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REGULATORY IMPACT ANALYSIS IN THE UNITED KINGDOM [*]

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A. Introduction

In the mid 1980s, under pressure from the Thatcher government, the United Kingdom launched an ambitious regulatory policy to improve economic performance and the functioning of markets. When combined with new policies on privatization, competition, liberalization, and sustainable macro-economic practices, this policy to control regulations provided a formidable arsenal in the efforts to address the UK's decades-long deep economic crisis and loss of competitiveness.

Since then, the UK has become one of the most innovative, bold and experienced OECD countries in regulatory reform. In recent years, regulatory reform efforts have been broadened to include both consumer protection and market efficiency. Improving the regulatory quality of new and existing regulations has been at the core of these policies. Furthermore, regulatory quality and regulatory reform in general have recently become central UK objectives when dealing with European and international questions.

Central to the UK's new regulatory regime has been Regulatory Impact Assessment (RIA) which has progressively become a key instrument of the government's toolkit. This paper intends to summarize in section one on the development of RIA in the UK. Section two will then focus on the description of the current RIA system, followed in the next section by an appraisal of its performance. The paper will conclude with some lessons that can be drawn from the UK's RIA practices.

B. The Development of RIA in the UK

Following the lead of the US, who pioneered the cost-benefit testing of regulations in 1981, the UK launched the first, ex-ante, evidence-based appraisals of regulations in 1985.[1] Since then, the government and successive administrations have placed considerable emphasis on strengthening the assessment of the possible impacts of future regulations. Its current form evolved from more than 20 years of experience and development.[2]

1985 -1996 The deregulation phase

The origin of RIA in UK is clearly embedded in the Thatcherite drive to deregulate the economy. Initially supervised by the Enterprise Unit of the Cabinet Office, the purpose of first assessment tests was to reduce regulatory burdens on businesses. By 1986, a central unit, the Enterprise and Deregulation Unit within the Department of Trade and Industry, was developing and overseeing the Compliance Cost Assessment (CCA) system which had to be completed by all

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[*] Chapter 3 in Tetsuzo Yamamoto (ed.) *Regulatory Impact Analysis - Institutions, Theories, and Cases*. NTT Publishing Co., Ltd. Tokyo (2009)

[**] Director, Jacobs and Associates, Inc. www.regulatoryreform.com

[1] Baldwin, Robert & Martin Cave (1999) *Understanding Regulation. Theory, Strategy and Practice*. Oxford University Press.

[2] For summary of the development of regulatory reform ideas see OECD (2002) and Baldwin, R. (2005).

rule makers before final approval by the Cabinet.[3] A key element of the CCA was the 'litmus test on a regulation's impact on Small and Medium-sized Enterprises (SMEs). The idea being that if a regulation passed the 'SME litmus test', the regulatory impact on larger firms would necessarily be lower.

However, by mid 1990, the CCA system had revealed significant weaknesses. First, because the system did not assess the regulatory benefits, the fairness of the appraisal was skewed and the tests lost credibility in the eyes of non-businesses stakeholders. Moreover, the ability of the government to control regulators through the CCA was weaker than that achieved in the US through a proper RIA systems organized under a cost-benefit analysis. The CCA had increasingly just become another internal procedure with little force on the substantive solutions proposed by regulations. In sum, all stakeholders – businesses because CCA 'didn't bite', non-businesses because CCA overlooked the regulation's benefits, and bureaucrats because they did not perceive any added value to their work – started to turn against the system.

1996 – 2005 From deregulation to better regulation

In May 1996, during its last year in power, the Conservative government launched a new system of regulatory appraisal. This change was confirmed by the new Labour government in 1997. The RIA methodology was changed with an explicit and systematic consideration of benefits in what was called "Regulatory Appraisal". Further developments transformed it into an integrated and comprehensive RIA system. The CCA was replaced by a comprehensive RIA requiring that regulators assess not only business compliance costs but all costs including those affecting consumers and the government. It also required regulators to assess the expected benefits of the proposed measure including the benefits to businesses, consumers, charities and the voluntary sector. The new policy stressed that RIAs should, as far as possible, be quantified and expressed in monetary terms. The scope was expanded to include primary as well as secondary legislation and consultation with affected parties became mandatory.[4]

Most importantly, the RIA procedural and institutional elements were strengthened. The Deregulation Unit became the Better Regulation Unit and later the Regulatory Impact Unit. Its location was moved from the Department of Industry to the Cabinet Office in order to be closer to the policy process and ensure a 'whole of government' perspective. As for the procedures, the new system incorporated important innovation such as a two-stage screen mechanism, targeting RIA according to a proportionality principle and mandatory use of consultation (see next section).

