



**Asia-Pacific  
Economic Cooperation**



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# 2016 FINAL REPORT ON GOOD REGULATORY PRACTICES IN APEC ECONOMIES

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# 2016 FINAL REPORT ON GOOD REGULATORY PRACTICES IN APEC ECONOMIES

## DISCLAIMER

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# ABBREVIATIONS

APEC	Asia-Pacific Economic Cooperation
BAAR	Basic Act on Administrative Regulations, Republic of Korea
BFAC	Business Facilitation Advisory Committee; Hong Kong, China
CDRM	Cabinet Directive on Regulatory Management, Canada
CICO	Cost-in, Cost-out
EABFU	Economic Analysis and Business Facilitation Unit; Hong Kong, China
COFEMER	Federal Commission for Regulatory Improvement, Mexico
DGN	General Bureau of Standards, Mexico
GRP	Good Regulatory Practice
HKSARG	Hong Kong Special Administrative Region Government
KAPA	Korean Association for Public Administration
KCCI	Korea Chamber of Commerce & Industry
KBIZ	Korea Federation of SMEs
LVS	Low Value Shipment
MPC	Malaysia Productivity Corporation
NMX	Mexican Standards
BAPPENAS	Ministry of National Development Planning, Indonesia
MTI	Ministry of Trade & Industry
NDC	National Development Council
NDPC	National Development Planning Committee, Malaysia
INTAN	National Institute of Public Administration, Malaysia
MOOC	Massive Open Online Course
MSF	Ministry of Social and Family Development, Singapore
NPDIR	National Policy on the Development and Implementation of Regulations, Malaysia
OMB	Office of Budget and Management, United States
OGPC	Office of Government Policy Coordination, Republic of Korea
OIRA	Office of Information and Regulatory Affairs, United States
OPDC	Office of Public Sector Development Commission, Thailand
NOM	Official Mexican Standards, Mexico

OECD	Organisation for Economic Co-operation and Development
PM	Prime Minister
PMO	Prime Minister's Office
PEP	Pro-Enterprise Panel, Singapore
PPJRAI	Public-Private Joint Regulation Advancement Initiative, Republic of Korea
RURB	Reducing Unnecessary Regulatory Burdens on Business, Malaysia
RBM	Regulatory Burden Measurement
RIAT	Regulatory Impact Analysis Team, New Zealand
RIA	Regulatory Impact Assessment
RIS	Regulatory Impact Statement
RQT	Regulatory Quality Team, New Zealand
RRC	Regulatory Reform Committee, Republic of Korea
SRC	Smart Regulation Committee, Singapore
SCSC	Sub-Committee on Standards and Conformance
TBT	Technical Barriers to Trade
TBS	Treasury Board of Canada Secretariat
WTO	World Trade Organization



# EXECUTIVE SUMMARY

APEC economies significantly increased their adoption of Good Regulatory Practices (GRPs) from 2011 to 2016, and continue to invest heavily in upgrading the quality of their regulatory frameworks. This is a positive trend for the prosperity of the APEC region because GRPs contribute directly to trade, investment, job creation, economic integration, and sustained economic growth. Areas of impressive and rapid progress are, however, paralleled by gaps in GRP application and present new opportunities for APEC to support continued GRP reforms that meet the needs of increasingly integrated and innovative economies.

This 2016 report advances more than a decade of coordinated work by APEC members to improve their application of agreed GRPs and aims to assess the progress in the application of GRPs from 2011 to 2016. The 2005 APEC-OECD Integrated Checklist on Regulatory Reform lays out a voluntary GRP framework for self-assessment on regulatory quality, competition policy, and market openness. The Checklist provides flexibility to economies to choose their own regulatory quality approaches. No economy follows all of the GRPs in the Checklist, and an economy can achieve good results by following something different from the established good practice, or by applying very well a few selected GRPs particularly relevant to its priorities and needs.

In 2011, APEC developed the “Good Regulatory Practices in APEC Member Economies - Baseline Study” which reviewed the application of selected GRPs across the 21 APEC members. This report focuses on those GRPs that promote regulatory quality standards that are particularly important to trade and investment, such as regulatory accountability, reform capacity, consultation, efficiency, and transparency. This report also responds to the APEC Ministerial declaration in 2014 concerning implementation of APEC Actions on Public Consultations on Proposed Regulations in the Internet Era, in which Ministers asked that this report explore how economies are implementing these actions.

Finally, this report recommends actions through which APEC can continue supporting the expansion of GRPs to accelerate growth and facilitate inter-APEC trade and investment.

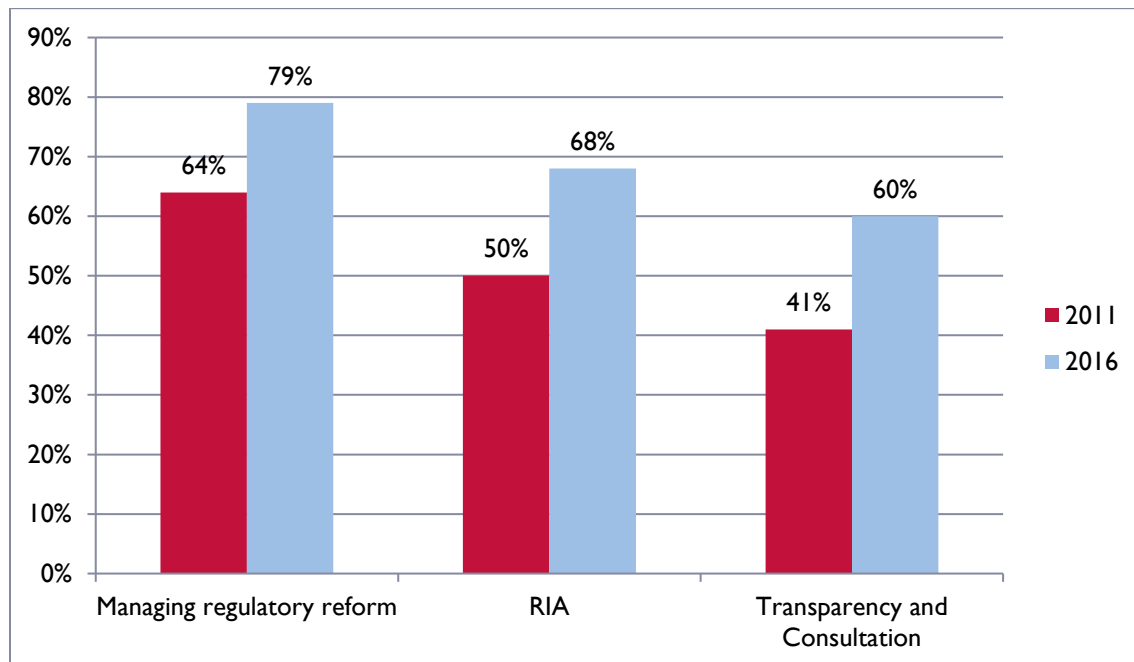
Three categories of GRPs identified in the 2011 Leaders’ Declaration are included in this review:

- **Internal government coordination of rulemaking activity**, particularly the ability to manage regulatory reform, carry out regulatory reviews, and coordinate with trade and competition officials.
- **Regulatory impact assessment (RIA)**, particularly the capacity to ensure that better policy options are chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action, including impacts on trade.
- **Public consultation mechanisms**, particularly “publication for comment”, use of central web portals for consultation, and other practices that allow wide access, and the quality of consultation mechanisms. An important transparency mechanism – online registries of regulatory information – was added to the 2016 survey.

This final report on the use of selected GRPs and comparison with APEC’s 2011 GRP Baseline Report confirms that APEC economies continue to invest substantial political and financial resources in improving the quality of their domestic regulatory regimes. Key findings include:

- There is measurable progress in applying every GRP included in the 2011 report, as the figure below shows:

**Figure 1: Composite indicators of changes on application of GRPs in APEC economies, 2011-2016**



Source: Data collection by the author including survey results in 2011, 2013, and 2015-16.

- APEC economies are moving together in the same direction. Each of the 21 economies made visible progress from 2011 to 2016 in applying these important GRPs to domestic regulatory activities.
- The rate of change in the use of GRPs did not slow from 2011 to 2016; rather, it seems to be accelerating as trade agreements and regional groupings place more emphasis on the need for better regulation as a condition of beneficial economic integration.
- Two GRPs in particular show rapid uptake. Economies are moving quickly to consult stakeholders using central web portals (14 economies in 2016, up from 8 in 2011), an improvement that according to businesses makes consultation easier and more predictable. Regulatory Impact Assessment (RIA) has become a norm of economic management in the APEC region. Performance along this GRP was **moderate** in 2011, but moved upward to **strong** by 2016. Just as impressive is the investment made by several economies in improving the quality of how their RIAs actually perform.
- GRP application is both becoming more widespread and better implemented on the ground. Even economies that have applied GRPs for decades are engaged in continual refinement and improvement of the quality of their programs. Economies are paying more attention to improving the application of GRPs to get meaningful results on the ground, emphasizing the need for operational strategies, information exchanges, and performance measurement that move beyond the aspirational statements of the 2005 Checklist.

**Table 1: Adoption of GRPs across APEC member economies, 2011-2016**

<b>GRP</b>	<b>% change 2011-2016</b>	<b>% of APEC economies adopting this GRP in 2011</b>	<b>% of APEC economies adopting this GRP by 2016</b>
<b>Ability to manage regulatory reform</b>			
Adoption of national regulatory strategy	33%	57%	76%
Institutions tasked with managing a government-wide program of regulatory reform	27%	52%	67%
Adoption of good regulatory principles applicable across the government	46%	62%	90%
Publication of annual regulatory/legislative plan	30%	48%	62%
Systematic review of regulations for cost and effectiveness (Ad hoc or targeted reviews – 100% of economies )	0%	100%	100%
<b>Adoption of Regulatory Impact Assessment</b>			
Is there a mandatory RIA process?	8%	57%	62%
Does the government use any form of RIA?	29%	62%	90%
Are trade and competition principles integrated into regulatory reviews and analysis?	74%	30%	52%
<b>Public Consultation and Transparency Mechanisms</b>			
Are draft legal documents and RIAs published for comment before adoption?	50%	38%	57%
Publication is done on a central web portal rather than on individual ministry websites	75%	38%	67%
Does the government use social media tools to notify stakeholders of regulatory activities or to consult?	NA*	NA*	43%
Is feedback given to stakeholders after consultation is completed?	20%	48%	57%
Is there a single online location for regulatory information across the whole of government, such as a legal code or online registry of regulations?	NA*	NA*	62%

\*This question was not included in the 2011 surveys.

As this table shows, great progress has been made in improving the framework and institutional capacities for carrying out regulatory reform. Most APEC economies now have in place the principles and institutions needed to move ahead on implementation, and there is continual investment and refining of that framework even in economies with two or three decades of experience in implementing GRPs. A recent development is more attention to performance measurement and monitoring of GRP applications and results.

Every APEC economy is engaged in some form of review of existing regulations, and the quality of these reviews is improving as they become more transparent, more based in system analytical framework such as cost assessment, and more participative in including more stakeholders.

Adoption of regulatory impact assessment (RIA) shows progress, but there is considerable room for improvement across the region. Thirteen of 21 APEC economies have adopted some form of mandatory RIA, although the scope varies widely among economies. An encouraging development is that standards for the content of RIA are improving toward a more structured and consistent RIA approach. However, adoption of RIA frameworks is often followed by frustration in implementing RIA on the ground. A very positive result is that member economy governments are paying more attention to trade and competition principles as they design, analyse, and review regulations. This is a marked contrast to the 2013 update report, which found a clear disconnect between regulatory reformers and trade and competition issues.

