BANNOCK CONSULTING

TAILORED SOLUTIONS FOR LASTING CHANGE

Introducing Regulatory Impact Assessment in Developing Countries:

The Case of Uganda

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Executive Summary: RIA in Uganda in the context of the Cairo Conference

The DFID funded Regulatory Best Practice Project (RBPP) in Uganda has been designed to respond to the challenge presented by regulatory burdens when reforming the business environment. A principle activity of the RBP Project is focused on the introduction of Regulatory Impact Assessment (RIA) as a practical measure to improve the Government of Uganda's approach to the formulation of policy and the design of regulations. RIA is a methodology for designing precise, targeted regulations that achieve legitimate policy aims with the minimum burden on those affected. RIA and its application in Uganda cuts across all of the hot topics identified for discussion at this conference as follows:

1. **Why should enterprise size matter?** MSME's are more vulnerable to regulatory burdens than larger firms, as they are not able to take advantage of economies of scale in reducing the relative impact of regulatory burdens. RIA invites policy-makers to consider why enterprise size matters because in conducting an RIA, they are required to consider the impact of proposed regulations, and in particular the distribution of impacts across groups in society. The same consideration can be applied in relation to economic actors- under the RIA framework being introduced in Uganda, policy makers will need to specify whether their proposal will entail additional costs to small businesses, what any such costs are, and how much the typical small business is likely to have to pay.

2. **How to promote public private dialogue.** RIA contributes to public private dialogue on a number of levels. First in conducting an RIA, policy makers are required to consult with the private sector around a specific issue as part of the process of weighing the costs and benefits and the likely distribution of impacts of a proposed regulation. Second, the emphasis RIA places on consultation can encourage government to consider the private sector as an actual stakeholder in policy-making and not simply a nuisance factor in the formulation of policy. Finally RIA and its emphasis on evidence based analysis can improve the quality of dialogue by concentrating discussion on actual facts. This should serve as a basis for limiting the talking shop nature that tends to characterise some dialogue mechanisms and processes.

3. **How to demonstrate a demand for the reform of the business environment?** RIA offers a rigorous analytical framework for both designing and reviewing government policy and the regulations used to achieve policy aims. After a regulation has been passed, RIA can serve as a benchmark for ex post monitoring and evaluation, helping government to review the effectiveness of its intervention and enabling businesses and citizens to advocate for reform and hold government to account. In Uganda, there is a strong feeling held by the private sector that although they are touted as the "engine of growth" their views about what reforms are needed to enable them to play this roll, are not taken seriously. They

are therefore often reluctant to spend time and money lobbying for reform. In the knowledge that the RIA process presents the business community with a real opportunity to engage meaningfully in policy making, firms are more likely to devote more energy into demanding change from Government.

4. **What should be the role of the private sector in reforming the business environment?** A central role for the private sector in reforming the business environment is to act as an agent for change by pressurising government for reform. RIA is a useful tool in supporting the private sector in this regard because it equips private sector actors with the information they need to make a case for reform. RIA also brings greater transparency to the policy process by requiring government to consult with affected stakeholders and to present a policy proposal in a prescribed format.

5. **What is the connection between the informal economy and the business environment, and what initiatives can be taken to formalise the informal economy?** On average the informal economy in Africa is estimated to have been 42% of GDP in 1999/2000 (World Bank): Zimbabwe, Tanzania and Nigeria were at the high end of this assessment with the informal economy being estimated to be 59.4%, 58.3% and 57.9% of GDP respectively. Regulatory burdens are often cited by entrepreneurs as a disincentive to formalisation and can deny economic actors the benefits of legitimacy such as collateralised lending and freedom from harassment by inspectors. RIA is an essential tool to promoting formalisation as it is intended to design precise, targeted regulations that achieve legitimate policy aims with the minimum burden on those affected.

6. **How can donors collaborate in business environment reforms?** RIA is an important component of the policy making process, but RIA alone is not a panacea for better policy-making in developing countries- it must be viewed as part of a wider policy process. It is essential that donors coordinate the policy interventions they choose to support so that beneficiary countries get the full benefit of a holistic approach to systemising policy making and are not burdened with duplicating or conflicting approaches to policy reform. In addition RIA is a new innovation in developing countries and interested actors in the policy process, both inside and outside government, need to be empowered to understand how to use RIA. The RBP Project in Uganda offers a useful case study for understanding both the range and the duration of interventions donors will need to consider when choosing to support the introduction of RBP/RIA in a developing country. A recent DFID Output to Purpose Review of this project has re-emphasised that enabling environment reform requires donors to stay engaged beyond the standard three year programme cycles that have often characterised donor funded initiatives in the past.

7. **What are the full local dimensions of business environment reform programmes?** The experience of Uganda illustrates a number of important considerations that need to be taken into account when tailoring RIA to a developing country context:
    - First it has been essential in Uganda to take account of the level of resources available within Ministries to carry out RIA. There has been a balance to be struck between making the analysis as robust as possible and developing an approach to RIA that does not overload the system.
    - Second, lack of reliable data to inform the analysis is a problem. Uganda does not enjoy the benefits enjoyed by OECD countries of numerous business surveys, well resourced business associations and civil society. Similarly Uganda does not have a well developed insurance market to provide insights into shadow pricing. As a result the RBP project has had to devise innovative means to plug the information gap.
    - Third, civil society, private sector and parliamentarians need to be empowered to understand RIA as a policy tool and the value of evidence based analysis. We have developed the capacity of a local training organisation to deliver training in RIA and we are working with a number of Apex BMOs and civil society groups to build their advocacy capacity.
    - Fourth, training in RIA points towards the wider need to win over the hearts and minds of all stakeholders affected by RIA so they come to see it as something that benefits them personally. Concentrating on winning the support of senior decision makers and politicians alone is not enough.
    - Fifth there are institutional considerations associated with the introduction of RIA- RIA systems can strengthen the hand of those institutions given the task of policing the system. The Ugandan RIA system has been developed in close collaboration with key government actors to build ownership and awareness. The new system will be endorsed by the Uganda Cabinet so that Ministers have an opportunity to comment on its use and commit themselves to the new system.
    - Sixth the role of champions in promoting the RIA agenda cannot be understated. An influential champion is central to moving the reform agenda forward, but any gains made as a result of support from a champion can be jeopardised when the champion moves on or changes post.
    - Finally, within the actual framework of how RIA is applied, it has been important to recognise the distribution of impacts on various groups in society. In Uganda we are encouraging government to examine the impact of RIA on tribes, religious groups, the different regions of the country, and crucially, sufferers of HIV/AIDS.

