

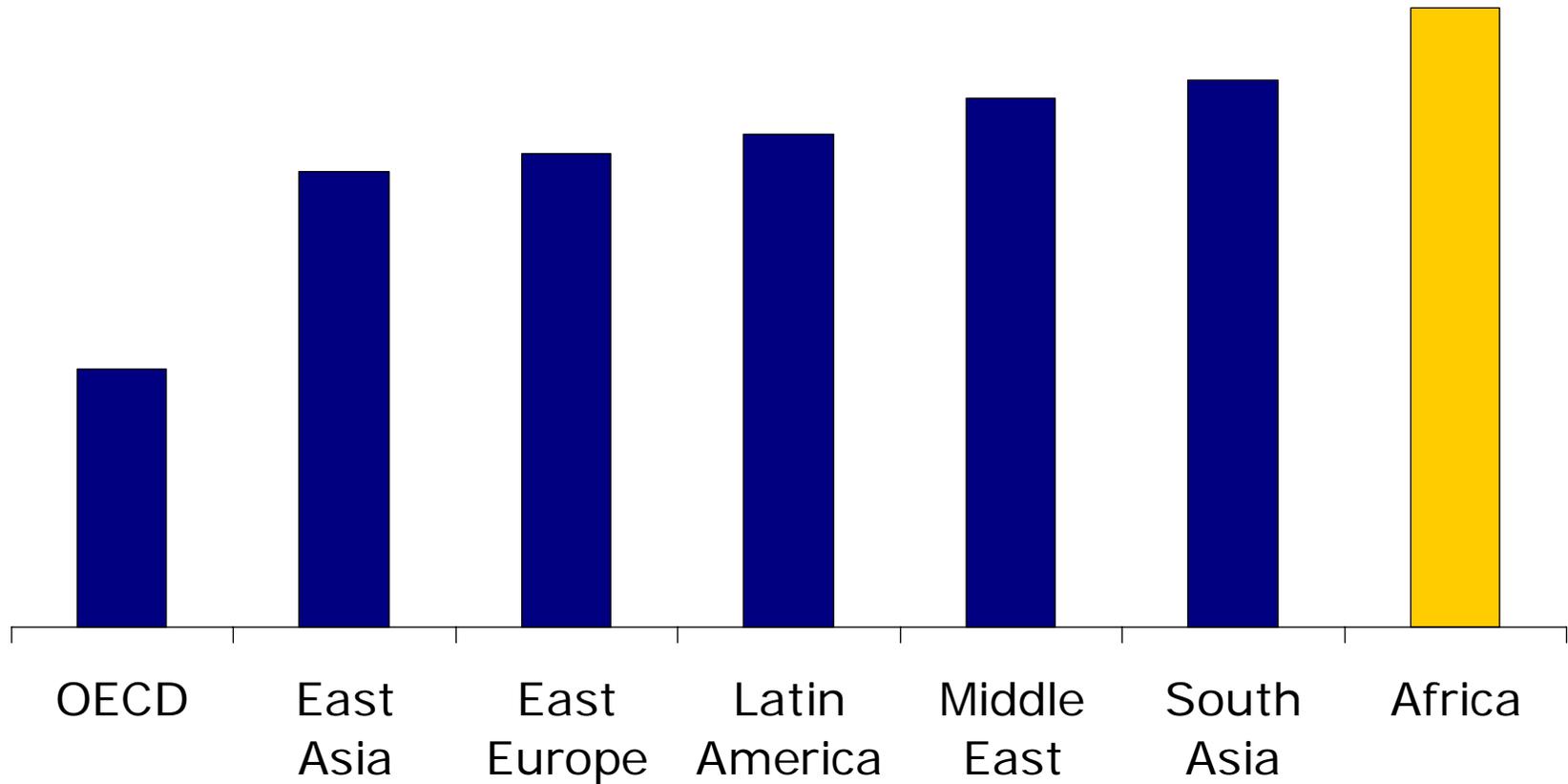
Regulatory Impact Assessment in Tanzanian Policy & Law-making

Embedding the Reform Agenda

**Business Environment Strengthening
Programme for Tanzania (BEST)
MoPEE
August 2007**



Sub Saharan Africa: most difficult region to do business



How can Regulatory Impact Assessment Help?