Progress in stakeholder consultation and transparency mechanisms is positive and accelerating, but many economies in 2016 still showed major gaps in this area. The 2011 baseline report found that performance on consultation and transparency GRPs included in this review was **weak to moderate**, while this 2016 update found that regulatory drafts are more often published for comment. There has been considerable progress in the use of central web portals to improve the user-friendliness and efficiency of consultation. The importance of this particular reform in improving the frequency and fitness of business consultations was a major conclusion in the 2014 work on *Consultations in the Internet Era*.

Adoption of GRPs in legal mandate and political commitment is positive, but implementation on the ground is a continuing challenge. There is growing demand in the APEC region for more concrete and operational information on implementing and mainstreaming GRPs that produce positive market responses. In considering how APEC could support the continuing adoption and improvement of application of GRPs, four approaches should be considered:

1. *More directive and smaller commitments to specific reforms.* Some components of GRPs, such as centralized web portals, could be considered to be sufficiently field-tested with such positive results across multiple economies in APEC and other regions that they are now “best practice.”
2. *Larger and more commitments.* Following on the experience of the 2005 checklist, APEC institutions might instead seek to adopt more commitments to selected GRPs, which it would support through continued surveys of this kind, exchange of experience and information, and development of more operational materials that could be adapted by Member economies to their own needs.
3. *Capacity building and promoting experience:* Another channel of work might be to develop training opportunities such as workshops and case studies that can be used by Member economies as they see fit.
4. *Continuing to survey progress across the APEC region.* Most international groups of economies have developed periodic tracking systems to follow the activities of members in key areas. This is important for GRPs as well, because without the broad picture of where and how GRPs are being implemented, it is quite difficult to know how to facilitate continued progress. An appropriate APEC institution should consider institutionalizing further progress reports every two to three years.

# BACKGROUND

Government regulation of the domestic economy continues to be a major issue in international trade and investment discussions and negotiations, as recognition of its influence on market openness grows. APEC has for over a decade worked to raise awareness of the importance of good regulatory practices (GRPs) to economic growth, trade and investment. Its operational tool for this purpose has been the 2005 APEC-OECD Integrated Checklist on Regulatory Reform, which lays out a framework for self-assessment on regulatory quality, competition policy, and market openness. The Checklist is a set of principles that have been supplemented by a growing body of good operational practices implemented throughout the APEC region. It reflects an integrated rule-making approach, emphasizing key good governance principles, such as accountability, consultation, and transparency. This document has helped many economies improve their domestic regulatory systems.

In November 2011, the APEC [Sub-Committee on Standards and Conformance \(SCSC\)](#) published “Good Regulatory Practices in APEC Member Economies - Baseline Study”.<sup>1</sup> This study was based on a survey of APEC Member Economies and reviewed the application of selected GRPs across the 21 APEC member economies, focusing on procedures that promote regulatory quality standards particularly important to trade and investment. The study examined economies’ implementation in three key areas of the Checklist:

- **Internal coordination of rulemaking activity**, particularly the ability to manage regulatory reform and coordinate with trade and competition officials;
- **Regulatory impact assessment (RIA)**, particularly the capacity to ensure that better policy options are chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action, including impacts on trade; and

## Box 1: What are GRPs?

The 2005 Checklist and the many APEC recommendations on regulatory practices through 2016 reflect a growing international consensus on good regulatory practice. More precisely, economies with similar values or goals have agreed that specific reforms have performed well enough across diverse conditions to be accepted as “good practices” that can be reliably linked to desirable outcomes in boosting economic performance.

What APEC calls “Good Regulatory Practice” (GRP) is called by the World Bank the “regulatory governance system” and by the OECD the “institutional arrangements to promote regulatory quality” which is part of the broader task of “building domestic capacities for quality regulation.” The concept that underlies these frameworks is that regulatory quality, however defined, must be explicitly built into administrative systems. The APEC-OECD Checklist focuses on procedures that protect regulatory quality standards such as accountability, consultation, and transparency, standards particularly important to trade and investment. Such institutional relations and procedures that safeguard the quality of rules are today at the heart of a modern national regulatory system.

<sup>1</sup> The 2011 Baseline Report can be found at [http://publications.apec.org/publication-detail.php?pub\\_id=1323](http://publications.apec.org/publication-detail.php?pub_id=1323). This report should be read in conjunction with the 2011 baseline study, because in order to avoid duplication it omits some details and examples included in the earlier report. Unlike the 2011 Baseline report, individual economy reports have not been prepared for this final report. All information is consolidated into the general report, with economy experiences illustrated by examples and cases.

- **Public consultation mechanisms**, particularly “publication for comment” and other practices that allow wide access, and the quality of consultation mechanisms.

The 2011 study found that all APEC economies have implemented various aspects of GRPs, but that there was great diversity in the application of various GRPs. This was as expected, since it is widely agreed and supported by many years of work in this field that application of GRPs should not follow a rigid format. In fact, no one economy follows all of the good regulatory practices, and it is entirely possible that an economy can achieve very good results by following something different from the established good practice, or by applying very well only selected GRPs that are particularly relevant to its priorities and needs.

In February 2014, the SCSC published the “Progress Report on 2011 Baseline Study on Good Regulatory Practices” that updated the 2011 survey results, and confirmed that APEC economies continued to invest substantial political and financial resources in improving the quality of their domestic regulatory regimes.<sup>2</sup>

This *2016 Final Report on GRPs in APEC Economies* updates progress in adopting selected good regulatory practices recommended by the 2005 APEC-OECD Integrated Checklist on Regulatory Reform during the period from 2011 to 2016. It covers all of the 21 APEC member economies. For this purpose, in 2015, the final survey was circulated by the SCSC, and responses were received through mid-2016.<sup>3</sup> This work also includes information from a range of sources such as government and international organizations’ reports. The intent of this work is not to score or rank individual economies, since a comparative study would require much more information and agreement on measures. **The aim of this report is to identify, across 21 economies, where more attention to good regulatory practices is likely to yield better outcomes in the real economy** – such as transparency, efficiency, market friendliness, consistency, cost minimization, and consistency with trade and investment commitments.

This body of work documents the impressive investments made by APEC economies in adopting and strengthening the application of GRPs. Each of the 21 member economies has made visible progress since 2011 in applying GRPs in domestic regulatory activities. These investments in GRPs suggest there is a growing demand in the APEC region for more concrete and operational information on GRPs that produce results when adapted to the context in each economy.

While the form of GRPs might be different among economies, the functions of the GRPs (such as transparency, regulatory efficiency, trade-friendliness, and domestic capacity for regulatory reform) have been shown to be universally important to economic performance. Lack of regulatory transparency, for example, increases the risks and costs of doing business, and slows trade and investment, in every economy where it occurs. In whatever form the GRP takes, economies grow faster where risks and costs of doing business are reduced so that the government can implement its policies more efficiently.

Moreover, the economic relevance of GRPs applies not only domestically, where regulatory reform has become a core component of domestic microeconomic and competitiveness strategies, but also internationally. It is widely understood today that regulatory quality is a shared value among APEC member economies because the quality of regulation in one member affects the opportunities and wealth of other

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<sup>2</sup> The 2013 Progress Report can be found at [http://publications.apec.org/publication-detail.php?pub\\_id=1507](http://publications.apec.org/publication-detail.php?pub_id=1507).

<sup>3</sup> All economies were included at some stage in the 2011, 2013 or 2015 surveys. Responses to the 2015 survey report were not received from Brunei Darussalam, People’s Republic of China, Russian Federation, and Papua New Guinea, and therefore the statistics for those four economies for 2016 were assumed to be unchanged from 2013.

members connected by trade or investment. That “shared interest” was the central logic behind the creation of the APEC-OECD Integrated Checklist on Regulatory Reform, and of the 2011-2016 work.

This agenda promotes *smart regulation*, not thoughtless deregulation. Adoption of GRPs has important social dimensions as well as economic dimensions. The quality of the regulatory system must be improved during a period of rapid economic growth to ensure that rapid growth does not open the public to health, safety, and environmental risks arising from market failures. In other words, an effective legal infrastructure is needed to improve the *quality* of economic development in parallel with rapid growth in the *quantity* of economic production. Reforms that create effective rules to protect social interests also support private investment and business development. This insight about the connection between economic and social needs is the mainstream of thinking today about sustainable economic development. APEC’s GRPs are widely seen today as contributing both to economic and social development.

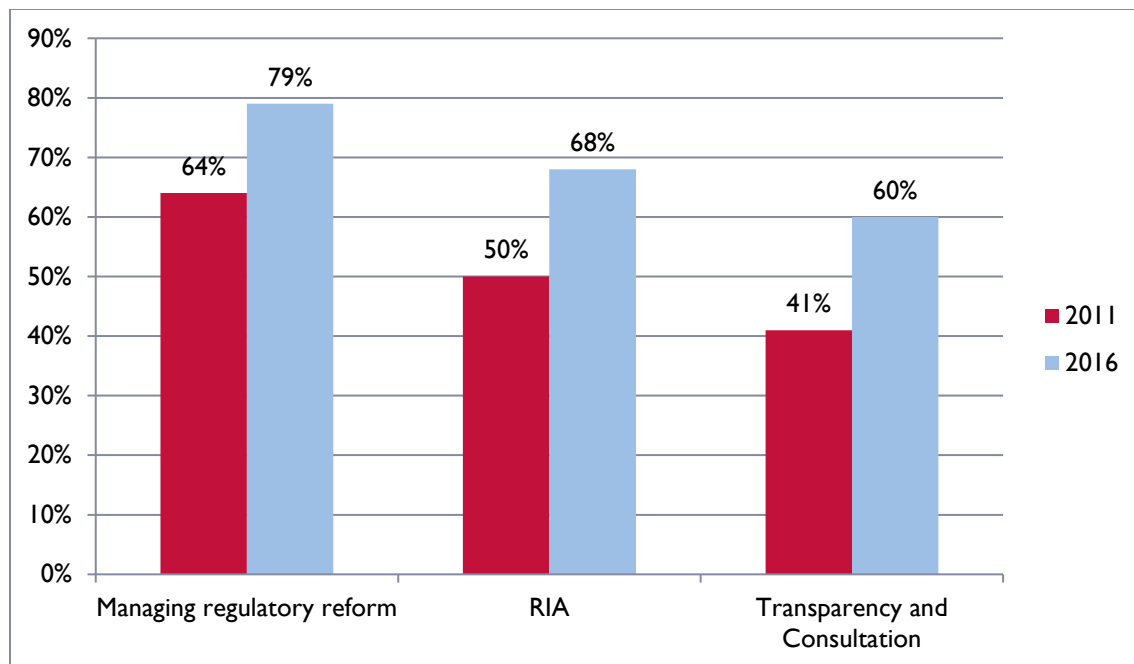
# COMPARING GRPS: 2011 TO 2016

The 2011 Baseline Report found broad improvement in GRPs across the APEC economies. Each of the 21 economies had made visible progress in prior years in applying GRPs in domestic regulatory activities. This progress has continued and even accelerated in the five years since that report. In each of the three GRPs reviewed, more economies are implementing the GRPs in 2016 than in 2011, and economies that had already adopted the GRPs are investing substantial political and financial resources in strengthening and widening the application of those GRPs. That is, GRPs are being increasingly mainstreamed in policy processes of APEC economies.

Key findings include:

- There is measurable progress from 2011 to 2016 in applying every GRP included in the 2011 survey, as Figure 1 shows:

**Figure 1: Composite indicators of changes on application of GRPs in APEC economies, 2011-2016**



Source: Data collection by the author including survey results in 2011, 2013, and 2015-16.

- APEC economies are moving together in the same directions. Each of the 21 economies made visible progress from 2011 to 2016 in applying these important GRPs to domestic regulatory activities.
- The rate of progress in the use of GRPs did not slow from 2011 to 2016, rather, it seems to be accelerating as trade agreements and regional groupings place more emphasis on the need for better regulation as a condition of beneficial economic integration.
- GRP application is both becoming more widespread, and better implemented on the ground. Even economies that have applied GRPs for decades are engaged in continual refinement and improvement of the quality of their programs. Governments are paying more attention to improving the application of GRPs to get meaningful results on the ground, emphasizing the need for operational strategies,



information exchanges, and performance measurement that move beyond the aspirational statements of the 2005 Checklist.

