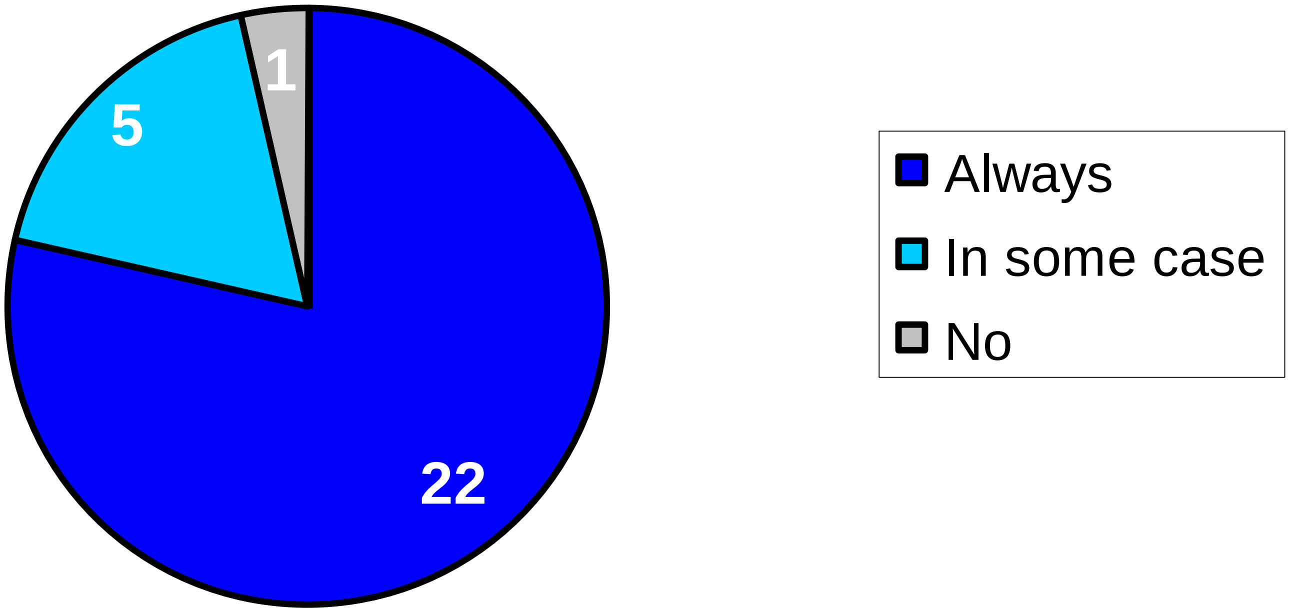
Defining the problem and justifying action in OECD Countries

Are regulators requiered to provide a written justification of the need for new regulation?



3) Precondition for RIA: Create quality control procedures with central oversight unit

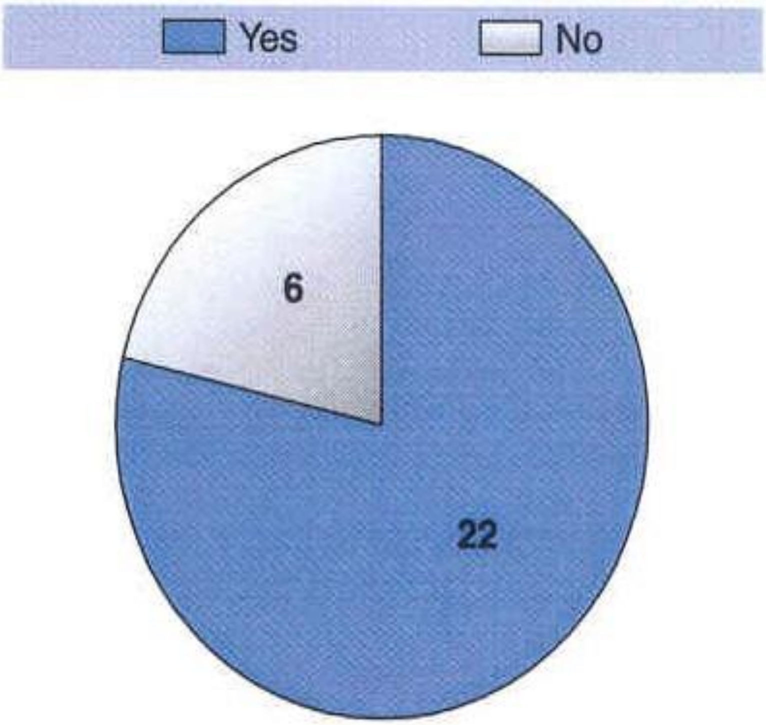
- A well-organized and monitored reform process, driven by “engines of reform” with clear accountability for results, is important for success.
- This requires strong political oversight, strategic planning, and incentives for results