To support this major overhaul of the RIA policy, the government invested in new guidance material for regulators and policy-makers on how to prepare RIAs and other aspect as well a on a central internet website.[5]

Towards risk-based, policy-wide impact and smarter regulations

Despite clear successes and a sense that UK was a leader in Europe in advancing the regulatory policy agenda, the government faced skepticism and pressure from the business sector. In response, the government decided to review and re-launch its regulatory policy and in particular

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3 De Franceso Towards an 'Impact Assessment State' in Europe? Paper to be presented at the 56th Political Studies Association Annual Conference, Reading, April 2006.

[4] OECD (2002)

[5] http://www.cabinetoffice.gov.uk/regulation/

the RIA system. In March 2005, two important publications revealed the change in the policy emphasis.[6] The first report emphasized the need to focus on reducing burdens on businesses. The second report emphasized the need to require rule makers to focus on risk assessment and prioritization of regulatory interventions -- so as to concentrate resources on the key areas without crippling competitiveness and/or transforming the UK into a ‘nanny’ state that tolerated zero risks.[7] In part, the onus on itemized regulation was reduced in order to more towards a ‘smart regulation strategy’ build around the ideas emphasizing assessment of policy alternatives early and self regulation incentives.[8]

In July 2007, Gordon Brown presented the new policy. The deepening of regulatory policy was also reflected in the dropping of the ‘R’ of the RIA to indicate a wider scope and the intent to use the tool earlier in the policy-making process and the choice of public instruments. Today the tool is simply called "Impact Assessment". It is significant that the responsibility for overseeing the policy – i.e. the Better Regulation Executive as the main RIA oversight body - was transferred from the Prime Minister Office to the newly created Department for Business, Enterprise and Regulatory Reform (BERR).[9]

Box 1. Milestones of the RIA Development in the UK

1985: A White Paper 'Lifting the Burden' addresses the negative effect of over-regulation on business. Following the report’s recommendations all government departments are required to provide CCAs — Compliance Cost Assessments — for regulatory measures.

1986: A White Paper 'Building Business - Not Barriers' re-addresses business compliance costs. The report leads to the establishment of a central task force, the 'Enterprise and Deregulation Unit' set up in the Department of Employment. It is given power to oversee and co-ordinate the 'anti-red tape' efforts of the individual Departments.
Deregulation Units are set up and a Departmental Deregulation Minister is appointed in each department.

Creation of the Deregulation Task Force, an independent government advisory panel.

1987: The Enterprise and Deregulation Unit, now named 'Deregulation Unit' is moved to the Department of Trade and Industry.

1989: Creation of a Cabinet Committee on regulation (with ministerial membership).

1994: Enactment of the *Deregulation and Contracting Out Act* establishing fast track procedures to reduce regulatory burdens caused by primary and secondary legislation.

1995-96: Creation of an Advisory Panel (made up of business people).
The Deregulation Unit is moved to the Cabinet Office.
Seven Business Taskforces are set up look at sector specific regulations.

1997: The Deregulation Unit is renamed the Better Regulation Unit.

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[6] BRTF Regulation – Less is More and Hampton Review on Reducing Administrative Burdens. Hampton Report (2005)
[7] Baldwin, R. (2006)
[8] On the debate on shifting the policy from ‘Better regulation; towards ‘Smart regulation’ see Baldwin R. (2005) and Baldwin R. (2006)
[9] Government of the United Kingdom (2007) Next Steps on Regulatory Reform, July 2007 http://www.cabinetoffice.gov.uk/regulation/documents/next_steps/next_steps.pdf. See also the BREE website http://www.berr.gov.uk/