Yet all three baseline reports found important gaps, and mapped out the enormous agenda ahead in implementing the GRPs recommended in the 2005 Checklist, and elaborated since then in numerous committees and activities of the APEC economies in areas from standards to chemicals to food.

The intensity of application of the selected GRPs in 2016, compared to 2011, is summarized in Table I below. The intensity of application of the GRP is coded as follows:

- Green: Strong application – adopted by 80% or more of APEC economies
- Yellow: Moderate application -- adopted by 60-80% of APEC economies
- Red: Weak application – adopted by less than 60% of APEC economies.

Table I contains two other pieces of information that are useful. The third column (% change 2011-2016) shows the speed of change over time for the adoption of that GRP. This gives us a sense of how quickly the APEC region is changing on each specific dimension, and the relative political importance given to that area. The last column (Speed of quality Improvement since 2011) shows the percentage of economies who had already adopted this GRP by 2011 or 2013 who had improved it or strengthened its application by 2016. This indicator of continuing investment in improving reforms gives us a sense of the continuing relevance and investment into producing better results on the ground. The discussion below of each GRP contains economy examples of these improvements to expand the information base on “good practices”.

**Table 1: Adoption of GRPs across APEC member economies, 2011-2016**

<b>GRP</b>	<b>% change 2011-2016</b>	<b>% of APEC economies adopting this GRP in 2011</b>	<b>% of APEC economies adopting this GRP by 2016</b>
<b>Ability to manage regulatory reform</b>			
Adoption of national regulatory strategy	33%	57%	76%
Institutions tasked with managing a government-wide program of regulatory reform	27%	52%	67%
Adoption of good regulatory principles applicable across the government	46%	62%	90%
Publication of annual regulatory/legislative plan	30%	48%	62%
Systematic review of regulations for cost and effectiveness (Ad hoc or targeted reviews – 100% of economies)	0%	100%	100%
<b>Adoption of Regulatory Impact Assessment</b>			
Is there a mandatory RIA process?	8%	57%	62%
Does the government use any form of RIA?	29%	62%	90%
Are trade and competition principles integrated into regulatory reviews and analysis?	74%	30%	52%
<b>Public Consultation and Transparency Mechanisms</b>			
Are draft legal documents and RIAs published for comment before adoption?	50%	38%	57%
Publication is done on a central web portal rather than on individual ministry websites	75%	38%	67%
Does the government use social media tools to notify stakeholders of regulatory activities or to consult?	NA*	NA*	43%
Is feedback given to stakeholders after consultation is completed?	20%	48%	57%
Is there a single online location for regulatory information across the whole of government, such as a legal code or online registry of regulations?	NA*	NA*	62%

## A. REVIEW OF GRPS RELEVANT TO “INTERNAL COORDINATION OF RULEMAKING ACTIVITY”

Many aspects of internal coordination are contained in the APEC-OECD Integrated Checklist on Regulatory Reform, including coordination between policy areas such as sectoral regulation and trade policy, between institutions at the domestic or state level, between domestic governments and supranational levels of government, and between national and subnational levels of government.

The SOM2 proposal (APEC 2011) focused on a few key elements in recommending that economies:

*Create processes, mechanisms, or bodies to enable internal coordination among ministries, including regulatory, standards, and trade agencies, in the development of regulations. The functions of this process, mechanism or body should include the following:*

*Development of an economy-wide, cost-sensitive, and forward-looking regulatory agenda that is issued on an annual basis;*

*Establishment of overarching and publicly available principles to guide good regulatory governance, and*

*Systematic review of existing regulations to improve their effectiveness and address burdensome requirements contained within.*

### I. Is a Regulatory Reform Strategy Adopted at the Center of Government?

**Table 2: Regulatory Strategy: Application in 21 APEC Economies**

Is a regulatory reform strategy adopted at the center of government?	Yes, an explicit strategy	Quality improvements 2011-2016 (as % of economies who reformed previously adopted GRPs)
Number of economies, 2011	<b>12 (weak)</b>	
Number of economies, 2016	<b>16 (moderate)</b>	<b>47%</b>

The OECD has long recommended that economies “Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.” The APEC-OECD Checklist restates this GRP as “To what extent is there an integrated policy for regulatory reform that sets out principles dealing with regulatory, competition and market openness policies?”

This recommendation for an explicit and politically accepted regulatory reform policy is based on long-standing awareness of how regulatory reforms fail. They will fail if: they are isolated and marginal changes to large systems, and therefore unsustainable; they do not have enough active support at the political level of government to survive resistance from interests who do not want reform; they do not integrate various aspects of good regulation such as efficiency, transparency, competition, and market openness; and they do not have clear and measurable goals and objectives that enable them to produce good results that are visible and significant. Some of these kinds of failures are visible in the APEC economies. For example, in one economy, an external review found that “the successes have been largely isolated and non-reinforcing. A systematic approach to regulatory reform has not been articulated politically nor implemented in law or policy.”

While the 2011 report found that performance along this GRP was **weak** in APEC economies, Table 2 shows that there was substantial improvement between 2011 and 2016. Out of 21 economies, 16 had adopted an explicit strategy for implementing GRPs by 2016. Table 3 below documents the names of the strategies adopted in the 16 economies. It shows a wide diversity in the kinds of policies used to implement GRPs - mandatory guidance in Australia; action plans in Chinese Taipei; domestic strategies in Indonesia; parliamentary law in Korea and Viet Nam; and presidential orders in the United States. In this case, form matters far less than function, which is specific to the context in each economy.

**Table 3: Regulatory Reform Strategies Adopted in APEC Economies**

<b>Economy</b>	<b>Regulatory reform framework and date of last major revision</b>
<b>Australia</b>	The Australian Government Guide to Regulation, 2014
<b>Canada</b>	Cabinet Directive on Regulatory Management, 2012
<b>Chile</b>	National Agenda for Productivity, Innovation and Growth, 2014
<b>Hong Kong, China</b>	"Be the Smart Regulator" program, 2007
<b>Indonesia</b>	National Strategy on Regulatory Reform 2015-2019
<b>Japan</b>	Implementation Plan for Regulatory Reform, 2015
<b>Republic of Korea</b>	Basic Act on Administrative Regulations (BAAR) 1997; seven principles of regulatory reform, 2015
<b>Malaysia</b>	National Policy on the Development and Implementation of Regulations 1/2013 (NPDIR)
<b>Mexico</b>	Federal Law of Administrative Procedure (Chapter IIIA. Regulatory Reform), 1994, last revised 2012, and continual innovation in regulatory reform programs in 2014-2016
<b>New Zealand</b>	Various policies on RIA, consultation, stewardship.... 2015
<b>Peru</b>	Peru began its regulatory strategy with implementation of RIA tool in the Peruvian Government. An OECD regulatory policy review will assist in laying the framework for next steps in good regulatory practices.
<b>Singapore</b>	No single document, but various initiatives on consultation, review, and RIA.
<b>Chinese Taipei</b>	Action Program for the Economic Power-up Plan, 2012; Regulatory Adjustment Project for Virtual World Development, 2014, HeadStart Program, 2014
<b>Thailand</b>	Continue improving law and enforcement to enhance legal quality of regulation under the Master plan for national regulatory management (2015-2018), 2015
<b>United States</b>	Executive Order 13563 of 18 January 2011, Improving Regulation and Regulatory Review, which requires Federal agencies to design cost-

	<p>effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness. The US program has been based on a series of Executive Orders and laws since 1978.</p> <p>This order is supplemented by other orders, such as Executive Order 13610 of May 10, 2012 (Identifying and Reducing Regulatory Burdens), and Executive Order 13707 (Using Behavioral Science Insights to Better Serve the American People)</p>
<b>Viet Nam</b>	Law on the Promulgation of Legal Normative Documents (Law on Laws) of 2004, revised 2009, revised 2015 (latest revision taking effect in July 2016)

Economy-wide regulatory reform strategies are continually being adapted to reflect changing needs of economies, and the new ideas and techniques of good regulation. Two recent trends are 1) more transparency and public participation in the content and tracking of implementation; and 2) development of targeted performance measurement and monitoring mechanisms to track the implementation of GRP's and their actual results for citizens and businesses. A summary of important innovations, 2011-2016, in the content of national regulatory strategies is presented below.

**Australia:** Australia continues to be at the forefront of APEC economies in innovating its regulatory reform strategies

- In 2014, the government released a new Regulator Performance Framework focusing on the quality of regulators rather than regulations. It announced, "As part of the Government's wider deregulation agenda, we also want to ensure that there is an appropriate focus on the way regulators administer regulations and its impact on productivity. The Regulator Performance Framework released today establishes a common set of performance measures that will allow for the comprehensive assessment of regulator performance and their engagement with stakeholders. For the first time, all Commonwealth regulators will be assessed against six key performance indicators: reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement."
- On 12 November 2015, the Assistant Minister for Productivity announced that from 1 July 2016 the Government will broaden its [Regulatory Reform Agenda](#) to focus on reforms that directly enhance innovation, competitiveness and productivity, such as by ensuring that the regulatory "framework can accommodate new business models and technologies."

**Chinese Taipei:** To strengthen the existing Regulatory Reform Platform, Chinese Taipei strengthened its "Action Program for the Economic Power-up Plan," as follows:

- The National Development Council (NDC) regularly requests business and industry associations to provide suggestions on adjusting financial and economic laws and regulations, and conduct inter-agency coordination meetings to address suggestions from all quarters. It will also announce the status of action on the suggestions on a special website set up as a platform for suggestions on deregulation.
- Strengthening, publicizing and providing guidance on RIA process, for improvement of the quality of each agency's RIA statements, to serve as the basis for the formulation of major government policies and related laws and regulations.

**Hong Kong, China:** Hong Kong, China's "Be the Smart Regulator" program targets red tape by routinely asking business executives what regulatory areas need reform (Hong Kong Government 2016).