Introducing Regulatory Impact Assessment (RIA) in Developing Countries

The Case of Uganda

1. This paper draws on the experience of Bannock Consulting of designing and implementing a regulatory impact assessment (RIA) system that is appropriate to the developing country context, and specifically to the Ugandan administrative and policy environment. Bannock Consulting is currently running a two-year project, funded by the UK's Department for International Development, to improve the regulatory environment for businesses in Uganda. Manchester University's Centre on Regulation and Competition is a partner in this project. This project follows an earlier project to assist with the deregulation of the economy. Bannock has also worked on regulatory reform issues in Kenya, Bosnia-Herzegovina, Bulgaria and Poland, and is advising the Business Environment Strengthening for Tanzania (BEST) Programme.

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2. Over the past twenty years, RIA has taken root amongst the main donor countries as a means of improving their regulatory environments, including the US, UK, Australia, Canada, New Zealand and the Netherlands; as these countries, and indeed the European Commission too, have seen the benefits of RIA, they are increasingly making it a feature of their development assistance. This trend is set to continue, and the 2005 World Development Report[1] is likely to contain strong exhortations and advice to reduce the burden of regulation, noting that most countries have huge scope for improving regulation (and taxation) without compromising broader social interests.

3. This paper draws on the experience of Bannock's current project in Uganda and on our wider experience with RIA around the world. It discusses:

A) The benefits of RIA generally.

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[1] http://econ.worldbank.org/files/35627_chapter5.pdf

B) The particular benefits of RIA for developing countries.

C) How RIA systems might be modified so as to be more effective in developing country environments.

D) The challenges of implementing RIA in such environments and more generally.

A) The benefits of RIA

4. Regulatory Impact Assessment is a methodology for designing precise, targeted regulations that achieve legitimate policy aims with the minimum burden on those affected. It is a tool that provides a framework for a high quality, participative policy development process, guiding users through a series of steps designed to address the main stages in the development of high quality policy. These stages include a thorough analysis of the full range of options available to government for addressing a policy problem, and a calculation of the costs and benefits to ensure that new measures are fully justified. To a certain degree, RIA presupposes the existence of a coherent and participative policy process.

5. Although there is diversity between different countries' RIA frameworks and the role that RIAs play in the policy process, it is possible to discern a high degree of commonality. The OECD has issued best practice guidance on RIA as part of its regulatory reform practice area.[2] The UK framework is fairly typical in that it contains the core elements recommended in best practice guidance and to be found in most other frameworks; it is upon this model that we have based our Uganda RIA framework.

Table 1: Typical Steps in an RIA 1

1. Title of Proposal 2. Purpose and Intended Effect of the Proposal

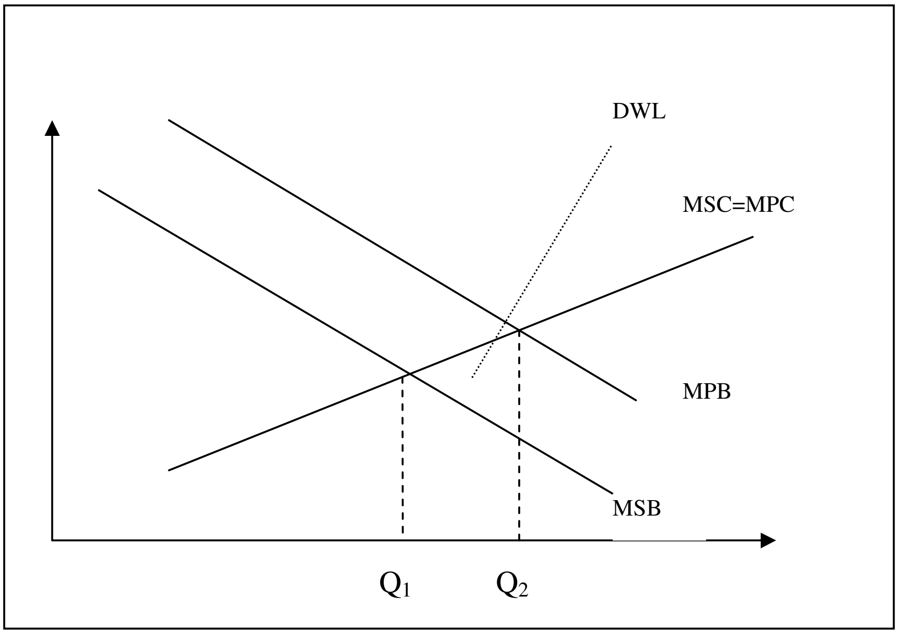
[2] http://www.oecd.org/document/38/0,2340,en_2649_37421_2753254_1_1_1_37421,00.html

3. The Policy Problem
4. Options
5. Impacts
6. Distribution of Impacts
7. Results of Consultation
8. Enforcement and Sanctions
9. Monitoring and Evaluation

6. The benefits of RIA, and of Regulatory Best Practice approach to government, are well known and have been documented by the World Bank, OECD, EU, national governments and other organisations. They were covered in detail at the Centre on Regulation and Competition's November 2003 conference on "Regulatory Impact Assessment: Strengthening Regulation Policy and Practice". The benefits of RIA will only briefly be reprised here.