	The Deregulation Task Force is renamed the Better Regulation Taskforce, and new members appointed by the Prime Minister.
	Change of emphasis from deregulation to better regulation and a greater emphasis on small firms.
1998:	The Better Regulation Task Force publishes a set of principles of better regulation, which are later endorsed by the government.
	The Compliance Cost Assessment is replaced by a Regulatory Impact Assessment.
	Assessment expanded to incorporate benefits and impacts on charities and the voluntary sector in addition to businesses.
1999:	A Public Sector Team is set up in the Regulatory Impact Unit to give “hands on” advice to public sector service delivers on how to facilitate compliance with reporting and paperwork requirements.
	Regulatory Reform Ministers are appointed in each department.
	The Better Regulation Unit is renamed the Regulatory Impact Unit.
	The Ministerial Panel for Regulatory Accountability (chaired by a Cabinet Office minister) is established to scrutinize regulation.
2000:	The government publishes a new RIA guidance.
	The Small Business Service is set up to safeguard small business considerations in the regulatory process.
2001:	The Regulatory Reform Act is passed, with over 50 potential Regulatory Reform Orders.
2002:	OECD Review of regulatory capacities in the United Kingdom
2005:	Better Regulation Task Force (2005a), Regulation – Less is More, Cabinet Office, London.
	Better Regulation Task Force, (2005b) Imaginative Thinking for Better Regulation, Cabinet Office, London.
2006:	The Legislative and Regulatory Reform Act 2006 (LRRA) replaces the Regulatory Reform Act 2001 (entered into force January 2007)
	The Government accepted the recommendations of the Less is More' report and starts a massive survey of administrative burdens using the Standard Cost Model. It also set targets and publish plans during 2006.
2007:	New policy set up: Next Steps on Regulatory Reform

Source: The Government of the United Kingdom, OECD (2002) and updates from the author.

C. The Current System

The RIA policy in the UK

Evidence from studies of OECD countries clearly shows that sound regulatory policies, institutions and tools are vital to produce, drive and guide government regulatory interventions and achieve effectively and efficiently economic and social outcomes for the economy and society. RIA is an integral part of this Better Regulation Agenda.[10]

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[10] Since the mid-1990s, OECD has developed concepts, differentiating the government’s exclusive action from the confluence of actions of partners beyond the government. A ***regulatory policy*** is an explicit policy aiming at continuously improving the quality of the regulatory environment via efficient use of government’s regulatory powers. A regulatory policy is based on screening regulations and formalities to identify those that are outdated or ineffective; streamlining and simplifying those that are needed; using a wider range of

In the UK, RIA is closely embedded in the rulemaking process and general regulatory governance. Since the mid 1980, the different governments have made strenuous efforts to codify as much as possible the aims, principles and procedures necessary for RIA implementation. Regulatory policy has varied to some extent with the key goals and principles of the Prime Minister in power. For instance in July 2007, the new government established three key ***goals for regulatory reform:***

- Bring forward targeted simplifications that will improve the effectiveness of specific areas of regulation;
- Help business understand regulation; and
- Embed transparency and prioritization into the regulatory system. [11]

These broad principles have been translated into very programmatic goals. In the case of RIA, the new government has committed to continuing the use of RIA to "ensure that Departments and regulators regulate only when necessary and that any new proposals are proportionate and evidence based".[12] RIA is also indirectly linked to other strategic targets such as the reduction of administrative burdens, a better inspection system and better consistency across ministries and levels of government.

The main institutions driving RIA

Policies and analytical tools are not enough for success. They certainly are necessary but not sufficient. Governments need to establish the formal and informal institutions that can organize, in a systemic way, the array of incentives (positive or negative) that will produce real results. Furthermore, only an institution-based approach, one that goes beyond a technocratic strategy, can provide the foundation necessary to anchor the cultural changes in the bureaucracy needed to achieve a modern regulatory state.

In 2005, the government started an in-depth restructuring and strengthening of its RIA review and capacities which culminated in the new policy the spring/summer of 2007. The review of the RIA system was accelerated by some independent studies -- by one, in particular, from the National Audit Office which found "Departments are starting to employ impact assessment, but this is patchy and for it to be more than 'lip service' there needs to be a focus on outcomes".[13]

At its core, the UK's RIA policy depends on a number of specialized bodies complementing each other and ensuring that RIAs are well performed. They are:

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market incentives and more flexible and international regulatory approaches; and introducing greater discipline, co-ordination and transparency within regulatory processes. Those policies prompt commitment to reform, sustain transparency, and promote consistency and co-ordination between the different components of reform. See OECD (2002) *Regulatory Policies in OECD Countries. From Interventionism to Regulatory Governance*. Paris

[11] As summarized by Prime Minister Brown at a recent speech to Confederation of British Industry (CBI), his government will publish new legislation to ensure that there will be 'no inspection without justification, no form filling without justification, and no information requirements without justification' HM Treasury (2005), Press Release, 'Chancellor's Speech to CBI Conference', 28 November 2005.