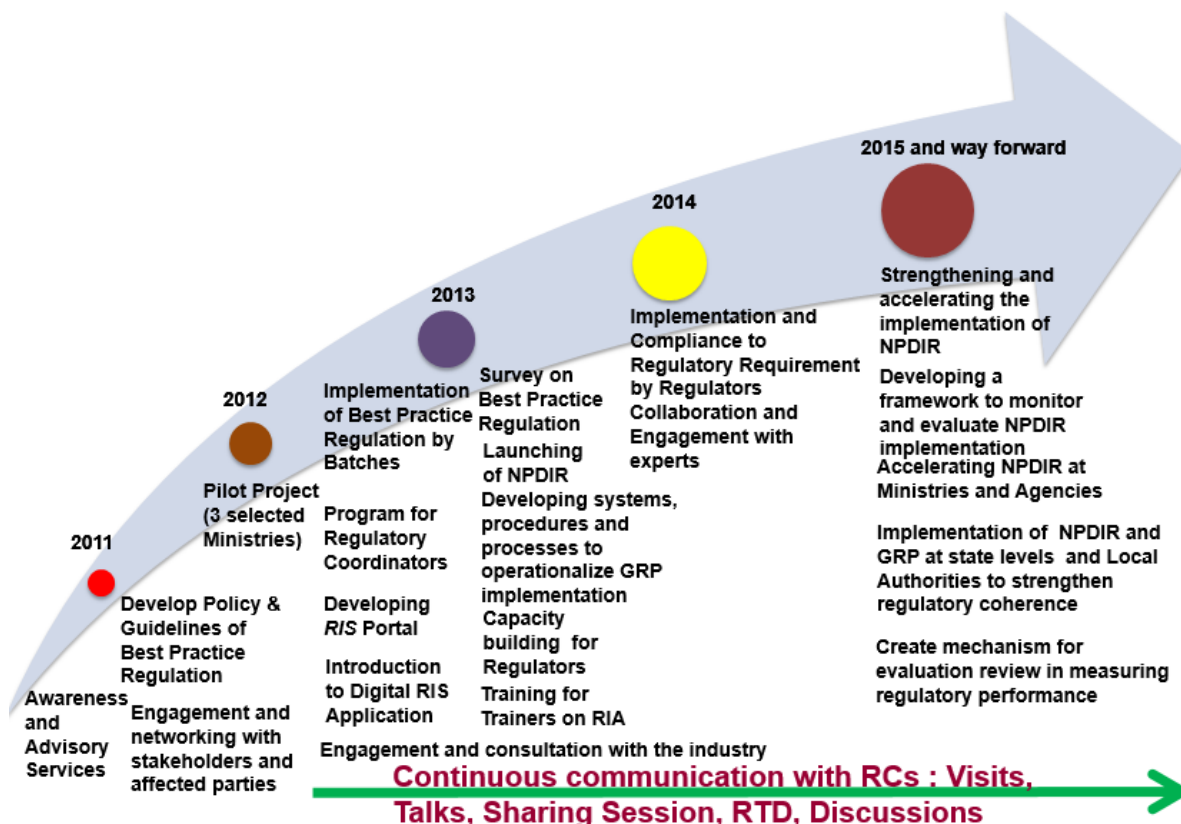
**Indonesia:** In August 2015, President Joko Widodo instructed ministers to deregulate in order to encourage more investment in Indonesia. The National Strategy on Regulatory Reform in Indonesia explained that, "Poor quality and uncontrolled quantity of regulation have an impact on the effectiveness and efficiency of regulation.... From an economic perspective, the impact of systemic management failures of national regulation include, among other things, a loss of the potential for economic growth.... The main objective of the reform is to realize a National Regulatory System that is high quality, simple, and orderly. By doing so, the regulation will be better able to work effectively and efficiently in supporting the efforts and realize the purpose of the state (BAPPENAS 2015).

**Malaysia:** Malaysia continues to push ahead steadily with the national regulatory reform strategy that was launched in 2011 and formalized in 2013 with adoption of the National Policy on the Development and Implementation of Regulations. Figure 2 shows the phased step-by-step approach in the Malaysian strategy. The government was, in 2016, firmly in the implementation and mainstreaming phase of this strategy, which is the most difficult phase of reform across the many institutions and levels of government of a large Federal economy.

This multifaceted policy has been conceptualized and designed based on good international practices, and is a component of the economy's commitment to its goal of achieving a developed nation status by 2020 in an increasingly competitive and innovative world. Good regulatory practices are seen as essential to reaching that goal: "Effective regulations achieved through a more robust process of analysis and consultation with stakeholders enhances efficiency and accountability and at the same time promotes greater participation, inclusiveness and ownership of the problem resolution process (Malaysia Productivity Corporation 2013)."

In 2016-2020, the Government is focusing on GRP policies and capacities at state and local government levels, an enormous challenge that will take years of investment.

Figure 2: Malaysia's Roadmap for GRP Implementation



Source: Government of Malaysia's APEC GRP Baseline Survey Response, 2016

**New Zealand:** While refining current good regulatory practices such as consultation and RIA, New Zealand's regulatory strategy is increasingly focusing on the capacities and qualities of institutions, and systemic issues such as prioritization across policy areas. Over the next three years, the Treasury will focus on:

- further embedding the Government's expectations for regulatory stewardship across government, including helping agencies to further develop internal systems and ability to act as good stewards of regulation in their area, and to report publicly on their progress;
- working with key regulatory agencies to refine and improve the performance of existing regulatory management tools (particularly RIA and regulatory planning);
- overseeing the implementation of the Government response to the Productivity Commission's report on regulatory institutions and practices;
- identifying opportunities to better co-ordinate and prioritise work on regulation across government departments, and the Government's wider legislative programme.

Regulatory stewardship is a new concept for most APEC economies (see Box 2).

### Box 2: New Zealand's Approach to Regulatory Stewardship

In New Zealand, the State Sector Act defines stewardship as the “active planning and management of medium- and long-term interests, along with associated advice”.

For the government, the expectations for regulatory stewardship means that government agencies should take a proactive, lifecycle approach to the monitoring and care of the regulatory regimes within which they exercise administrative responsibilities.

In March 2013, the Cabinet agreed to a set of “Initial Expectations for Regulatory Stewardship”, in order to give departments more direction. Those expectations are that: “departments, in exercising their stewardship role over government regulation, will:

- monitor, and thoroughly assess at appropriate intervals, the performance and condition of their regulatory regimes to ensure they are, and will remain, fit for purpose
- be able to clearly articulate what those regimes are trying to achieve, what types of costs and other impacts they may impose, and what factors pose the greatest risks to good regulatory performance
- have processes to use this information to identify and evaluate, and where appropriate report or act on, problems, vulnerabilities and opportunities for improvement in the design and operation of those regimes
- for the above purposes, maintain an up-to-date database of the legislative instruments for which they have policy responsibility, with oversight roles clearly assigned within the department
- not propose regulatory change without:
  - clearly identifying the policy or operational problem it needs to address, and undertaking impact analysis to provide assurance that the case for the proposed change is robust
  - careful implementation planning, including ensuring that implementation needs inform policy, and providing for appropriate review arrangements
- maintain a transparent, risk-based compliance and enforcement strategy, including providing accessible, timely information and support to help regulated entities understand and meet their regulatory requirements, and
- ensure that where regulatory functions are undertaken outside departments, appropriate monitoring and accountability arrangements are maintained, which reflect the above expectations.”

Source: New Zealand Treasury 2015b

**Singapore:** In its national regulatory strategy, Singapore continues to adopt a risk management approach in designing regulation, which entails focusing resources on high-risk areas while at the same time reducing the administrative burden for business stakeholders in lower risk areas. This good practice regulatory technique offers enormous potential for reducing regulatory costs while improving policy outcomes, a win-win result for economic and social development.



**Thailand:** The Thai government is currently developing a set of national strategies for the next 20 years with the goal of elevating the economy to a developed economy status by 2027. In these strategies, regulatory reform is considered urgent because it is intended to improve government ability to adapt to change and remain competitive. On 13 October 2015, the Thai cabinet approved the Master plan of national regulatory management which was proposed by the Ministry of Justice.

**Box 3: United States regulatory design: Using behavioral science insights to nudge people in the right direction**

All regulators struggle with a central problem of regulation: how can rules be used to change human behavior when humans do not want to change? In September 2015, President Obama signed an executive order “Executive Order -- Using Behavioral Science Insights to Better Serve the American People.” The order stated:

*A growing body of evidence demonstrates that behavioral science insights – research findings from fields such as behavioral economics and psychology about how people make decisions and act on them – can be used to design government policies to better serve the American people.*

*Where Federal policies have been designed to reflect behavioral science insights, they have substantially improved outcomes for the individuals, families, communities, and businesses those policies serve.*

The order directs Federal agencies “To more fully realize the benefits of behavioral insights and deliver better results at a lower cost for the American people, the Federal Government should design its policies and programs to reflect our best understanding of how people engage with, participate in, use, and respond to those policies and programs.” Cass Sunstein, for example, says that automatically enrolling utility customers in clean energy plans unless they opt out results in more green energy consumption. Germany tried that and found a tenfold increase in people choosing clean energy, he said.

What does this mean for the design of good regulation? “For policies with a regulatory component, agencies are encouraged to combine this behavioral science insights policy directive with their ongoing review of existing significant regulations to identify and reduce regulatory burdens...”

Sources: Obama 2015; Korte 2015

**The emerging trend of performance measurement:** An element of the broad regulatory reform strategy that has emerged strongly since 2013 is performance measurement, monitoring and reporting of regulatory reform strategies. This was not included specifically in the structure of the 2011 Baseline Report, but in hindsight it should have been included, given its importance in supporting and sustaining effective regulatory reform programs.

As noted, several APEC economies have launched or expanded evaluation programs to monitor the performance of regulatory bodies in implementing strategies, and the results of reform programs for economics and citizens. This trend parallels the trend in OECD economies, which “require better information about where investments in programs to improve regulations should be focused to pay growth and welfare dividends. This is necessary to target scarce resources for reform efforts, and also to communicate progress and generate the political support needed for implementing regulatory policy reforms.” (Radaelli & Fritsch 2012)

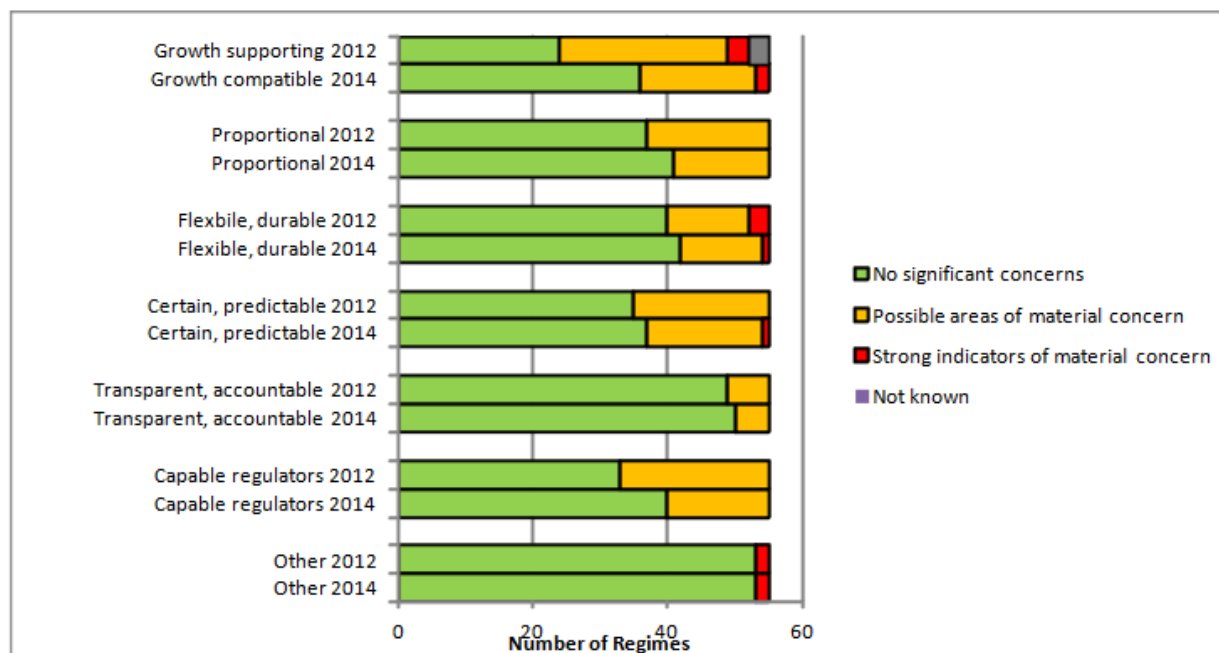
Performance evaluation and monitoring initiatives in the APEC region include:

- Australia: From 1 July 2015, all Commonwealth regulators that administer, monitor or enforce regulation are subject to the Regulator Performance Framework (RPF), which consists of six outcomes-based performance indicators covering: reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement (Commonwealth of Australia 2014). The first assessment period ended on 30 June 2016.
- Malaysia: The Government is developing a framework to monitor and evaluate NPDIR implementation
- Hong Kong, China: A Business Licensing Services Excellence Index is used to gauge and track customers' satisfaction and trust towards the Government's business licensing services and its overall performance level over time.
- Mexico launched in 2016 a "National Survey on Regulatory Quality" of 16,600 firms to allow comparisons between national regulators and between 32 States of the quality of regulatory functions. It is also designing a "Regulatory Improvement Index" to measure the regulatory improvement policy implementation in the states.
- New Zealand: A Best Practice Regulation model was developed and updated in 2015 to provide a "common language" across regulatory regimes. The *Best Practice Regulation Report* gathers high-level Departmental assessments of New Zealand regulatory regimes against a set of best practice regulation principles. The assessment allows identification of areas where further analysis may be warranted and highlights work that is currently underway (New Zealand Treasury 2015a). Figure 3 below shows the results of the performance measurement method.
- United States: The regulatory reform office (OIRA) reports annually to the U.S. Congress on the progress made in implementing the regulatory reform program, most notably by presenting agencies' estimates of the costs and benefits of regulations. The most recent report, *2014 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, reported that: major Federal regulations from 1 October 2003, to 30 September 2013, produced annual social benefits of \$217 billion to \$863 billion, while imposing annual costs from \$57 billion to \$84 billion. While the total impact of federal regulations was produced net social benefits, some regulations had costs higher than benefits.<sup>4</sup>

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<sup>4</sup> This report, along with those from previous years, can be found at:  
[https://www.whitehouse.gov/omb/inforeg\\_regpol\\_reports\\_congress/](https://www.whitehouse.gov/omb/inforeg_regpol_reports_congress/)

**Figure 3: New Zealand's Assessment against "Best Practice Regulation" principles**



Source: New Zealand 2015

## 2. Does the government publish at least annually a regulatory/legislative plan?

**Table 4: Annual Regulatory Plan: Application in 21 APEC Economies**

Does the government publish at least annually a regulatory/legislative plan?	Yes	Published on Internet	Contains information on cost of regulation
Number of economies, 2011	10 (weak)	5	1
Number of economies, 2016	13 (moderate)	10	4

Preparation and publication of an annual regulatory and legislative plan is a good practice that is based on the APEC-OECD Checklist question: "What are the accountability mechanisms that assure the effective implementation of regulatory, competition and market openness policies?" Relatively neglected as a management tool in the OECD and APEC work, the annual regulatory planning process greatly improves the quality of regulation and regulatory in several ways:

- preparation of the annual plan improves transparency of the regulatory activities in the government, with respect to the center of government, other regulators, and stakeholders;
- preparation of the plan improves orderliness and predictability of action by regulators, and provides a good opportunity to ensure that the regulatory development process includes key quality inputs such as inter-ministerial consultation, stakeholder consultation and appropriate research in impact assessment;

- the annual plan improves consultation and participation by stakeholders by providing advance warning of the future activities in the government;
- the annual plan improves the management capacities of the government by providing a management tool for setting priorities, coordinating, sequencing regulatory activities, and ensuring that adequate quality control is built into the regulatory/legislative schedule.

Particularly for economies that are suffering from high levels of regulatory unpredictability, which increases the risks for investors and other participants in the market, the annual regulatory and legislative plan provides an excellent and low-cost means to reduce the risk of unexpected or nontransparent activity that would harm economic performance.

Performance along this GRP in 2011 was **weak** in APEC economies, with improvement by 2016. Table 4 shows that, out of 21 economies, only ten published some kind of annual regulatory plan in 2011. This had improved marginally by 2016 with the addition of three economies. In addition, some of the original 10 economies had improved their regulatory plans.

- Australia, for example, states that, from 30 June 2013, the Commonwealth Annual Regulatory Planning and Regulators (CARPR) website will provide a single access point for business and other stakeholders to access information on Commonwealth regulatory activities, including the agenda.
- Mexico strengthened its existing regulatory planning by adopting a legal mandate for a regulatory agenda, at least every two years as part of the 2011-2012 Mexico Biennial Regulatory Program that aims to cut 25% of the administrative burdens from federal government formalities.
- Ten economies now make the regulatory agenda available online, up from five in 2011.
- Four economies now include information on regulatory costs and impacts, up from just one in 2011.

With the IT tools available today, preparation and publication of an annual regulatory and legislative plan would seem to be a low-cost investment with potentially high returns increasing the predictability and transparency of domestic regulatory systems.

### 3. Has the government published a set of good regulatory principles applicable across the government?

**Table 5: Regulatory Principles: Application in 21 APEC Economies**

Has the government published a set of good regulatory principles applicable across the government?	Yes	Including principles on transparency	Including principles on efficiency or low-cost	Including principles on trade openness or competition	Including principles on consistency /coordination
<b>Number of economies, 2011</b>	13 (moderate)	12	13	6	5
<b>Number of economies, 2016</b>	19 (strong)	15	19	12	13

More improvement has been seen on this GRP than on any other from 2011 to 2016. The core of the OECD work has been the creation of a guiding set of explicit regulatory quality principles that will improve the results of the regulatory activities of governments. The OECD has recommended that governments “Establish principles of “good regulation”, drawing on the 1995 OECD Recommendation on Improving the Quality of Government Regulation.” This GRP is stated in the APEC-OECD Checklist as “Such a policy often takes the form of a statement setting out principles to govern regulatory reform which provides strong guidance and benchmarks for action by officials, and also sets out what the public can expect from government regarding regulation.”

The purpose of such principles is stated in the Checklist: explicit quality principles are to provide a basis for guiding government decisions on regulation across the government. If a government does not have a clear statement of what the quality of regulation means, how can it expect that ministries and regulators across the entire government know how to design and implement good regulation? A statement of the regulatory quality that is expected increases accountability and performance across the government, while acting as a public government commitment to citizens in the economy that its regulatory activities will meet defined quality standards.

Performance along this GRP was barely *moderate* in 2011 in APEC economies, but had greatly improved to *strong* by 2016. Today, 19 of 21 APEC economies have adopted some form of good regulation principles that can be used to guide regulatory actions by the ministries and agencies. An extraordinary effort in Mexico in 2016 has proposed to include “regulatory reform” in the national Constitution: A new Article 25 is proposed to read, “Incorporate the principle of ‘regulatory reform’ as mandatory for all Mexican public authorities,” and similar reforms are being pursued in the Constitutions of the 32 federal entities.

However, other kinds of principles stated by governments that are not explicitly related to regulatory activities may, in fact, be relevant to regulatory activities. Almost all economies have adopted “good governance” or economic principles that are similar to some GRPs. An example is a commitment to transparency and publication of government policy, which might be translated as a commitment to transparency in regulatory development. Regulators might be following “good governance principles” that are not explicitly called “regulatory quality principles.”

The most common principles are those on low-cost regulation or efficient government, or regulation that is consistent with market needs, or regulation that needs other efficiency criteria such as benefit cost tests. Some 19 APEC economies have, by 2016, adopted principles such as these to guide government action.

Transparency principles are the next most common. Twelve economies adopted principles calling for various forms of regulatory transparency and consultation by 2011, and this improved to 15 by 2016. It appears that most or all of the APEC economies can agree on the core principles of transparency and efficiency, which might suggest channels for future APEC cooperative activity.

Rapid progress has been seen on other important principles:

- In 2011, five economies with explicit regulatory quality principles had adopted a principle on consistency /coordination with other legal instruments. By 2016, this had improved substantially to 13 economies. This increasing attention to consistency is important, because lack of consistency across regulations is one of the most common complaints heard from businesses about the quality of regulatory systems in the APEC region.
- In 2011, only six economies with explicit regulatory quality principles included principles on trade openness or competition, or compliance with trade and investment commitments. This doubled to 12

by 2016, a significant increase with important implications for trade and investment agreements. Here, the 2005 Checklist is clearly correct when it states:

*If competition and market openness considerations are to be more closely integrated into the regulatory management system, including both primary and secondary rule-making and reviews of the stock of existing regulatory legislation, then this needs to be reflected in institutional structures, policy development processes, administrative procedures, official responsibilities, and accountability arrangements.*

#### **Box 4: United States: Building a framework of principles for good regulation**

Since 1983, the American President has issued explicit principles for good regulation applicable to the Executive Branch of the government. These principles have retained a core set of analytical standards based on benefit-cost and cost-effectiveness standards. The GRP principles in place since 1983 in the United States (Executive Order 12866 of 30 September 1993) direct agencies to:

- propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify);
- tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;
- select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);
- to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and
- identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public

President Obama's January 2011 executive order outlined additional guiding principles:

- **Cost-effective and Cost-Justified:** Consistent with law, Agencies must consider costs and benefits and choose the least burdensome path.
- **Transparent:** The regulatory process must be transparent and include public participation, with an opportunity for the public to comment.
- **Coordinated and Simplified:** Agencies must attempt to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- **Flexible:** Agencies must consider approaches that maintain freedom of choice and flexibility, including disclosure of relevant information to the public.
- **Science-driven:** Regulations must be guided by objective scientific evidence.
- **Necessary and Up-to-Date:** Existing regulations must be reviewed to determine that they are still necessary and crafted effectively to solve current problems. If they are outdated, they must be changed or repealed. (The White House, 18 January 2011, Improving Regulation and Regulatory Review - Executive Order)

#### 4. Does the government systematically review regulations for cost and effectiveness?

**Table 6: Regulatory Review: Application in 21 APEC Economies**

Does the government systematically review regulations for cost and effectiveness? Annual program	All programs	Annual programs	Ad hoc, targeted or sector based reviews	Reviews of Doing Business procedures	Based on standard methods that included cost and effectiveness	Reviews include stakeholders	Include issues of international trade and barriers to investment
<b>Number of economies, 2011</b>	21 (strong)	11	16	5	14	14	5
<b>Number of economies, 2016</b>	21 (strong)	12	18	7	14	15	12

The emphasis by the OECD and APEC on the review of existing regulations is based on a regulatory failure that is universal. Without a system of routine regulatory review, regulatory systems become outdated, inconsistent, and inefficient, in many cases actively damaging economic and social development. Lack of review also leads to regulatory accumulation and complexity. The 1997 OECD report stated that, without review, regulations “are long-lasting and immutable. They survive, disappearing into regulatory jungles that, without pruning, become denser and denser.” In implementing this concept, the APEC-OECD Checklist asks, “Are the legal basis and the economic and social impacts of existing regulations reviewed, and if so, what use is made of performance measurements?”

Regulatory reviews in APEC economies have ranged from very focused reviews, mostly organized around the rules and procedures in the *Doing Business* agenda, to the largest regulatory reviews in the world, such as those in the Republic of Korea in 1998 (11,000 regulations in 11 months) and Viet Nam in 2008-2010 (6,000 regulations in two years). Many economies have programs of *ad hoc* or one-off reviews, while others have systematic annual programs of rolling reviews, in which new targets and priorities are chosen for review each year.

Investment in regulatory review is high and seems to be increasing across the APEC region. Performance along this GRP was **strong** in 2011, since all 21 economies had some kind of review program underway, and by 2016 there were even more review programs. The number of economies in Table 6 adds up to more than 21, because some economies have launched multiple kinds of reviews, both regular and *ad hoc*.

Effectiveness of these regulatory reviews cannot be assessed in this review. Ideally, one would assess the results of regulatory reviews against clear performance indicators. Since each economy's reviews might have different performance goals, and since only a few economies have actually reported quantitative results, evaluation of the effectiveness of different review approaches and strategies can be done only in the basis of a much more data-intensive assessment.

Some characteristics of the reviews are identified in this review. Fourteen of the regulatory reviews in 2011 were based on standard methods that included cost and effectiveness information, the same as in 2016. These methods should encompass 100% of reviews, because it is difficult to imagine how regulatory review can be done effectively without clear and consistent criteria to assess the quality of the regulations under review.

Many of the reviews (14 economies) included stakeholders in one way or another. This had increased by only one economy by 2016. Some have used stakeholder input to set priorities or the scope of the review, while others used stakeholders to actually conduct the reviews through various forms of public-private cooperation.

Finally, in only five economies in 2011 did the reviews explicitly include issues of international trade and barriers to investment – this had more than doubled to 12 by 2016. This is a positive trend, and reinforces what the OECD sees as good practice: “Target reviews of regulations where change will yield the highest and most visible benefits, particularly regulations restricting competition and market openness, and affecting enterprises, including SMEs.”