Two levels of oversight: Ministerial committee and an expert Secretariat

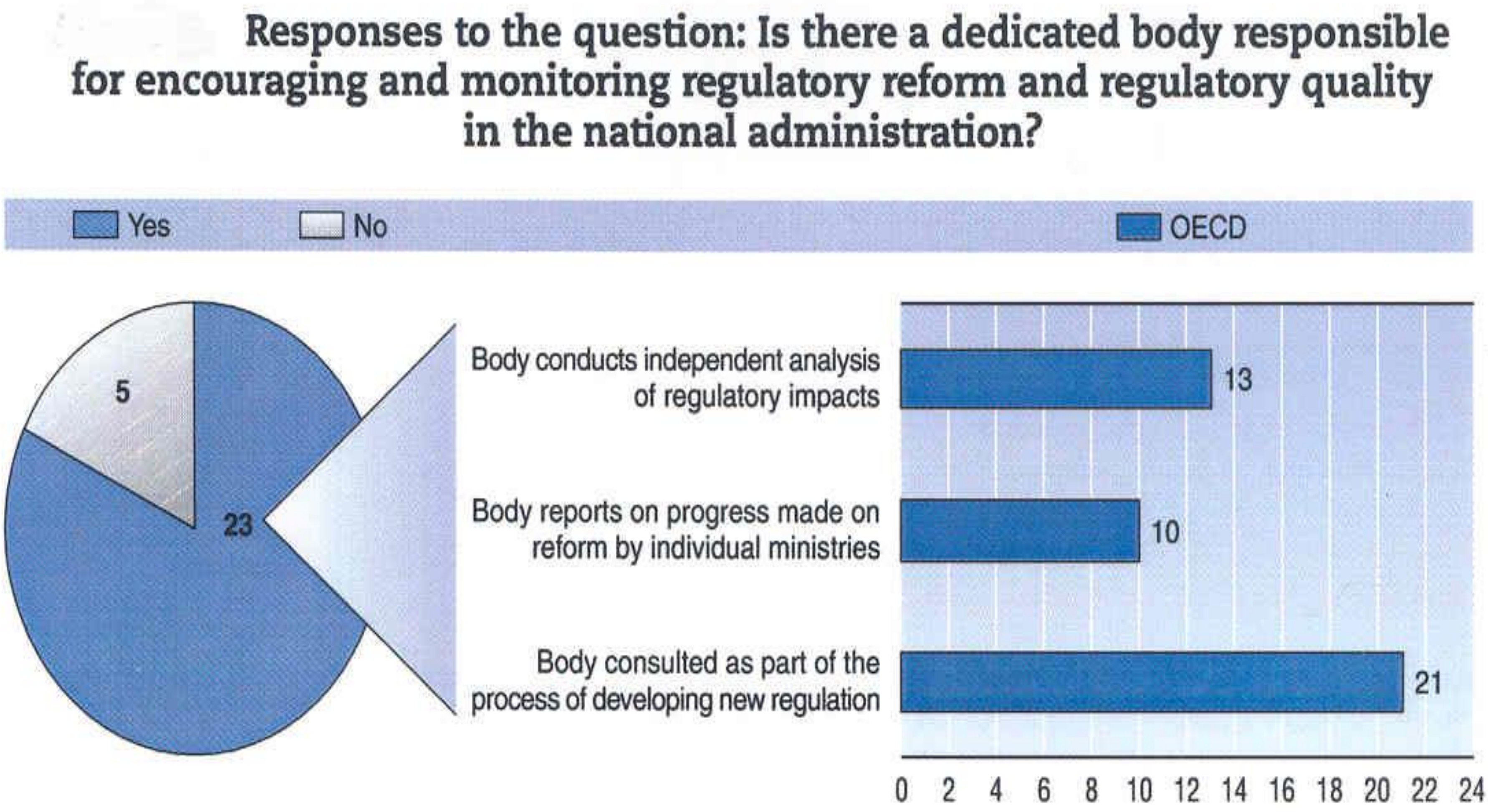
- A ministerial-level committee for regulatory reform and SME development is needed to oversee reforms at the political level and insist on ministerial action.
- A dedicated and expert group is needed at the working level, usually as a Secretariat to the ministerial committee