[12] Government Of UK (2007) Next Steps

[13] NAO (2007)

- The ***Better Regulation Executive*** (BRE)[14] provides central coordination of delivery and implementation of regulatory reforms, challenge departments on their progress with regulatory reform; and work with departments to change regulatory culture and processes. The BRE has 60 employees. The transfer in 2007 from the Cabinet Office to the BERR in charge of productivity and competitiveness issues tried to enhance the economic evidence-based focused of the new RIA system. The BRE functions as the technical secretariat providing advice and support during the preparation of RIAs and assessing in a technical note their quality (thought this assessment is not to be considered a veto).

- The ***Panel for Regulatory Accountability***, chaired by the Prime Minister, is in charge of ensuring accountability and raising awareness at the political centre of government. It is the key institution providing the driving force for regulatory quality and reform. Among its key responsibilities, the Panel needs to clear all regulatory proposals and all RIAs likely to impose a major new burden on business. The Panel monitors the new requirement for "compensatory simplification" -- the 'one in, one out' approach to new regulations -- for every new proposal, and has stated aggressively to national regulators. The Panel for Regulatory Accountability may reject regulatory proposals if it concludes that satisfactory compensatory simplification measures have not been considered.

- The ***Better Regulation Commission*** (BRC) is an independent and permanent advisory group supporting the government which mandate is "to advise the Government on action to reduce unnecessary regulatory and administrative burdens and ensure that regulation and its enforcement are proportionate, accountable, consistent, transparent and targeted".[15] In January 2006 the government gave to the new Better Regulation Commission additional responsibilities to challenge departments and regulators on their performance against the better regulation targets. Sixteen members coming from a variety of backgrounds form the BRC. Members are unpaid and nominated by the Minister in charge of Regulatory Reform.

- The ***National Audit Office*** (NAO) – which reports to Parliament - investigates a wide range of issues and has the discretion to decide how to undertake those investigations. It has used this discretion to produce a number of reviews of regulatory capacities and practices in various sectors and departments. This has contributed to setting the regulatory reform agenda by addressing important regulatory challenges in areas such as performance management of public sector agencies, and utility regulation. Importantly, NAO developed an assessment methodology of RIAs based on the following criteria for assessing ex post all RIAs produced by the government:

    - Well managed administrative process
    - Effective consultation
    - Costs and benefits analysis
    - Compliance with the implemented regulation

[14] In 1986, the Government established a central task force - the Enterprise and Deregulation Unit - in the Department of Employment to oversee the "anti-red tape" efforts of individual departments. A year later the unit was renamed the Deregulation Unit when it moved in 1989 to the Department of Trade and Industry ("DTI"). In 1995-96 the Deregulation Unit was moved to the Cabinet Office. By 1999, the Unit was renamed the Regulatory Impact Unit. In 2006, the BRE replaced the Regulatory Impact Unit which was transferred to the new BERR department in July 2007. Baldwin, R (2005)

[15] The Better Regulation Council replaced the Better Regulation Task Force set up in 1997

- Implementation, monitoring, evaluation of the regulation a few years after being enforced
- Competition impacts

- Other bodies, such as the ***Enterprise Directorate*** and the ***Office of Fair Trading***, are also involved in the RIAS systems. The Enterprise Directorate participates in the RIA reviews focusing on small firms' needs and constraints.[16] The Office of Fair Trading is automatically consulted concerning the competition test included in all RIAs.

Table 1: Summary of the Responsibilities of Key UK RIA Institutions*

Institution	Procedural Responsibilities	Guidance	RIA Training	Challenge AND Scrutiny Functions (quality control of the 'flow' of regulations)	Advocacy Functions for 'existing' regulations
Better Regulation Executive (BRE)	In charge of checking the deadlines and the completeness of RIA submissions	Issues guidance on RIAs, advises departments and monitors compliance with RIA requirements.			Supports the work of the BRC
Better Regulation Council (BRC)					Prepares reports
Panel for Regulatory Accountability				Takes the final political decision	
The National Audit Office (NAO)		Provide recommendations based on ex post analysis		Assess ex post the quality of RIAs	
Departmental Better Regulation Units			Each department needs to organize training		