Improving the quality and efficiency of government interventions –
RIA is designed to increase the information brought to bear on the policy-making process and is an important contributor to rational, evidence-based policy-making. It provides politicians with better information on which to base their decisions and therefore can contribute to better governance for citizens and to a business environment that is conducive to enterprise-led growth and poverty reduction.

RIAs assist governments to devise efficient regulation that address market failures and that, in economic terms, set the price of activities such that the socially-desirable quantity is provided. Where regulation is inefficient, goods and services are either under- or over-provided. The first diagram below shows how inefficient regulation can lead to an excessive consumption of goods or services. Assuming that the marginal social cost (MSC) and the marginal private cost (MPC) are equal, but the marginal social and private benefits are not, efficient regulation is necessary to guarantee a socially beneficial equilibrium. In the diagram, the marginal private benefit (MPB) is higher than the marginal social benefit (MSB), therefore the level of goods or services produced is above that of the social optimum. This can be seen in polluting industries and activities where regulation fails to internalise the cost of externalities. Of course, the opposite can also be the case, i.e. the marginal benefit to private actors is less than the marginal benefit to society – in such cases, too little of the good or service is produced (which may be the case, for example, with health and safety regulations). In both cases, the role of regulation is to equate the social and private costs and benefits of production and consumption to the point where the optimal level for social welfare is reached.



Enhancing competitiveness –

unnecessary regulatory burdens reduce the competitiveness of individual businesses directly, and indirectly reduce national competitiveness in the global economy. They reduce the resources available for investment in equipment and human capital and reduce economic efficiency. Developing a strong competitive position becomes increasingly important as regional and global economic integration picks up pace.   Regional integration is particularly relevant to Uganda (and to Tanzania where Bannock is also providing advice), as the East African Community becomes more of a reality. Regional integration allows goods and services to flow freely between the member states of trading blocs. This means that production will shift to those countries with a comparative advantage in the production of certain goods and services. This comparative advantage includes a conducive regulatory environment, as well as other endowments such as a skilled labour force and natural resources. Similarly, businesses will move to those states that have the most favourable overall environment for wealth creation. Whilst much attention is traditionally placed on tax competition between States in attracting investment, and especially Foreign Direct Investment, the regulatory environment is also a key factor in the decisions businesses make about where to locate. The World Bank's draft 2005 World Development Report states that the way in which States regulate and tax the private sector has a strong influence on the investment climate, and therefore the decisions of investors and businessmen and businesswomen.[3] This is not to say that minimal regulation makes for the best business environment. Business flourishes where there are the regulations necessary to provide protections and assurances to businesses and citizens to give them stability, predictability and confidence to invest without being unnecessarily burdensome. RIA helps governments to strike the right balance.

Increasing transparency and accountability –

RIA also contributes to transparency in government by encouraging policy-makers to set out ex ante the reasons for their policy decision, how it addresses an identified and quantified problem, and the anticipated costs and benefits. Best practice in RIA stipulates that such assessments should also contain an analysis of whether any particular groups either gain or lose disproportionately from the regulatory proposal. This helps identify whether any groups are being given favourable treatment. In many jurisdictions where RIA is used, the assessments are made available publicly and are also submitted to Parliament along with draft Bills. This can improve the quality of Parliamentary debate as more information

[3] http://econ.worldbank.org/files/35627_chapter5.pdf

is available, and thus assist the legislature to hold the executive to account on behalf of the people.

Reducing opportunities for corruption –

The more complex and open to interpretation a regulatory obligation is, the greater are the opportunities for corruption. Enforcers can use their discretion to extract bribes, and the regulated businesses are incentivised to pay bribes as a way of circumventing more costly bureaucratic requirements. By encouraging minimum burdens on business and simple, clear regulations, RIAs can contribute towards an environment that is hostile to corruption.

A tool for policy monitoring and evaluation –

After a regulation has been passed, RIA can serve as a benchmark for ex-post monitoring and evaluation and thus help:

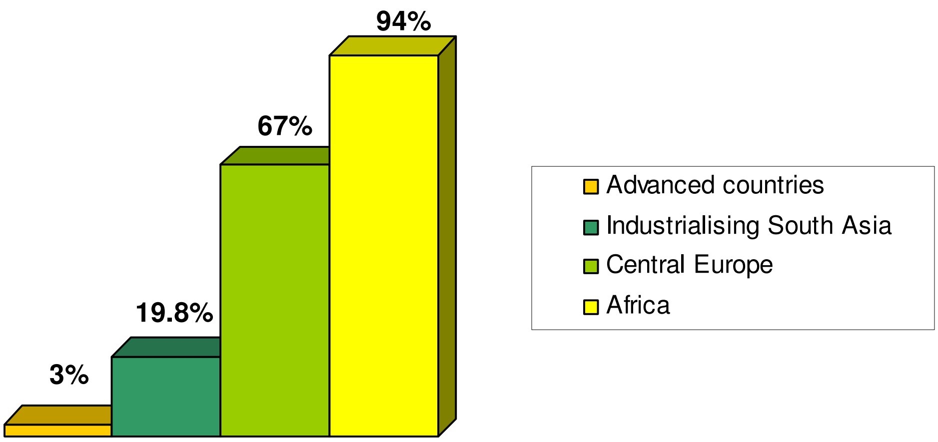
- governments review the effectiveness of their interventions;
- businesses advocate for improvements if the regulation turns out to be more burdensome than anticipated;
- citizens hold their governments to account for delivery of the benefits promised.