Some examples of this review activity in the APEC region are given below:

**Australia:** The Australian Government publishes annual reports with data on all regulatory decisions taken in the preceding year and ministries' progress against targets to reduce the burden of regulation. Box 5 summarizes this approach.

**Box 5: Australia’s Regulatory Repeals: \$4.8 billion in cost savings, and counting**

A centerpiece of Australia’s 2013 *Deregulation Agenda* policy was an annual net reduction target of at least \$1 billion in red tape. Under the Deregulation Agenda, the total estimated compliance and delay costs on individuals, businesses and community organizations from proposed regulatory changes—whether it be new regulation, amendments or removal of existing regulation—were to be quantified. Government portfolios were also assigned an annual red tape reduction (savings) target by Ministers. The combined total of the portfolio targets set in both 2014 and 2015 significantly exceeded the annual target of \$1 billion.

By the end of 2015, the Government publicly announced measures to deliver estimated total net savings of \$4.80 billion. Portfolio reporting to PM&C advised that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the internal target of \$2.65 billion by \$1.32 billion.

Prime Minister Tony Abbott announced 26 March 2014 as “Repeal Day,” when Parliament would “abolish regulation and legislation that’s outlived its usefulness or is doing more harm than good.” Prime Minister Abbott pledged to remove more than 9,500 regulations, saving Australians more than \$700 million annually. The Prime Minister has committed to holding at least two Repeal Days each year and has formed deregulation units within each regulatory portfolio, noting, “It’s sometimes more important to repeal old laws than to pass new ones.”

Sources: Australian National Audit Office 2016; Bennett & Dudley 2014



**Chinese Taipei:** Chinese Taipei has established a review mechanism for existing laws and regulations, with the NDC regularly collecting regulatory suggestions from all sectors and of regulatory reforms to reduce restrictions on the businesses. Box 6 summarizes this approach.

**Box 6: Chinese Taipei's Regulatory Reviews for Innovation-driven Startups, 2014**

Chinese Taipei's HeadStart Project, launched in 2014, intends to carry out a thorough review of regulations affecting startups by the National Development Council (NDC).

**Unfriendly Laws and Regulations:** With the rise of the new economy, changes in industries take place more rapidly; not only does the importance of professional talent and knowledge increase by the day, the use of capital must also be more efficient. However, relative to the convenient and flexible mechanisms established by laws and regulations governing starting businesses in other economies, relevant domestic regulations still impose numerous limitations on the development of startups. Such regulations not only reduce their latitude to utilize manpower, technology, and capital, but also significantly reduce their international competitiveness.

Although [Chinese Taipei] possesses a good industrial base and an abundance of quality talent, if regulations cannot keep pace with the times and be brought into line with international standards, it will be difficult for startups to compete in the global marketplace.

In light of the wide range of deregulation, in order to reduce the impact in early stages of implementation, plans have been made to initially loosen regulations on business startups which are innovative and have potential for international expansion. The NDC has formulated the "Qualification Requirements for Innovation-driven Startups," which are as follows:

- I. Companies registered under [the] Company Act or Business Registration Act for less than five years, and meeting one of the following conditions:
  - a. Having already received at least NT\$2 million in investment from domestic or foreign venture capital firms.
  - b. Having already registered on the Go Incubation Board for Startup and Acceleration Firms, GreTai Securities Market, Financial Supervisory Commission (GISA).
  - c. Having applied to obtain an invention patent in [Chinese Taipei], or having had a patent assigned or licensed for implementation ...
  - d. Incubators already based in the international startup cluster ...which have been rated as Quality Incubators by the Ministry in the last three years (see Appendix I).
  - e. The applying enterprise or its head has participated in received awards in major domestic or overseas entrepreneurship and design competitions.

Box 6 continues below.

#### Box 6: Chinese Taipei's Regulatory Reviews for Innovation-driven Startups, 2014

...the above recognition principles will serve as references for the competent authorities in startup-related deregulation. For example, the Ministry of Labor will loosen the employer capital requirements (turnover requirements) and requirement on two years of work experience for hiring foreign professionals by startups based on these principles; the Ministry of the Interior will also make startups with innovation capability eligible for “policy support degree” in regulations relating to quotas for R&D Substitute Civilian Service. The NDC will follow up by continually reviewing the applicability of these recognition principles along with startup – related laws and regulations in order to provide such businesses with greater convenience and flexibility in their operations.

Establishing a favorable regulatory environment for the raising of capital by startups

The implementation directions are as follows:

Relaxing restrictions on the issues of preferred stock conversion into multiple common stocks or multiple voting stocks

Deregulating non-publicly held companies' issuance of convertible corporate bonds and corporate bonds with warrants attached

- i. Researching and discussing other issues related to regulations involving the raising of capital by startups

Source: National Development Council 2014

**Hong Kong, China:** The Business Facilitation Advisory Committee (BFAC) advises on the priority for conducting regulatory reviews of selected sectors and sets up dedicated sector-specific task forces to carry out the reviews. The task forces usually invite the relevant industry stakeholders to take part in the reviews.

The Economic Analysis and Business Facilitation Unit (EABFU) was set up under the Financial Secretary's Office in 2004. Under the steer of the BFAC, the EABFU conducts regulatory reviews on specific sectors in the real estate development, wholesale and retail, food business and related services as well as entertainment sectors and coordinates with departments/bureau concerned in taking forward business facilitation initiatives endorsed by the BFAC.

**Korea:** Korea has continued its program called the Comprehensive Plan for Regulation Revision (on an annual basis) based on Article 18 & 20 of the Framework Act on Administrative Regulation. A recent innovation is the work of Korea's Public-Private Joint Regulation Advancement Initiative ([PPJRAI](#)), which started in September 2013 (see Box 7) to review, jointly with public and private sectors, regulations identified by stakeholders. In 2016, Korea launched its third regulatory guillotine under its President's instructions to “Sink all regulations into the water and rescue only those that must be saved.” Korea also adopted a program of “Temporary Regulatory Relief” that freezes, for one or two years, implementation of selected regulations that affect investment.

### **Box 7: Korea's Public-Private Joint Regulation Advancement Initiative**

The PPJRAI operates as a task force of the Office of Government Policy Coordination (OGPC), the agency responsible for regulatory oversight, and is housed within the Prime Minister's Office (PMO). The task force serves as the coordinating body for identifying inefficient regulations that are overly burdensome on small and medium enterprises, improving specific regulations in direct consultation with the pertinent regulating government ministry, and conducting retrospective review to quantify the impact of these changes on Korea's economy.

Although it addresses regulations on a case-by-case basis, it has achieved significant results, partially due to the fact that statutory requirements direct agencies to respond to requests from PPJRAI within 2 weeks. Additionally, it receives a high level of political support since President Park Geun-hye chairs its quarterly regulatory reform meetings.

Currently, it is composed of 26 members—half of these are subject matter experts from each of the regulating government ministries, and the other 13 are private sector members from organizations such as the Korea Chamber of Commerce & Industry ([KCCI](#)), and the Korea Federation of SMEs ([KBIZ](#)). The task force identifies pertinent regulations in need of reform through its function as a forum for stakeholders and the public to submit petitions for review of regulations via its monthly town hall meetings, through its website, or by phone. Once PPJRAI identifies submissions that could lead to significant regulatory improvements it separates these into two categories based on whether they require attention at the national level or whether local governments are better equipped to enact revisions. The latter are passed on to local governments for consideration; PPJRAI focuses its efforts on drafting suggestions for improvements to regulations at the national level. It then enters into consultation with the relevant government ministry, which must decide whether to publish the changes, reject them, or conduct further review. PPJRAI is also responsible for conducting retrospective reviews of regulations altered through this process in an effort to quantify the relative impact of these revisions.

As of June 2014, a study commissioned by the Korean Association for Public Administration (KAPA) found that PPJRAI had received a total of 2,339 submissions—317 were transferred for consideration to local governments, and 1,233 were considered worthy of attention at the national level and submitted to ministries for consideration. The ministries accepted 255 of these cases, roughly 20%, and entered into a consultation process with PPJRAI to revise existing regulations.

Source: Pérez 2015

**Malaysia:** Since 2011, Malaysia has taken a comprehensive sector approach to regulatory reviews in a program called Reducing Unnecessary Regulatory Burdens on Business (RURB). The RURB program is aimed at helping regulated businesses identify regulatory burdens, suggest solutions and then present them to regulators. The Government says, “We need the business community and citizen to tell us their unnecessary regulatory burdens and participate in RURB engagements and own the regulatory improvements” (Malaysia Productivity Corporation 2015). It takes the following approach: first study, then find the solution:

A comprehensive study of a sector / industry to identify unnecessary regulatory burdens on business:

Study method:

- overview the sector / industry;

- develop the sector value chain;
- develop regulatory mapping using the value chain;
- identifying and validating unnecessary regulatory burdens on business;
- make recommendations to remove or reduce the burdens;
- duration 9 – 15 months.

Removing / reducing the regulatory burdens by implementing solutions / transforming practices:

- specific regulatory burdens;
- case study approach;
- pilot implementation – with a single business entity;
- expansion to other stakeholders;
- duration 2 – 6 months.

**Singapore:** Tools have been developed to provide guidance to agencies in the area of regulatory review, to ensure that the existing regulations remain relevant. For instance, a Smart Regulation Checklist developed by the Smart Regulation Committee (SRC) provides guidance to agencies on the key areas to focus on when carrying out regulatory reviews. This checklist draws from learning points arising from numerous case studies. To foster a culture of learning and sharing, a Smart Regulation training curriculum for public servants has also been developed and is regularly updated.

Agencies also seek to prevent red tape from building up in the first place, for instance by setting “sunset clauses” by which rules would automatically lapse after a certain date, or by spelling out a list of don’ts rather than only allowing a small list of do’s. This is premised on the approach that too many rules can cause confusion—both to the public, who have to follow them, and to public officers, who must apply and enforce them.

**New Zealand:** Amid a range of regulatory review initiatives, the Government has focused on “loopy” rules that the public finds particularly annoying or unnecessary, as identified through a range of public consultations (see Box 8).

### Box 8: New Zealand’s “Loopy Factor” reviews

A Rules Reduction Taskforce was established in late 2014 to capture public concerns about frustrating, ineffective property rules and identify opportunities for addressing them. The Taskforce engaged with the public online and in 50 meetings held in local communities, and received submissions on 2,000 topics covering 11 ministers’ portfolios and local councils nationwide. The Government accepted 72 of the 75 recommendations of the Taskforce. Some “loopy” rules are summarized below:

The loopy factor	Example of what people said
The rule is not practical	The owners of a bus depot structure that has no walls are forced to install four exit signs, just in case people can't find their way out if there is a fire.
The rule makes no sense	The Health and Safety mining regulations define a tunnel as ‘what it is not’ rather than ‘what it is’.
Compliance with the rule defeats its very purpose	An owner of a rural property had to spend \$30,000 putting in a driveway and watertank to meet the fire requirements. The tank was at the back of the house. When the house caught fire, the fire chief would not drive his truck past the house to the tank in case it caught fire too.
A small change is treated the same as a big change	As part of the refurbishment of an earthquake-damaged building, a pharmacy is being added to the front of a 1950s building. The pharmacy is to be 3.5% of the building. The rest is residential. The pharmacy has triggered the need to upgrade the fire rating of the entire building at a cost of \$50,000.
The rule sets a standard that can never be achieved	Converting a shop into a two-bedroom residential unit required a reduction in noise levels from 70db to 35db. We tested the required noise levels in our brand new home; the only place that complied was the wardrobe.
The rule is inflexible and imposes costs far in excess of any benefits	Under direction from Wellington, our council enforces clean air standards. For 12 days of the year our town does not meet the standard for PM10 particles. For the other 353 days of the year the air is great. The council has subsidised the replacement of hundreds of fires – often very efficient ones – and replaced them with inferior models for little or no change.
The rule requires permission to fix something the property owner doesn’t want	An owner had two protected trees on his property, listed by the council. One was dying, the other was unsafe and needed trimming. The owner is expected to get resource consent to maintain the trees on behalf of the council.
A rule can be interpreted in many ways	Having a level entry to showers: Some councils say yes, some say no, and then charge for an opinion or ruling.
There is no mechanism to update legislation as circumstances change	Long ago, hairdressers were once a source of infection – but no more. Even so, councils must register and inspect them yearly.
A rule has a compliance regime that does not allow for the fact nothing may change	Rigging loops have to be put in to a specified standard but then must be re-certified each year. If a year is missed, they must be abandoned and new ones inserted into the concrete, which would weaken the concrete.
The rule arises from officials’ zealotry and has no material effect	A council advised a farmer it was going to classify his land as a significant natural area under the Resource Management Act. Such a classification would limit his ability to use the land in certain ways, including turning his car lights on at night in case it disrupted the flight of Westland Petrels. The council acknowledged the birds never landed, swam, nested or mated there. It was simply on their flight path.