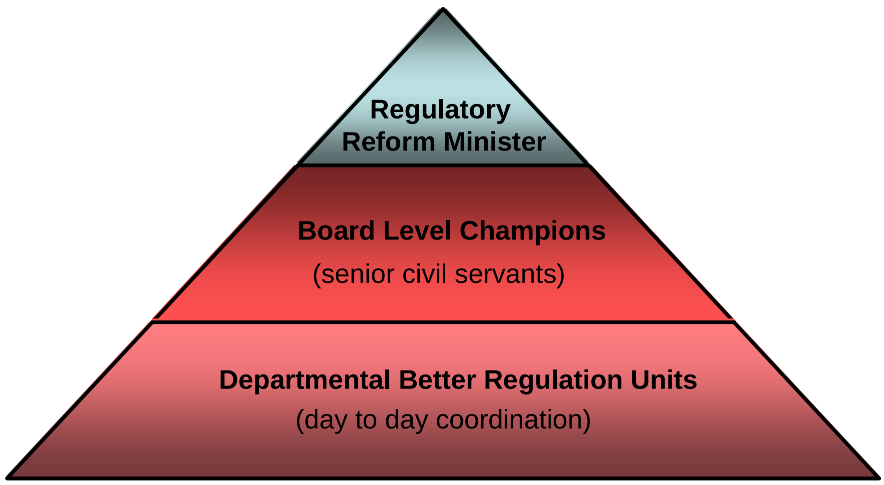
Source: The author based on NAO (2006)
Notes: * Responsibilities correspond to the four type of tasks that RIA oversight bodies should play according to OECD. See OECD (2002)

For the ministries and departments, the responsibility and accountability mechanisms surrounding the preparation of good RIAs are at the heart of this quite decentralized system. Since the mid 1990s, all departments (ministries) have been required to have a "Better Regulation Minister" signing all RIAs and to set up a "Better Regulation unit" (BRU). The former are held accountable for delivering reductions in administrative burdens and achieving regulatory

[16] In July 2007, the government transformed the "Small Business Service" into a new "Enterprise Directorate" part of the Department for Business, Enterprise and Regulatory Reform (BERR).

simplification. The latter form a unique system of satellite units in charge of carrying out the day-to-day work of preparing a RIA. Each BRU is composed of 1-4 professionals often educated in economics. The BRUs are also in charge of providing training to department's officials. Specific boards of senior public officials further strengthen coordination inside a department. Figure 1 illustrates the three-stage quality control system currently in place.

Figure 1. Three Levels of Control at the Line Ministry Level



Source: Murdoch, Steven (2006) Impact Assessment in the United Kingdom BRE Presentation

The RIA procedures

Between July 2006 and April 2007, the BRE undertook a public consultation to review the Regulatory Impact System and its Assessment Guidance. After extensive debate which ended up postponing the introduction of the new requirements, the RIA systems was finally presented in July 2007 and will be compulsory from November 2007.[17] Its main features are aimed at improving the presentation of results and encouraging impact assessment earlier in the policy making process.

There is clearly no shortage of information available to regulators on how to prepare RIAs properly. The practical requirements for carrying out good RIAs have been extensively researched and promoted through advice and guidance by both the BRE and the National Audit Office.[18] For instance, the different reincarnations of the BRE have periodically reviewed RIA

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[17] The new system is now called 'Impact Assessment (IA)' as it lost the "R" for Regulatory in order to emphasis its aspiration to become a central instrument for policy making in the UK.
[18] Government of the UK (2003) A Quick Guide to Regulatory Impact Assessment. Cabinet Office, London. http://www.cabinetoffice.gov.uk/regulation/ria/ia_guidance/ and NAO guidance is Better Regulation: Making

methodology and produced state of the art guidelines on drafting a RIA. These systematic reviews reflect a commendable effort to learn from experience. Indeed, each revision has made the overall RIA process more sophisticated. In particular the BRE has set up a internet-based toolkit which should help drafters to prepare step by step high quality RIAs.[19]

In terms of scope, departments now need to prepare a RIAs for primary and secondary legislation, codes of practice and guidance, when the regulatory proposals affecting the private sector is expected to over £5 million (equivalent to US $10 million).

The drafting process follows a sequence of seven main steps that may be revisited in case of new evidence is found during the assessment. They are**:**

1. *Development stage:* definition of policy problem; gathering of evidence; rationale for Government intervention; identification of policy objectives.

2. *Options stage*: identification of options; testing of options through pre–consultation.

3. *Consultation stage*: refinement of options; publication for public consultation and comment.

4. *Final Proposal stage*: focus on costs and benefits of preferred option (the ‘proposal’); publication alongside Bills and Statutory Instruments.