B) The Particular Benefits of RIA for Developing Countries

7. The benefits that RIA brings to governments are largely the same whether the country is developed or developing. However, the problems that RIAs seek to address are perhaps more acute amongst developing countries and therefore the advantages correspondingly greater. In particular, RIA has the potential to make a strong contribution towards poverty reduction for the reasons given below.

8. First, many developing countries, such as Tanzania and Mozambique are emerging from a history of heavy-handed socialist regulation. This means they are hampered by the legacy of a heavily regulated economy and a command and control approach to administration and enforcement. As such, their regulatory systems are not well developed to support a flourishing market economy that will create growth and jobs. In a ten-country study carried out in 2002[4], Bannock Consulting found that the costs and barriers imposed by regulation in developing countries are not only higher than they were in the developed world when it embarked on industrialisation, but are higher in some cases than in the advanced countries today. Taking business entry costs as a proxy for all regulatory costs, the report suggested that these costs in Africa, in relation to GDP per capita, are much higher than those in other parts of the world.

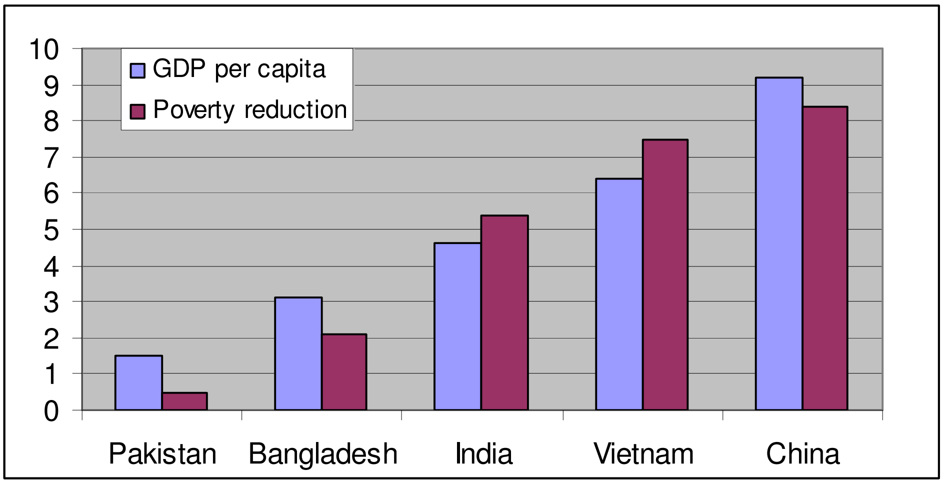
Figure 2: Business Entry Costs as a Percentage of GDP/Capita



9. The Graph below suggests that, at the aggregate level, the economic growth that comes from a business-friendly regulatory environment could be closely associated with a reduction in poverty. RIA, by encouraging policy makers to focus on the needs of small firms (see below), can help ensure that economic growth is pro-poor.

[4] http://www.bannock.co.uk/PDF/ee.pdf

Figure 3: Growth and poverty reduction



Source: http://econ.worldbank.org/files/35621_overview.pdf

10. In the case of Uganda, the country's Poverty Eradication Action Plan (PEAP) makes clear that constraints on private sector competitiveness need to be removed in order to promote economic transformation. Currently, entrepreneurs need to go through 17 steps to start a new business, which on average, takes over 36 days and at a cost equivalent to 132.2% of the GNI per capita.[5] A key element of the PEAP includes setting of appropriate macroeconomic incentives such as export promotion and, relaxing the constraints to the private sector performance in order to achieve the goal of creating a framework for economic growth and transformation.[6] A legacy of heavy bureaucracy also means that developing countries are less well placed to take advantage of global economic integration and the advantages that inward investment can bring. Costs of doing business are important for investors when making decisions about where to locate.

11. Second, micro enterprises, owned and operated mostly by the poor, and small enterprises that provide jobs to the poor, constitute the majority of businesses in many countries, but especially so in the developing world. They

[5] http://rru.worldbank.org/DoingBusiness/ExploreEconomies/BusinessClimateSnapshot.aspx?economyid=193

[6] http://www.worldbank.org/poverty/strategies/events/june/plenary/ugprsp.pdf

account for a substantial share of total employment and gross domestic product and they contribute significantly to poverty reduction. Many of them operate in the informal sector and allow individuals to support a significant number of family members.

12. MSMEs are more vulnerable to regulatory burdens than larger firms, as they are not able to take advantage of economies of scale in reducing the relative impact of regulatory burdens. Micro and small enterprises are particularly important to growth and development of the Ugandan economy and to the Government's efforts to lift people out of poverty. Establishing a micro-business, perhaps simply as a sole trader, offers an escape route from poverty for some people and it is important that as few barriers as possible are put in the way of that process. Under the RIA framework being introduced in Uganda, policy-makers will need to specify whether their proposal will entail additional costs to small businesses, what any such costs are, and how much the typical small business in the sector is likely to have to pay. In many African countries the small business sector operates informally, with red tape acting as a significant disincentive to formalisation; On average the informal economy in Africa is estimated to have been 42% of GDP in 1999/2000: Zimbabwe, Tanzania and Nigeria were at the high end with 59.4%, 58.3% and 57.9% respectively.[7] By discouraging formalisation, regulatory burdens can deny economic actors the benefits of legitimacy, such as collateralised lending and freedom from harassment by inspectors.