**Thailand:** Regulatory review has become more important in Thailand in the past two years, in the face of continuing economic challenges such as slowing growth and falling income from its export-oriented sectors. Thailand launched several strategies, including:

- A Royal Decree on “Law Review” mandated Ministries to construct a complete law and regulations database within one year and to propose five laws that should be abolished each year; The main objective of this Royal decree is to improve laws that may be barrier to business environment and social equity to increase Thailand's competitiveness. The process is not based on a standard method or content of review, and has not yet produced much of importance.
- The Licensing Facilitation Act became effective in 2015, and aims to improve transparency and reduce discretion in licensing procedures. It is part of a broader government effort to address corruption in Thailand. The Act’s “primary means to reduce official discretion and increase transparency is through written manuals. Every government agency that grants licenses and is subject to the Act must publicly release a manual that describes how to obtain the license... Each manual must contain all of the rules, conditions, and procedures associated with submitting a license application. The official is not allowed to deviate from what the manual says.” Licensing authorities must also review the laws that empower them to grant licenses every five years (Frangos 2015). Implementation is still underway.
- An initiative spearheaded by the Office of Public Sector Development Commission (OPDC) aimed to improve Thailand’s rankings on the *Doing Business* indicators published by the World Bank.

Thailand is currently considering launching a “regulatory guillotine” that will speed up the process of removal and simplification of unneeded procedures, licenses, and other impediments to competitiveness and economic growth.

**United States:** Regulatory reviews in the United States are mostly left to the discretion of the regulators, who conduct self-reviews of their own regulations. In 2011, President Obama launched a government-wide review of regulations on the books—a “regulatory lookback”—to streamline, modify, or repeal regulations and reduce unnecessary burdens and costs. Under this approach, US agencies are required to develop a plan to periodically review existing significant regulations to determine whether any regulations should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives.

In 2012, the President issued another order to improve public participation in retrospective review and improve oversight of regulatory reviews. It requires that retrospective analyses of regulations, including supporting data, are to be released to the public online wherever practicable. Regulators should also focus on initiatives that would reduce regulatory burdens or simplify or harmonize regulatory requirements imposed on small businesses.

By contrast, since 1980, regular independent review is carried out for a subcategory of regulations: red tape. Red tape or paperwork requirements expire every three years (they have a three-year sunset), as mandated by the Paperwork Reduction Act. They can be maintained only if reviewed and approved every three years by the Office of Budget and Management’s (OMB’s) Office of Information and Regulatory Affairs (OIRA).

## 5. Does the government have a capacity to manage a government-wide program of regulatory reform?

**Table 7: Capacity to Manage Reform: Application in 21 APEC Economies**

Does the government have a capacity to manage a government-wide program of regulatory reform?	Yes	Is the body accountable to the top political levels of government?	Does it have explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives?	Are clear goals set for the body?	Are schedules and deadlines set for results of its work, including monitoring of results and regular performance reporting?
<b>Number of economies, 2011</b>	11 (weak)	NA*	NA*	NA*	NA*
<b>Number of economies, 2016</b>	14 (moderate)	13	13	12	12

\*Question not included in 2011 Survey

One of the most dynamic elements of the OECD regulatory quality framework is the institutionalization of responsibilities for good regulation within the traditional management structures of a government. This element is dynamic because economies are continually revising the relationships and roles of institutions responsible for the quality of regulation. For this reason, the OECD has not recommended a specific model for centralized quality management, and wrote in 2010 that “There is still little understanding on what specific institutional setup— or more precisely, governance mechanisms to prepare new rules and shape regulatory regimes – should be in place to offer the performance in a specific context” (Cordova-Novion & Jacobzone 2011). Yet, without knowing what approach works best, there is widespread acceptance that some kind of whole-of-government oversight of regulatory quality improves results. There are very few, if any, cases, in which regulators have spontaneously reformed themselves or taken a view beyond their narrow mandates. The APEC-OECD Checklist asks a functional question, “To what extent are there effective inter-ministerial mechanisms for managing and coordinating regulatory reform and integrating competition and market openness considerations into regulatory management systems?”

Performance along this GRP was **weak** in 2011 but had improved to **moderate** in 2016 with the addition of three more economies. The approach taken in this report was to determine if there is some kind of centralized body with explicit authority to manage and coordinate a multi-year program regulatory reform. Such authorities can range from managing inter-ministerial processes to quality control of ministerial regulatory actions to actual program implementation such as government-wide regulatory reviews. Eleven of the APEC economies had created, by 2011, some kind of central body or authority explicitly tasked with oversight of regulation, and three more economies joined this group by 2016. Given the difficulty of this institutional

reform, that level of improvement is substantial. Table 8 below lists the organizations responsible for managing regulatory reform programs in APEC economies.

**Table 8: Central regulatory reform management units in APEC economies**

<i>Economy</i>	<i>Responsible for managing regulatory reform</i>	<i>Additional details</i>
Australia	Office of Deregulation within the Department of the Prime Minister and Cabinet	<p>The Office is responsible to the Prime Minister and the Parliamentary Secretary to the Prime Minister responsible for deregulation. A Secretaries' Committee on Deregulation has been established, supported by an SES Working Group on Deregulation to enable broad consultation across government.</p> <p>In addition, each portfolio department (ministry) is required to establish a 'Deregulation Unit' to drive red tape reduction. This unit is led by a high-level official who is responsible to the departmental Secretary (ministerial rank).</p>
Canada	Regulatory Affairs Sector, Treasury Board Secretariat, supported by Treasury Board of Canada Secretariat (TBS) and the Privy Council Office	<ul style="list-style-type: none"> <li>• Provides Guidance on the Cabinet Directive on Regulatory Management (CDRM) and regulatory process</li> <li>• Works with departments and agencies to implement regulatory reform</li> <li>• Works with partners (e.g., TBS Program Sectors, Privy Council Office, Department of Justice, etc.) to resolve outstanding policy, financial, legal, interdepartmental, and communication issues</li> <li>• Supports evidence-based decision making via briefing materials and recommendations</li> <li>• Advises on management of meeting and issues</li> <li>• "Fearless advice and loyal implementation"</li> </ul>
Hong Kong, China	Business Facilitation Advisory Committee (BFAC) supported by the Economic Analysis and Business Facilitation Unit under the Financial Secretary's Office	BFAC advises and reports to the Financial Secretary on the development and implementation of programs and measures to facilitate business compliance with Government regulations. This serves as a channel for the senior management of the Hong Kong Special Administrative Region Government (HKSARG) to monitor regulatory reform progress.



Indonesia	<p>Coordinating Ministry of Economic Affairs</p> <p>Ministry of National Development Planning (BAPPENAS)</p>	<p>Bappenas is located directly under the President and reports to the President. Bappenas' main task in the long term is to maintain the existence of the National Regulatory System.</p>
Japan	<p>Council for Regulatory Reform</p>	<p>The Council is under the Minister of State for Regulatory Reform</p>
Republic of Korea	<p>Regulatory Reform Committee (RRC) in the Office for Government Policy Coordination</p>	<p>The RRC has 15 to 20 members—mostly civilians in addition to official ministers, emphasizing private sector perspectives. The civilian chairman usually presides over meetings of the RRC in a co-chaired capacity with the PM.</p> <p>The RRC is tasked with restraining newly establishing economic regulations, alleviating regulatory burdens by regulatory cost reductions, adopting a negative-list approach, enforcing a systematic revision and management of the existing regulations, conducting a swift revision of irrational municipal regulations, granting administrative immunity for public officials who take administrative actions proactively, and rewarding generous incentives to induce active regulatory reform.</p>
Malaysia	<p>National Development Planning Committee (NDPC)</p>	<p>NDPC is responsible for overseeing the implementation of the national policy, assessing its effectiveness and recommending improvements; and examining regulatory impact statements (RIS) for adequacy and making recommendations.</p> <p>Malaysia Productivity Corporation (MPC) is responsible to NDPC in assisting in the coordination for implementing the policy.</p> <p>National Institute of Public Administration (INTAN) is responsible for providing training on RIA.</p>
Mexico	<p>Federal Commission for Regulatory Improvement (COFEMER), General Bureau of Standards (DGN)</p>	<p>COFEMER: Promote transparency in the elaboration and application of regulations, and efficiency (highest net benefits)</p> <p>DGN: Promote transparency and efficiency in the development and observance of Official Mexican Standards (NOM) or Mexican Standards (NMX), in accord with Federal Law on Metrology and Standardization.</p>

New Zealand	The Treasury, reporting to the Minister for Regulatory Reform	In 2008 the Treasury became responsible for the strategic co-ordination of the Government's regulatory management system. The Regulatory Quality Team (RQT) within the Treasury exercises stewardship over the regulatory management system to maintain and enhance the quality of government-initiated regulation. The Regulatory Impact Analysis Team (RIAT) is a subset of RQT and is responsible for administering the RIA regime.
Singapore	<p>The Smart Regulation Committee (SRC) is set up within the Singapore Public Service to promote good regulation practices within the Government and proactively review rules and regulations.</p> <p>The Pro-Enterprise Panel (PEP) was formed in August 2000 to actively solicit feedback on rules and regulations that hinder businesses and impede entrepreneurship.</p>	<p>The SRC is chaired by the Permanent Secretary of the Ministry of Social and Family Development (MSF) and the Second Permanent Secretary of the Ministry of Trade &amp; Industry (MTI). Its members are senior civil servants from various ministries and statutory boards. The SRC seeks to get agencies to change their mind-set, adopt less of a “regulator-centric” approach and shift to one that is more stakeholder-centric.</p> <p>PEP is chaired by the Head of Civil Service and comprises of mainly business representatives from the private sector. Acting on feedback from the public, the PEP engages agencies to review rules and regulations, so that Singapore businesses spend less time, effort, and money in meeting regulatory requirements for their operations. Since its inception, the PEP has received over 1,800 suggestions and more than half of these have resulted in regulatory or rules changes.</p>
Chinese Taipei	National Development Council (NDC)	The NDC acts as the main policy-planning agency of the Executive Yuan.
Thailand	Committee on Law Improvement for Country Development, Office of State Council	
United States	Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget (OMB) in the Executive Office of the President	The OIRA is the United States Government’s central authority for the review of Executive Branch regulations, approval of Government information collections, establishment of Government statistical practices, and coordination of federal privacy policy. The traditional government-wide authority of OMB and its control of many levers of influence in the public administration has given it the potential to be effective in promoting broad-based reform

		The office is led by the OIRA Administrator, who is appointed by the President and confirmed by the United States Senate. The current staff of OIRA number around 45.  See <a href="https://www.whitehouse.gov/omb/oira">https://www.whitehouse.gov/omb/oira</a>
Viet Nam	Ministry of Justice	

This is not the whole story, however. While only 14 economies have created dedicated bodies with explicit authorities to oversee long-term programs of regulatory reform, these and other economies have used many other bodies with other authorities and responsibilities to take on some aspect of regulatory reform, usually ad hoc or one-off reforms. If we include these kinds of ad hoc bodies in the analysis, most of the 21 APEC economies are managing regulatory reform with some kind of authority. The range of bodies engaged in some kind of regulatory reform activities is again diverse: cabinet offices, trade bodies, general economic policy coordinators and domestic development planning agencies, public service delivery and reform units, ministries of industry or commerce, units to facilitate business services, law reform committees, and special task forces.