5. *Implementation stage*: revisions to reflect final contents of the measure and or other regulatory measure;

6. *Review stage*: after the intervention or regulation has been implemented it should be reviewed to establish what are its actual costs and benefits and whether it is achieving its desired effects; and

7. *Publication* of the measure.

Some of the key features of 2007 reviewed RIA system are:

- A revised and simplified template to improve clarity and transparency including new requirements to summarize both the rationale for government intervention and evidence supporting the final proposal.

- Specific batteries of tests including a competition impact test overviewed by the Fair Trade Commission (i.e. the UK competition authority)

- A strengthened Ministerial declaration to bolster the quality of the analysis in RIAs, supported by improved arrangements within departments

- Detailed mandatory public consultation requirements (see below)

Good Use of Regulatory Impact Assessments, 15 November 2001, HC329, http://www.nao.org.uk/ria/index.htm.
2001-02
[19] http://www.cabinetoffice.gov.uk/regulation/ria/toolkit/

- A specially designed RIA for assessing the transposition of European Union legislation into British law
- An emphasis on post–implementation review
- An online database of all RIA to allow greater public scrutiny

One of the central themes of the UK RIA process is the emphasis on ***transparency***. To sustain this principle, the government has established important 'rights' for stakeholders. First, the UK RIA is closely linked to extensive public consultation disciplines. Specifically, a consultation process is required for all new proposals with potential impacts on business. For instance, all draft RIA need to be published 12 weeks before a regulation is implemented in order to receive comments and the RIA drafters need to summarize the results of this consultation.[20] These 'notice and comment' requirements strengthen the long tradition of pragmatic, comprehensive and flexible approaches to effective pro-active consultation.

Second, with limited exceptions, new proposals bearing on business should be timed to commence on one of the following Common Commencement Dates: 6 April and 1 October of the year.

Third, regulatory requirements need to be easily accessible to all stakeholders. For such purpose, a series of initiatives have been launched to broaden and ease access via the Internet. The above mention database with all RIAs will also increase public access.

D. Results

Since the full-fledged RIA system was introduced in 1997, almost 900 RIAs have been conducted in the UK at a rate of around 160 a year.[21] Most international and national observers recognize the sophistication and achievements of the UK's RIA system.[22] According to the European Commission, in 2005, the UK system complied with 10 out of 11 quality indicators. The Commission also considers the UK RIA as the best performing one among all those in the EU. (See Table 2). It is still too early to comment, but the new system launched in July 2007 seems to further the lead of the UK vis-à-vis other countries in Europe or abroad.

[20] See the Code of Practice on Consultation in effect from 2001 http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp
[21] Baldwin, R (2005)
[22] OECD (2002), Radaelli, C. (2005), Jacobs, S. (2006), Renda, A. (2006)y

Table 2. Overview of Measures in the Area of Better Regulation and Impact Assessment in 2005

	Better regulation programme	Specific RIA policy	Obligatory RIA	Alternative instru-ments considered	Guidelines on RIA	Coordinating body for RIA	Consultation part of RIA	Formal consul-tation procedures	Direct stakeholder consultation	Tests of impact on small enterprises	Exemptions for SMEs	*Total Y+(Y)*
Belgium	(Y)	N.A.	(Y)	N.A.	(Y)	(Y)	N	(Y)	(Y)	(Y)	N	*7*
Czech Republic	Y	N.A.	N	Y	N.A.	N.A.	N.A.	N.A.	N.A.	(Y)	N	*3*
Denmark	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	*10*
Germany	Y	N.A.	N.A.	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	*5*
Estonia	N	N	Y	Y	Y	N.A.	N.A.	N	N	N.A.	Y	*4*
Greece	(Y)	(Y)	N	N	N	N	Y	N	N	N	N.A.	*3*
Spain	Y	(Y)	Y	Y	(Y)	(Y)	N	N	N	N	N.A.	*6*
France	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	*0*
Ireland	Y	N	N	(Y)	(Y)	N	(Y)	(Y)	N	N	N	*5*
Italy	(Y)	Y	N	(Y)	Y	(Y)	(Y)	N	Y	(Y)	N	*8*
Cyprus	N	N	N	N	N	N	N	N	N	N	N.A.	*0*
Latvia	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	*9*
Lithuania	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	N	N.A.	N.A.	*4*
Luxembourg	Y	N.A.	Y	Y	N.A.	Y	Y	Y	N	N	Y	*7*
Hungary	Y	(Y)	Y	N	N	Y	(Y)	(Y)	N	N	N	*6*
Malta	Y	N.A.	N.A.	N	N.A.	(Y)	N	N	Y	N	Y	*4*
Netherlands	Y	Y	N.A.	Y	Y	Y	N	N	Y	(Y)	Y	*8*
Austria	Y	Y	Y	Y	Y	N	Y	Y	Y	N.A.	N	*8*
Poland	Y	Y	Y	Y	Y	Y	Y	Y	(Y)	N	Y	*10*
Portugal	N	N	N	N	N	N	N	N	N	N	N	*0*
Slovenia	Y	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	*1*
Slovakia	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	(Y)	N.A.	N	*1*
Finland	Y	Y	Y	Y	Y	(Y)	Y	Y	Y	N.A.	N.A.	*9*
Sweden	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	*9*
United Kingdom	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	*10*
Total Y+(Y)	*19*	*13*	*12*	*15*	*15*	*14*	*12*	*12*	*11*	*7*	*5*	