[7] http://rru.worldbank.org/Documents/PapersLinks/informal_economy.pdf

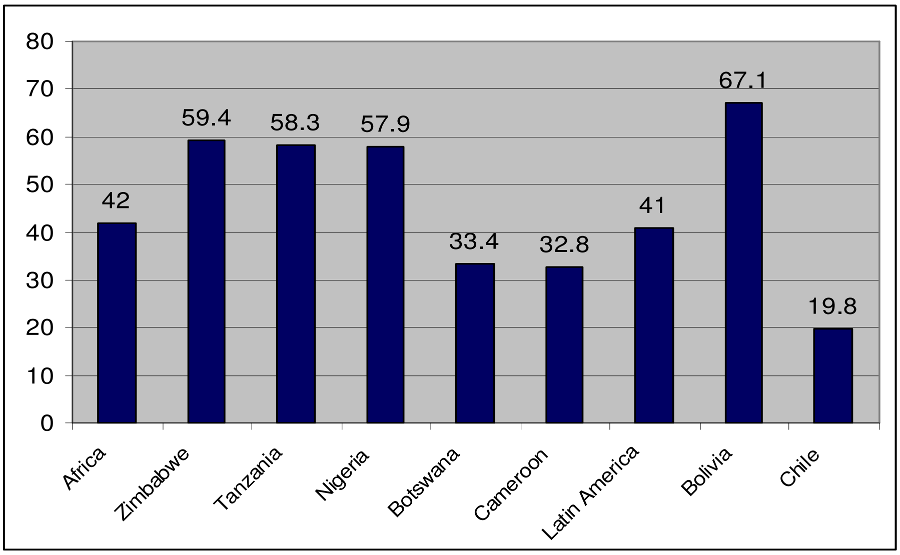


Figure 4: The informal economy as a percentage of national income

13. Third, corruption is more pervasive in many developing countries than in the OECD countries. Uganda, for example, is placed 113th out of 133 countries in Transparency International's 2003 Corruption Perceptions Index. Administrative simplification facilitated by the RIA process can accordingly bring greater gains to countries struggling with corruption. Greater transparency should help contain levels of rent-seeking behaviour and contribute to economic efficiency.

14. Transparency International notes that corruption hits the poor harder than the rich. Its 2003 Corruption Barometer Survey[8] revealed that 40% of poor people surveyed said that corruption had a very significant effect on their family and personal life, whereas 25% of comparatively wealthy people said this was the case. By reducing opportunities for corruption, RIA can have an especially significant impact on the quality of life of the poor.

15. Clear and simple laws create certainty for businesses and reduce the capacity of officials to seek bribes. At present, in many countries, the

[8] http://www.transparency.org/surveys/barometer/dnld/barometer2003_release.en.pdf

proportionately greatest burden is borne by those businesses that succeed, thereby creating a disincentive for entrepreneurs to invest and grow their businesses. We know from our work with small businesses in Uganda that they can be unwilling to invest in new equipment or in taking on employees, because this would signal to the local authorities that the business was creating wealth and invite requests for bribes.

16. Fourth, in multi-ethnic societies, the focus that RIA brings to the distribution of impacts can be particularly enlightening and encourages policy-makers to identify whether one ethnic or religious group loses disproportionately from regulatory change compared with other groups. In Africa generally, societies can be less homogenous than in other parts of the world. Seyoum (1997) provides evidence that many African countries have suffered decades of misrule and conflict due to a misunderstanding of ethnicity and the management of ethnic relations.[9] The region's ethnic diversity places a special responsibility on African governments to assess the distributional impacts of their proposed regulations. National unity is not always served well when one group is seen unjustifiably to benefit at the cost of other groups.

17. In the guidance of RIA that Bannock is piloting in Uganda, we are also encouraging the government to look at distributional impact on tribes, religious groups, and the different regions of the country. For example, a proposed Bill to regulate domestic relations has been contested by some of that country's Muslim population which has special concerns that should be taken into account in the policy process. This is not to say that regulations with a disproportionate impact are unjustified, only that the impacts need to be carefully considered for the purposes of equity.

18. Fifth, there are also vulnerable groups in developing countries whose needs are especially relevant to the fight against poverty. RIA can provide a

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[9] http://web.africa.ufl.edu/asq/v7/v7i1a12.htm

framework for ensuring that these groups' special needs are taken into account. In Uganda, we have consulted with Ugandan policy-makers to identify other groups whose needs need particular consideration. As a result of this consultation, the RIA will require policy-makers to consider the needs of the very poor, of people living with HIV/AIDS, and gender issues. For example, in assessing the impact of new regulations on the poor, we are encouraging officials to take into account that:

- Adjustment is expensive for the poor who lack savings. Support measures, transition periods and exemptions might be appropriate.
- The poor are more vulnerable to changes in prices, which can significantly diminish or increase real incomes.
- Social ties are very important, as they constitute a line of defence against risk. Regulations should not damage the social capital of the poor.
- The poor often lack access to services - regulation should improve access not make it harder.
- The poor often rely on informal mechanisms and may suffer if these become subject to regulation.