- Firms need to be able to enter and exit the marketplace, expand and scale back capacity, feel confident their rights will be upheld and outlays recouped – essential preconditions for growth
- This is the job of Government and Parliament
- **How?**
- By putting in place high quality, low cost laws and policies that deliver the right incentives for firms to invest productively, make profits, create jobs and expand
- **How ?**
- Use RIA to routinely assessing quantitative and qualitative impact of laws and policies **on investment climate**, before and after introduced

The Law of Good Intentions

- All over world govt's pass laws that do more harm than good
- Most frequently passed law is the 'law of good intentions'
- Workers' Compensation law must create the right incentives for employers to make their workplaces safer, but
- Maternity leave provisions must be designed in such a way that they do not discourage employers from hiring women, but
- Regulatory compliance costs have VERY far-reaching consequences!

The world over, to regulate better has become a crucial tool for good governance and competitive performance

How can Regulatory Impact Assessment Help?

- By scrutinising laws and policies through “RIA lens” you will know whether the law will deliver outcomes you seek, and at what cost to whom
- Complying with laws always costs time and/or money
- Unless we look carefully enough at *who wins, who loses, by how much*, we have no idea what decisions will be made by those affected
- Every time a business spends time or money dealing with regulation, the cost is passed on to:
 - workers – lower wages or job losses
 - consumers – higher prices / poorer quality
 - unemployed – even harder to get a job

Organisational, Institutional & Process Changes for Embedding RIA

Broad consensus on a best practice framework for RIA: --

- Overarching PSD strategy w/in which RIA sits / strong sustained commitment
- Tailored methodology for RIA
- Central Unit to promote RIA
- Training for the public, private, civil society sectors
- Incentives to use RIA
- High level political commitment
- An increase in standards of RIA over time as capacity is built
- Information for Parliamentarians - how RIA can improve quality of Parliamentary scrutiny and help MPs hold govt to account

Core Questions giving shape to RIA Methodologies

1. **Problem** definition
2. **Purpose** and **Intended Effect** of the Proposal?
3. Why is Government action is justified.
4. What **Options** considered (alternatives to regulation?)
5. What are anticipated **Impacts**, qualitatively + quantitative
6. **Distribution of impacts** - who gains / who loses?
7. What **Consultation** undertaken / what was feedback?
8. **Enforcement and Sanctions** - how will measures be enforced, and at what cost?
9. How will measures be **monitored + evaluated**?

Tailored Methodology for Tanzania

- Overarching policy goals in Tanzania - sustainable development/poverty reduction
- Economic growth, environmental protection, social justice - mutually reinforcing components of sustainable development – integrate the analysis
- Caution - start modestly!
- Scale + scope of RIA can be expanded later
- Any attempt to bring greater rationality + accountability to policy-making through RIA is better than no RIA
- A range of methodologies and data collection strategies can be applied - **importance of RIA lies not in getting methodologically correct answers, but in asking the right questions!**

Central Unit to promote RIA, oversee its introduction, and **control quality**

- Strong basis for coordination of RIA and quality control exists in Cabinet Secretariat approval process
- Challenge now is to strengthen and bring more consistency to Cabinet approval process through introduction of RIA methodology
- All regulators will need to satisfy Cabinet of proper consultation, and that options to regulation and costs/ benefits have been analysed
- Manpower and resources for monitoring and enforcement must be identified
- The Cabinet Secretariat will work closely with the Better Regulation Unit

Training – Public Sector

- BRU spearheading capacity building in RIA at central level. Significant training activities already delivered
- Local capacity (introductory) for RIA training has been built
- Introduce into pre and post graduate curricula at UDSM
- Adequate capacity w/in GoT at all levels to understand links between good regulation and wealth creation + assess variety of policy options, are critical to the delivery of high quality investment climate
- Incentives to use RIA are useful
- Must not overlook skills development in RIA at local government level – where most businesses interact with officialdom and regulation.