Legend

Y	*Measures exist*	*(Y)*	*Measures planned/ Available partially*	*N*	*No measures exist*	*N.A.*	*Information not available*

Source: EC (2005) Commission Staff Working Paper: Report on the implementation of the European Charter for Small Enterprises in the Member States of the European Union - SEC(2005) 167, 8.2.2005, p. 36.

This achievement is confirmed by a series of international benchmarking exercises focusing on economic outcomes. For instance, in the most recent World Bank survey for ease of doing business the UK came 6th out of 175 countries.[23]

However, this ‘good’ performance must be balanced by two concerns: the quality of individual RIAs and the challenges of the regulatory environment. Scott Jacobs has draw a series of generic and specific complaints and comments (See Box 2).

Box 2. Documented Problems with the UK RIA According to Sources

UK Better Regulation Task Force annual reports (2004)

- Nine out of 12 RIAs raised quality issues of concern.
- Some RIAs were very difficult to obtain.
- Regulatory Impact Assessments are meant to describe the alternatives that have been considered, but often only one approach is considered.
- Despite the UK being placed among the world’s leaders in better regulation and even after eight years of intense BRTF activity, the volume, complexity and costs of regulation continued to grow. We found too few examples of better regulation in principle leading to less costly regulation in practice.
- The quality of impact assessments needs to be improved and they need to be used earlier and more strategically to influence decision-making and have credibility with stakeholders.

2005 UK National Audit Office

- [Out of sample of 10 RIAs selected by Better Regulation Task Force] Eight of ten RIAs included some quantified assessments of costs. Only four RIAs out of ten quantified benefits.
- Some RIAs are produced after important decisions have been made.

2005 Tim Ambler, London Business School; Francis Chittenden, Manchester Business School

- There are only one or two examples of UK regulations being withdrawn as a result of the RIA system.
- The Small Business Service is a well-intentioned initiative but, like consultation, has added to the difficulty, partly due to the inexperience of its staff.

2006 Andrea Renda, Centre for European Policy Studies

- The huge effort devoted by UK administrations in refining the RIA procedure has so far produced only limited visible improvements in the efficiency and accountability of the UK regulatory process.
- The cost-saving and efficiency-enhancing potential of the RIA model is still not confirmed by any empirical evidence.

Source: Jacobs, S (2006).

The periodic and independent examination of NAO also provides a very valuable ‘reality test’ of the practical effects of this RIA system. In its different reports, NAO has underlined the serious implementation problems and the difficulties encountered in preparing RIAs by ministries. For instance in the three categories of RIA defined below, NAO has found that only a minority of RIAs can be considered ‘integrated’ and most of the ones published are basically ‘pro-forma’ exercises.[24]

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[23] World Bank (2007) Doing Business Economy Rankings, Washington www.doingbusiness.org/EconomyRankings/

[24] NAO (2006)

- Pro-Forma (Rubber stamping, Rushed, last minute, Poor quality, policy already announced, no discussion of 'do nothing', But still of some use

- Informative High quality content, Robust analysis, But only limited impact on policy, e.g. The Courts Bill (Collection of Fines) – policy option already announced

- Integrated, Informs and challenges, Started early, Well resourced and planned, Robust evaluation of several options, e.g. The Financial System and Major Operational Disruption.