C) Amending RIA Systems for the Developing Country Environment

19. Kirkpatrick and Parker (2003)[10] have noted that OECD RIA systems may not transfer readily to the developing country context: very few developing countries have adopted RIA. In designing an RIA methodology for Uganda, we have found that the basic elements of the RIA framework set out above do not need significant amendment in order to be applicable to the developing world context. We have found, however, that there needs to be more change in the way that the RIA framework is used. The framework itself is flexible in that it allows policy-makers to assign weights to their own values and concerns. One of the main differences in countries' RIA frameworks are the groups that are

[10] http://idpm.man.ac.uk/crc/wpdl5099/wp56.pdf

selected for special consideration as to the distribution of impacts (step 6 in **Error! Reference source not found.**). For example, whilst both the UK and Ugandan systems share an interest in ensuring that the burden of regulation does not fall disproportionately on small businesses, Uganda is also interested in ensuring that people living with HIV/AIDS are not negatively impacted. Another difference is in the local political objectives that are introduced into the impacts at step 5. For example, in the UK policy-makers are required to consider whether their proposals will have any impact on the country's ambition to be a leading jurisdiction for electronic commerce; such a requirement might be premature for Uganda which is at a different phase in its economic development and is focusing on sectors such as agriculture and fishing. It may be more appropriate for the Uganda RIA system to require officials to state that their proposals will not unnecessarily harm those sectors that the Government has selected for development as part of the Medium Term Competitiveness Strategy (MTCS) – its export-led growth strategy. Such requirements are easily added to the impacts step in the framework.

20. Beyond the content of the framework itself, there are special considerations that need to taken into account when determining how the RIA framework is used in practice. RIA has evolved into a something of a science in the countries where it has been practiced for some years. The United Kingdom for example, has guidance for officials on RIA that has been revised several times over the past decade and covers 90 pages with a large volume of supporting material from the Treasury on calculating costs and benefits. Whilst OECD countries generally strive for guidance that can be used by most policy officials, the level of analysis that is undertaken would stretch the resources available in most developing countries and often draws heavily on inputs from economists from within and outside government. Expectations as to the resources available for RIA need to be tempered, although this should not be used as a reason for denying the benefits of RIA. We would contend that almost any RIA is better than no RIA at all (see below).

21. In our work in Uganda, we have been careful to ensure that the system we design takes account of local circumstances, and especially the level of resources available within Ministries to carry out RIA. We were conscious that any system that was too complicated to be of use to policy-makers in Ministries would soon fall into disuse. There is clearly a balance to be struck between making the analysis as robust as possible and developing a system that does not overload the system. There was a danger of the best becoming the enemy of the good. We were also aware that any system that was in itself burdensome and that clogged up the machinery of government business would soon fall foul of Ministers who have an ambitious change agenda.

22. To address the needs for a system that is both simple and useful, we have kept the RIA requirements to a minimum and produced simple guidance in collaboration with Ugandan officials. We are mentoring the Ugandan advisers in the Cabinet Office who will be responsible for policing the system and encouraging them not to be overzealous in their critique of RIAs submitted for comment. It is important that this new Ugandan Regulatory Best Practice Unit (RBPU) acts collaboratively with Ministries rather that confrontationally so that officials view RIA as a useful tool rather than a test that they are being set up to fail.

23. We are stressing in guidance and in training that the amount of effort put into an RIA should be commensurate with the importance of the policy proposal and its likely impact. If the proposal is likely only to have a limited impact, then clearly there is no point in producing a long and sophisticated RIA such as would be appropriate for a policy with a major impact. We are encouraging a commonsense approach, and are expecting to see the use of RIA develop over time as officials gain confidence in its application.

24. Above all, we are emphasising that an RIA does not have to be a long, technical, complex document to have value. At almost any level of complexity, the structured approach to policy analysis that is encompassed in an RIA will

improve the policy-making process by requiring the policy official to answer a number of questions that will steer the policy decisions towards an efficient solution. There is no "right" standard for the analysis that is performed under RIAs. The important thing is for levels of analysis to be proportionate to the likely impact and for the quality of analysis generally to improve over time.

D) The Challenges of Implementing RIA

25. Bannock has encountered a number of other issues with institutionalising RIA in Uganda and elsewhere. The challenges fall largely into the following categories:

- lack of awareness and acceptance of RIA within government and civil society;
- institutional capacity within developing country governments (lack of staff with the requisite training, overall lack of resources);
- problems of data availability; and
- more generally, a lack of a coherent, evidence based and participatory policy process within developing countries – policies are often made by the minister, after consultation with one or two advisors.

26. RBP, and RIA as a tool within it, embodies a new way of making policy and of governing. This concept of more evidence-based approach to policy-making is new to many developing countries and challenges established ways of doing things. We believe it is important, therefore, first to work to build awareness of what RIA is and how it can contribute to national development goals in order to overcome any misunderstandings and resistance to change. We are keen to emphasise that RBP/RIA is not synonymous with deregulation which has, rightly or wrongly, become identified with a naive, unreconstructed Washington consensus approach to unfettered markets imposed by the developed world on developing countries.

25. This phased approach, starting with awareness raising, is the approach we have taken in Uganda where we first ran a series of sensitisation workshops to familiarise officials, Parliamentarians and business representative organisations with the concept of RBP and its benefits; these workshops introduced RIA as a tool. We are similarly running awareness-raising workshops in Tanzania for officials and business associations.

26. Lack of resources is mentioned above. Lack of reliable data to inform the assessment is a similar problem. OECD countries for example can generally call upon a host of business surveys to assist with the calculation of compliance costs. They also enjoy access to networks of well resourced business associations and civil society groups. A well developed insurance market can provide insights into shadow prices where impacts of proposed measures do not have a market value. None of these factors are readily available in the developing country context. To take account of this, we have emphasised the need for policy-makers to be creative in the way they ascribe values to the impacts of regulations. We are stressing the importance of consultation as a way of gaining information on impacts and their distribution, and we are introducing user-friendly techniques for arriving at shadow prices.

27. The Uganda RBPU will also be compiling a resource library of studies, reports and other reference materials that Ministries can draw upon in their analyses to make the most of the information that is available. The RBPU made the point that there are many very useful reports by donors, consultants, NGOs and the International Financial Institutions that currently go unused despite the fact that they contain a wealth of valuable information about Uganda's economy and society. By building links to research units in other countries in the region, it may also be possible to judiciously borrow from analysis that has been undertaken in similar environments in order to draw out lessons and maximise the use of available comparable data. The RBPU will also act as a reference point for data so that data gathered by on Ministry is available to others.