Putting a minister in charge…

Responses to the question: Is a specific minister accountable for promoting government wide progress on regulatory reform?



…with central oversight of regulatory reform



Source: OECD (2000) Responses to the Survey on Regulatory Capacities in OECD Countries, Paris.

Improving Regulatory Quality: The role of Regulatory Impact Analysis

RIA is a method of

- systematically and consistently examining selected potential impacts arising from government action or non-action, and of
- communicating the information to decision-makers and the public.

Good governance goals of RIA

- Analysis: Calculating the costs and benefits of government action

  ➔Faster learning, increasing benefits of government action, finding lowest cost solutions, reducing policy failures

- Consultation and responsiveness to a wider range of interests

  ➔Transparency, building trust, and reducing regulatory risks for private sector, reduce "information monopolies"

- Integrating multiple policy goals (social and economic policies)

  ➔Policy coherence in a complex world; break down vertical silos and promote horizontal thinking

- Accountability for actions and results (within ministries, to the public)

  ➔Client-oriented, credible, and responsive government

RIA is relevant to the five characteristics of modern regulation

- **Security** – RIA makes clearer the goals of regulation and helps choose market-oriented options
- **Transparency** – RIA helps government consult with businesses about future actions
- **Legitimacy** – RIA makes rules more effective in protecting the public at lowest cost
- **Efficiency** – RIA helps find the lowest-cost solution to public policy goals
- **Expertise** – RIA helps improve understanding of market impacts and market needs in civil service

Methods of RIA in Selected Countries

- **Canada:** Benefit/cost analysis with the goal of maximizing welfare. Each regulatory proposal must "maximize the net benefit to Canadians".
- **US:** Benefit-cost analysis, supplemented by examination of at least 3 alternative approaches: Informational Measures, Market-Based Approaches, Performance Standards
- **UK:** Flexibility in analytical methods. Costs and benefits are expressed in monetary terms as far as possible, but there is no set formula for RIA. Benefit-cost tests are characterised by methodological diversity and inconsistent quality.

Suggestions for RIA for countries in transition

Each country should implement, step by step, a pragmatic program of RIA:

1. Adopt principles of good regulation to guide regulators and inform the public of government intentions.
2. Require an expanded justification statement for all new laws and regulations prepared by the ministries. The content of the justification statement depends on the capacities of ministries and availability of data.
3. Develop a training program for civil servants on the goals and methods of RIA.
4. Develop mechanisms to consult with the private sector on the RIA.
5. Invest in institutions. Put into place a quality control and oversight mechanism at the centre of government to assist and direct ministries in preparing high-quality regulations.