NAO's assessments have been further complemented by an analysis done by the British Chamber of Commerce.[25]

Finally, the 'proof of the pudding' is still missing. As a recent NAO business survey of 2,000 businesses has revealed that, "while the majority of businesses understand the purpose of regulation, 60 per cent believe the level of regulation in the UK is an obstacle to the success of their business, and 85 per cent are not confident that Government will succeed in reducing regulatory burdens. This survey will form the baseline against which changes in business perceptions of the burden of regulation will be measured". [26]

E. Conclusion and Lessons Learned

The United Kingdom has become one of the most experienced OECD countries in the use of RIA. Furthermore, the recently enhanced RIA system is being visibly championed by the new Prime Minister. RIA will thus remain a central contributor to the transformation and modernization of the UK economy as well as to the development of a new regulatory culture in the public service.

Patent prove of the 'good health' of the RIA system is that many countries, and in particular the EU institutions, are following the broad lines of the UK system and are modeling their procedures and guidance from those prepared by the BRE, BRC and NAO. Few people will argue against the fact that the UK has developed a RIA model worthy of study and adoption -- but with recognition of some shortcomings and risks that still require attention from the government. The main following conclusions can thus be organized around five basic dimensions.

Political economy

Compared to other OECD and non OECD countries, RIA has been systematically supported from the highest level of UK government. Since its formal inception in 1997 when the RIA responsibilities were transferred to the Cabinet Office, they have been upheld with political will, resources and institutions. The transfer of RIA to a 'horizontal ministry' will probably not mean a loss of influence as regulatory affairs will be at the heart a stand-alone Department for Business, Enterprise and Regulatory Reform (BERR) where the economic dimension of the reforms should be strengthened. Attention to this transfer will nonetheless be required to ensure that RIA continues to provide useful decision-making information and accountability commitments to the Cabinet.

[25] BCC (2003) and BCC (2004)
[26] NAO (2007b)

Furthermore, the variety of institutions – supported by business representatives and a ‘small industry’ of independent think tanks and academics -- has strengthened the political constituency for RIA. This varied support ensures RIA sustainability into the future and shields it from the changes of political parties at the helm of the government.

Efficiency

The constant up-grading of the RIA system over the past two decades exemplifies how programmatic trials and testing can gradually enhance a policy instrument. Numerous improvements to the requirements, the procedures, and the guidance materials have made RIA more efficient and effective. These incremental improvements have expanded its scope and precision and avoiding as much as possible unnecessary compliance burdens on RIA drafters.

However, the criticisms reported in the previous section show that there are still important areas for improvement so as to achieve greater efficiency and effectiveness in delivering high quality regulations. The skepticism from some commentators about the real impacts of the RIA system on the economy and society, as well as on the administrative culture of regulators, indicate that additional efforts are still required to make RIA a smarter tool -- probably complementing RIA with other instruments and policies such as taxation and self-regulation.

In terms of the tool itself, a further investment in establishing better and higher standards for a coherent and systematic cost-benefit appraisals is required. As many NAO reports show, the quality of the economic evidence in key RIAs still needs to improve significantly. This quality problem is paralleled by emerging consultation challenges. Despite the central role of consultation in the RIA process, the emergence of ‘consultation fatigue’ among some stakeholders signals the need to develop smarter and more economical ways to gather evidences and open up the rule-making process.

Transparency

RIA has played an important role in formalizing what used to be a very opaque and informal rule-making system in the UK. Moreover, the centrality of the consultation procedures inside RIA highlights the important synergies RIA can generate in terms of improved transparency and openness. The increasing use of Egovernment tools also makes the UK system a leading model for other countries. However, the consultation process will always require close attention and monitoring either to prevent some groups transforming it into a lobbying vehicle or to prevent a loss of effectiveness due to poor focus and unwanted ‘fatigue’.

Accountability

The UK RIA system can also be praised for its role in improving regulatory accountability. RIA has enhanced the check and balance elements of the policymaking process either before a regulation is passed – through the scrutiny of the BRE and the Accountability Panel – or after they have been enacted through the world-class dedication of NAO. The role of NAO is indeed one of the most important characteristic of the UK system as it provides constant feedback to the system.

Coherence

There is no doubt that RIA principles, requirements and guidance have permeated across the government services increasing significantly the capacities of the UK government to produce high quality regulation. However RIA – or more precisely some RIA techniques – might need to be used earlier in the process to provide a more informed input when choosing policy instruments beyond regulations.

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