28. We are supporting the introduction of RIA with training, so there is capacity to use the system. We have worked with the Office of the President to give a high level of exposure to RIA to an individual who will be responsible within a new Ugandan Regulatory Best Practice Unit (RBPU) for helping Ministries reach a reasonable standard for RIAs, a standard that will be increased over time as capacity is strengthened. The creation of the RBPU is seen as an important mechanism to support the introduction of RIA and ensure sustainability. The precise role of the RBPU is still being determined by the Government of Uganda. We are discussing a system such as that set out below:

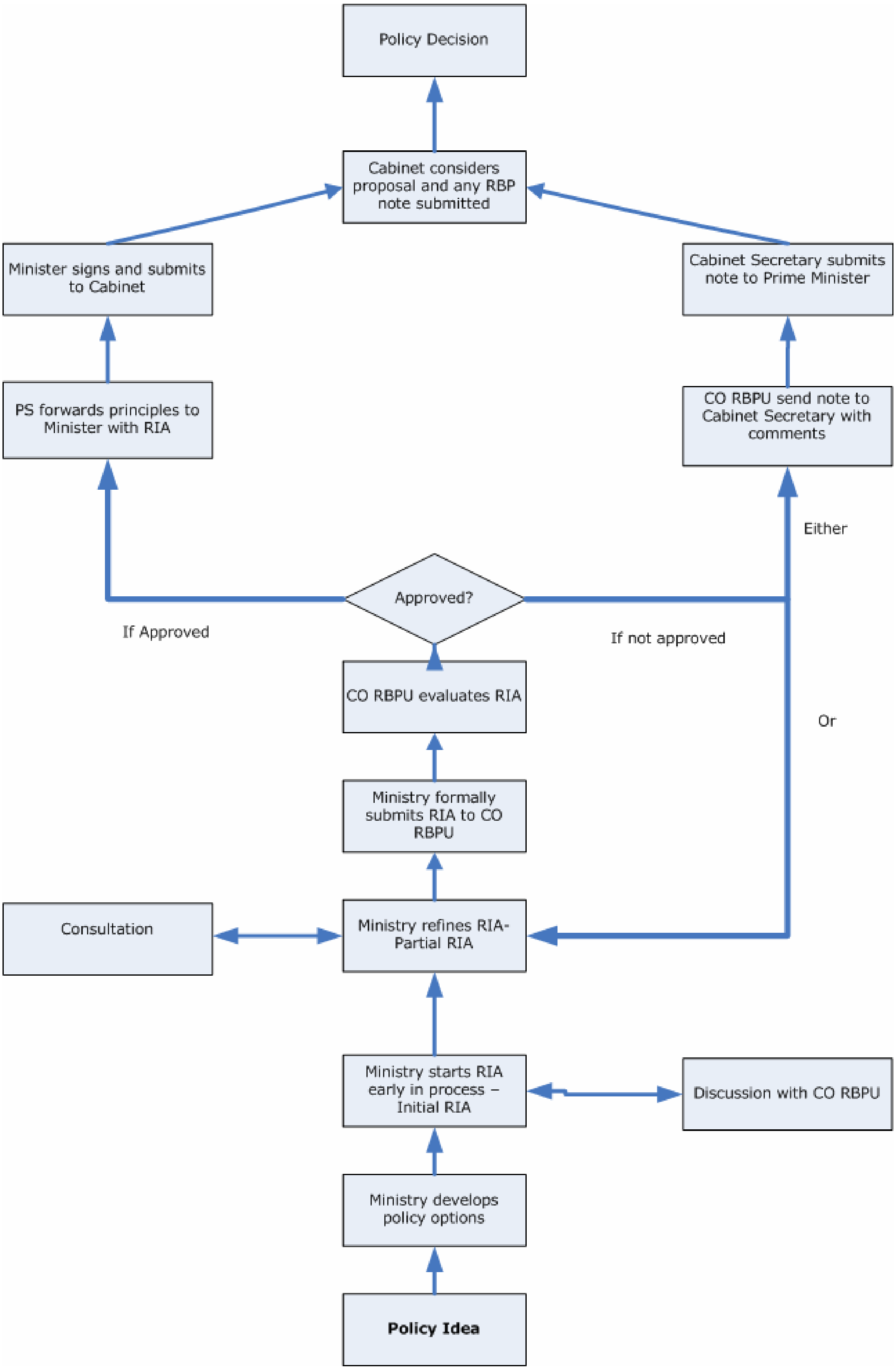

Figure 5: RIA within the Policy Process – one option under consideration in Uganda

29. The project is also developing the capacity of a local training organisation, the Uganda Management Institute (UMI), to deliver training in RIA to Ugandan officials. We have with UMI produced a one-week training course in RIA that will equip officials with the skills and knowledge necessary to carry out basic RIAs and to know where to get help with more complex cases. This training course will be offered to government Policy Analysts before the RIA requirement is formally introduced.

30. Civil society organisations and business associations too need training. These organisations are weak and have limited capacity to contribute to consultation undertaken by government as part of the RIA process. In Uganda we are working to strengthen the capacity of a number of business organisations and NGOs so that they are ready to contribute to consultation exercises and have a good understanding of the types of information on compliance costs that government will be looking for them to solicit from their members. RIA skills will strengthen the capacity of business associations to articulate a convincing argument for pro-business regulatory reform. Ministry Policy Analysts will be trained to ensure they listen to all points of view in an effort to prevent regulatory capture, i.e. undue influence by those best placed to argue their case.