Training for Evidence-based Contributions from the Private and Civil Society sectors

- A key risk to sustaining the momentum in for RIA is inadequate capacity in private sector and civil society representative groups to bring sufficient pressure to bear on Government to improve transparency/inclusiveness and deliver high quality laws
- Under BEST Advocacy Component, a fund established to respond to need for a strong and articulate private sector
- This fund will be accessed to build capacity for RIA within private sector organizations, and support the conduct of RIAs on specific reform initiatives.

Securing Political Commitment to use RIA

- Technical considerations not always aligned with political imperatives - RIA with its emphasis on rational policy-making and justification of costs, can be perceived by ministers as an obstacle to being seen to act
- Regulation is appealing because act of passing a law is visible to the electorate and can pass costs of delivering policy outcomes from the public sector to the private sector purse.
- So securing political commitment to use RIA can be problematic
- Formal Cabinet resolution endorsing RIA may need to be passed to ensure momentum for RIA sustained in the longer term.

Increase the standards of RIA over time as capacity is built

- In earliest stages, confining RIA to high quality **problem definition, option analysis** and an identification of the **different types of impacts** that will affect different groups of stakeholders, will have a profound effect on improving the quality of regulatory submission.
- A tool for measuring quality of regulatory proposals for compliance with RIA indicators will allow GoT to monitor compliance with RIA standards, recognise when it is appropriate to raise standards, and evaluate regulatory quality over time.

The Critical Role of Parliament in Embedding RIA

Effective regulatory decision-making compromised because:

- Bills often not accompanied by explanatory notes or analysis
- Parliamentary research services weak, under-resourced
- 'Bill scrutiny stage' involves presentations from invited stakeholders instead of open public notification and debate
- Some stakeholders not given sufficient notice to prepare
- Stakeholder input not recorded as attachment to Bill
- Disconnect between MPs and parliamentary staff
- Parliamentary committee clerks sit with the committees - could provide technical advice but not called upon
- Bill tracking could be improved

Strengthening the Role of MPs in Mainstreaming 'Good Regulation'

- Parliament will insist on being presented with high quality analysis in support of regulatory proposals to enable MPs to make sound, evidence based decisions, and lead charge for excellence in law-making.
- Will consider forming a *Parliamentary Taskforce on Good Regulation*
- Training and resourcing of parliamentary support staff – potential to perform important role in mainstreaming RBP/RIA in Parliament.
- Increased pressure on Executive from Parliament through rigorous scrutiny of Bills will improve quality of information presented with Bills, raise quality of debate, produce better outcomes

Key Challenges - Winning Hearts & Minds and Building Adequate Capacity

- Little doubt about Government's commitment to enterprise growth and investment
- But policy must be translated into a commitment at all levels – the links between business growth and raised living standards, and good regulation and business growth must be widely understood and internalised to bring about change
- Messages must be reinforced with capacity to use the tools
- RIA is about openness, transparency, service delivery and helping the constituency to hold Government accountable for its promises. A bold, long-term agenda which requires sustained effort and commitment across government at all levels

Tanzania is Moving in the Right Direction

- RIA is only a part of a strategy for regulatory transformation
- numerous challenges underlie the burden of regulation in Tanzania, but we are moving in the right direction
- official resolution passed by PSs in January in support of RIA
- Parliament has also agreed to embed the RIA process in parliamentary decision-making.
- by encouraging high quality consultation and demonstrating potential impacts across society of a proposed new law, RIA will promote '*Smart Regulation*' and better social and economic outcomes