31. Similarly, we are working with a group of supportive Parliamentarians and with the Parliamentary research staff to strengthen their capacity to analyse the Government's RIAs and to challenge them as part of a healthy democratic debate on the merits of proposed regulations.

32. In addition to resource and capacity/skills issues, there are institutional change considerations that arise when implementing RIA systems. The introduction of a formal RIA system in any country usually involves a shift in the balances of power along three dimensions, i.e. between:

I. ***Institutions at the centre of government*** – Since RIA has horizontal implications, its use needs to be co-ordinated across the central Ministries of Government. RIA systems can strengthen the hand of those institutions given the task of policing the system. It may be that these institutions effectively acquire a new power of veto over proposals. It may also be that central Ministries that previously enjoyed a free hand to make proposals suddenly find themselves constrained by the requirement for an RIA, enforced by another central Institution. This can often cause tensions between Ministries of Finance, Cabinet Offices, Prime Minister's Offices, President's Offices and others located at the centre of Government. In Uganda, the Cabinet Office in the Office of the President co-ordinates policy proposals on their way to Cabinet and the Prime Minister's Office co-ordinates and ensures the delivery of agreed policies. The project is working with both these organisations to ensure there is adequate co-ordination of RIA activities. For example, we are suggesting that RIA is placed regularly on the agenda of the monthly meetings of policy analysts hosted by the Prime Minister's Office and attended by the Cabinet Office.

II. ***The centre of Government and line Ministries***. Similarly, RIA can act as a brake on the regulatory activities of line Ministries which find that they are required to overcome an additional hurdle in the policy process and satisfy the requirements of the centre of government. If not carefully managed, this can breed resentment and encourage Ministries not to take the RIA system seriously. Bannock has worked to bring line Ministries along with the development of the RIA system, and we are offering training in RIA to Ministry Policy Analysts in order to equip them for the new task, and also to improve their status within Ministries.

III. ***Ministers and officials***. Ministers do not always welcome the introduction of an additional bureaucratic hurdle that can be perceived as a challenge to their right to govern. Whilst understanding and espousing the need for better regulation and policy advice, Ministers are not in practice always keen to see the requirement to carry out an RIA get in the way of their own policy proposals. RBP with its emphasis on rational policy-making and justification of costs gets in the way of the normal way of doing business which may involve maintaining vested interests. Officials who are used to adopting a passive stance are not always ready for the creative thinking that goes into RIAs, especially the section that requires them to think about all available policy options. We are taking account of these possible concerns in the implementation of RIA in Uganda and elsewhere. The new Ugandan RIA system has been developed in close collaboration with the Government to ensure ownership. It will be endorsed by the Ugandan Cabinet so that Ministers have an opportunity to comment on its use and to commit themselves to the new system. The President of Uganda, His Excellency Yoweri Museveni, has endorsed his Government's new approach to regulation, including the use of RIA, sending a clear signal to his Ministers of his expectation that the system will be adhered to. It is important to emphasise that RIA is a tool that assists with decision-making by politicians and does not seek to mechanise the policy process in a way that reduces their discretion.

The Quality of the Wider Policy Process

33. Putting an RIA system in place contributes to improving the quality of the policy-making process generally and to supporting a regulatory best practice approach to governance. For example, it can be a useful way of preventing policy-makers from rushing straight to drafting legislation before a range of policy options have been considered. However, RIA can only contribute so far. It is important also to consider the wider policy process into which RIA fits. The policy process can be divided into the following stages:

1. Policy Initiation/Strategic Planning
2. Prioritisation and funding provision
3. Policy Development
4. Policy Co-ordination/Quality Assurance

5. Policy Approval
6. Ensuring Policy Implementation
7. Policy Monitoring and Evaluation

34. RIA directly improves three of these stages:

Stage 3 – by facilitating consultative, rational, evidence-based policy development.

Stage 4 – by providing a framework against which the policy development process can be judged; and

Stage 6 – by providing a benchmark against which policies can be monitored and evaluated , i.e. are they delivering the benefits outlined in the RIA, are the costs no more than were anticipated?

35. This, however, leaves a large part of the policy process untouched. For example, there is little point enabling business associations and NGOs to carry out RIA, if they are unaware of the Government's legislative agenda and unable to prepare analyses in time to influence the policy debate. Nor will the best designed policy have any impact unless the necessary resources are allocated for its implementation. RIA must therefore be part of a wider programme of policy reform and capacity building. In Uganda, we are conducting a wider audit of the policy process in order to identify further areas for reform to complement RIA.

Conclusion

36. RIA can help all governments improve the way they regulate to ensure regulatory efficiency, minimum barriers to business growth, effective protections for citizens and reduced opportunities for corruption. These benefits are particularly valuable to developing countries where the poor suffer most from a business environment hostile to growth and job creation, and from corruption. Bannock's experience in Uganda and elsewhere suggested that the core RIA

frameworks systems need little amendment for the developing country context. The issue is more about the level to which the analysis is taken. The framework can readily be amended to take account of local groups in need of special consideration lest impacts should fall disproportionately on them. Similarly, the framework can allow for local political priorities to be included as something that officials should take account of, or even "mainstream", as part of policy development. Resource constraints should not be a barrier to adoption of RIA, as RIA can help improve policy at almost any level of complexity. In order to reap the full benefits, there is a need to build capacity through a staged approach including awareness-raising and skills building before the system is made a formal requirement. Training is required within government, but also with government's main interlocutors so that they are well placed to respond to consultation exercises and able to argue for policy reform on the basis of evidence. As with any significant change problem, there will be institutional factors to consider, otherwise there is a risk that the introduction of RIA will not succeed. Similarly, RIA must be considered as one part of the policy reform process, and essential part, but one whose impact will be limited in the absence of wider reform.

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