The effectiveness of these central bodies cannot be determined in this review since most lack a clear performance standard or any performance measures. There are some indications however, that many of these bodies have been designed around good practice principles. Table 7 documents the use of several good practices and basic performance management tools that should increase their effectiveness. Almost all of them:

- Are accountable to the top political levels of government;
- Have explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives. This allows them to take a whole of government perspective;
- Work with clear goals; and
- Work under schedules and deadlines for results of its work, including monitoring of results and regular performance reporting.

Australia provides a good example. The Office of Deregulation within the Department of the Prime Minister and Cabinet:

- Works with the center of government, providing policy advice to the Prime Minister and the Assistant Minister for Productivity on regulatory reform;
- Works with clear goals to oversee and coordinate the Government's audit of regulation and the \$1 billion annual regulation cost reduction target;
- Works across government to facilitate the exchange of information on reform across the Government, in particular between deregulation units established in each ministry;
- Works at subnational levels by assisting the Prime Minister to pursue a regulatory reform agenda with states and territories through the Council of Australian Governments; and
- Carries out performance monitoring and provision of reports to the Government on the progress of the agenda.

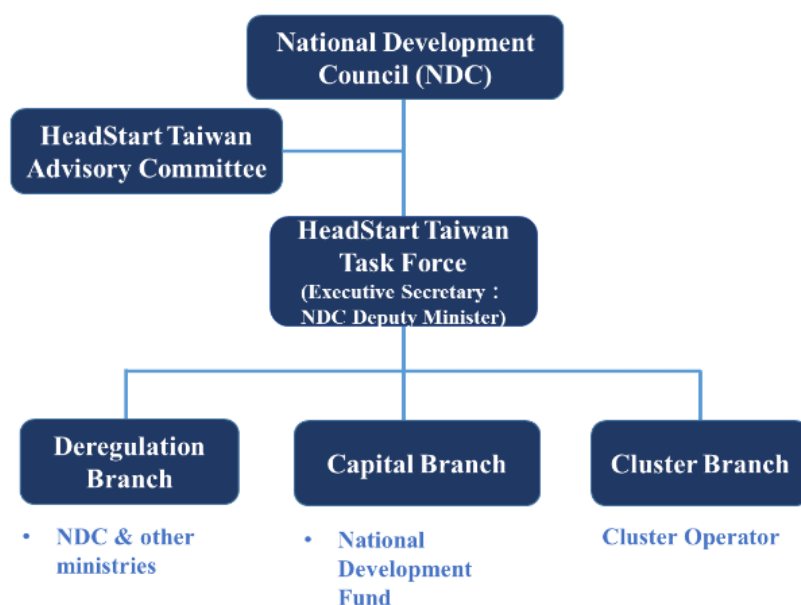
Chinese Taipei offers another good example of effective design of the central unit. The National Development Council (NDC) acts as the main policy-planning agency of the Executive Yuan, which is charged with the tasks

of planning, designing, coordinating, reviewing and evaluating the nation's overall development. Specific programs such as HeadStart are set up as dedicated reform bodies within its structure (see Figure 4). Acting from the perspective of overall planning of sustainable national development resources, the NDC uphold the ideals of “boldly pursuing innovation, intrepidly breaking down barriers, striving for excellence in action, and increasing efficiency.”<sup>5</sup> It is responsible for:

- Steering forward adjustment of the economic structure and speeding up industrial innovation and transformation.

Carrying out regulatory reforms and promoting internationalization of the business environment.

**Figure 4: Chinese Taipei: Organization of the Head Start Program**



Source: National Development Council 2014

The implications for APEC work are not very clear since international good practices are not very specific about the design and form of central management. Agreement on their functions is clearer. In addition to the four good management practices above, they should be able to take a long-term perspective, meaning that they should not be *ad hoc* special task forces focused on a single reform. Regulatory reform that is not sustained over time has little effect on the real economy. They should be able to focus on regulatory quality, meaning that they are dedicated and expert, not simply added on to a body that already is overloaded with other issues. They should be able to take a consistent approach across government even against resistance, meaning that they should be accountable to high political levels and have clear authority to implement quality standards. APEC should be able to foster the expertise of such units by creating a network in which these units come together to trade experiences, engage in joint training, set up staff exchanges, and even set up peer review mechanisms.

<sup>5</sup> Government of Chinese Taipei, Response to SCSC survey 2015.

## 6. Are trade and competition principles integrated into regulatory review and analysis?

**Table 9: Trade and Competition Principles: Application in 21 APEC Economies**

Are trade and competition principles integrated into regulatory reviews and analysis?	% of policy processes where they are integrated	Trade Impacts in RIA	Competition Impacts in RIA
<b>Overall score, 2011</b>	27% (weak)	4	8
<b>Overall score, 2016</b>	52% (weak)	12	13

Both the OECD principles and the APEC-OECD Checklist emphasize the importance of integrating trade and competition principles into regulatory decisions. The OECD states that good regulation should be “compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.” The APEC-OECD Checklist asks, “To what extent are there mechanisms in regulatory decision making to foster awareness of trade and investment implications?” The answer, unfortunately, is “not to a very great extent.”

Performance along this GRP was **weak** in 2011 but improved by 2016. Still, Table 9 above shows that only about half of APEC economies, in 2016, explicitly included trade or competition authorities or principles into regulatory drafting and/or regulatory reviews or RIA. In the United States, for example, the RIA requires that “Concerns that new U.S. rules could act as non-tariff barriers to imported goods should be evaluated carefully.” Australia requires that, “if a system, service or product has been approved under a trusted international standard or risk assessment, Australian regulators should not impose any additional requirements for approval in Australia, unless there is a good and demonstrable reason to do so.” However, even in these economies, the effectiveness of the RIA methods for these two impacts is still untested, and the extent to which trade and competition authorities actually influence or provide substantive input into the regulatory process is unclear.

### **Box 9: Integrating trade and competition principles into regulatory reviews and analysis**

**Mexico:** The Regulatory Improvement Program specifies that proposed regulation should not impose unnecessary barriers to market competition and trade and is enforced by the COFEMER. In November 2012, Mexico included in the regulatory improvement process a competition analysis checklist with 17 questions to try identify the regulations that could unnecessarily restrain competition. The RIA format includes questions to explain and evaluate suitable alternatives and impacts. This improvement allows competition analysis to be integrated in the policymaking process at an early stage. An official agreement was signed and published by which the Mexican Competition Authority is obligated to provide its opinion on these regulatory proposals to be integrated within the RIA process and with the final opinions by COFEMER.

**Canada:** The Cabinet Directive on Regulatory Management requires that departments and agencies comply with Canada’s international obligations. Furthermore, the Regulatory Impact Analysis requires the consideration of international cooperation and the limitation and justification of specific Canadian requirements. The Canadian Cost-Benefit Analysis Guide has explicit requirements on international and regional issues. For medium and high impact regulations, the RIAs requires a statement on domestic and international coordination and cooperation including trade impacts. The Guide states that, “By limiting the number of specific Canadian requirements, one can often obtain the same level of benefits with minimal trade impacts if any.”

**United States:** Integration of Trade Impacts: Executive Order 13609, “Promoting International Regulatory Cooperation”, issued in May 2012, emphasizes the importance of international regulatory cooperation as a key tool for eliminating unnecessary differences in regulation between the United States and its major trading partners. Among other things, Executive Order 13609 provides that agencies that are required to submit a Regulatory Plan must “include in that plan a summary of... international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations” and consider “reforms... that address unnecessary differences in regulatory requirements between the United States and its major trading partners.”

## **B. REVIEW OF GRPS RELEVANT TO “REGULATORY IMPACT ASSESSMENT”**

Continuing a trend that began several years ago, RIA continues to be developed within the mainstream of good policy making and economic management. No regulatory quality tool is better known than regulatory impact assessment or analysis (RIA). RIA is used routinely in over 60 economies today, up from two or three in 1980. In the structure of government management, RIA has developed as the method for assessing the full impacts of government action, including both the budget costs and the non-budget regulatory costs that have long been invisible and therefore ignored. RIA has always been, for the OECD, a transformative regulatory quality tool that changes not only the decisions on specific instruments, but more importantly positively changes the culture inside regulatory agencies, the accountability for regulatory performance, and the relationship between regulators and stakeholders. The APEC-OECD Checklist similarly states that:

*The development of a Regulatory Impact Analysis (RIA) helps to organize and consolidate all the possible impacts and elements for the decision at various stages of policy development. In particular, RIA can become the main vehicle to systematically review the legal basis and economic impacts of existing or new regulations and to structure the adjoining decision-making process...*

Even more impressive is the investment made by several economies in improving the quality of their RIAs actually performed. For example, three economies published RIA Handbooks, and five economies revised RIA guidance to strengthen the problem definition (probably the most important component of the RIA) and the identification and comparison of options. RIA training has been carried out in several APEC economies. For example, Australia developed a Massive Open Online Course (MOOC) on RIA to provide broader access through online RIA training and in 2016 contributed to the development of an APEC RIA online training course, which is now available.

## I. Is there a mandatory RIA process?

**Table 10: RIA: Application in 21 APEC Economies**

Is there a mandatory RIA process?	Yes	Use any kind of RIA
<b>Number of economies, 2011</b>	12 (weak)	14 (moderate)
<b>Number of economies, 2016</b>	13 (moderate)	18 (strong)

Performance for mandatory RIA was **weak** in 2011, but moved to **moderate** by 2016 with 13 economies mandating RIA from the center of government. The new RIA economy was Malaysia. If we include all forms of RIA, the number of APEC economies using RIA in 2016 is 18, up from 14 in 2011.

- Malaysia:** RIA was required under the July 2013 regulatory policy. The National Development Planning Committee (NDPC) oversees implementation of the National Policy on the Development and Implementation of Regulations. It monitors the RIS process, examines and endorses the adequacy of all RIS prior to submission for decision by the decision maker. Regulators are to notify the Malaysia Productivity Corporation (MPC) on proposals to introduce or amend regulations. MPC assesses whether the regulator is required to submit a Regulatory Impact Statement (RIS) for the proposed regulation. The MPC is responsible for assessing the need for RIS and for performing a review of RIS for adequacy prior to submission to the NDPC. It also provides guidance to regulators in facilitating RIA and developing RIS.

There is wide diversity in the form and scope of RIA across the APEC region. The scope varies from economy to economy. For example, in some economies, RIA applies only to legislation, while in other economies RIA applies only to subordinate forms of regulation. In one economy, RIA is mandatory only for technical standards. In some economies, RIA is only done by one or two ministries. In one economy (Indonesia) RIA is not widely used at the central level but is used by a few local governments. Methods also vary. Many of these economies apply some form of benefit cost analysis, while others use methods that can be considered partial RIA. For example, the Standard Cost Model is an example of partial RIA because it assesses only a small subset of actual regulatory costs.

The quality of RIA is quite another matter, however. The RIA indicator based on formal requirements for RIA overstates the actual influence of RIA in APEC economies. A key question that should always be asked when examining a RIA system is this: *What effect does the RIA have on regulatory decisions?* RIA systems fail in many ways that have been well documented by the OECD and others. For example, poor RIA method is a frequent problem. The APEC-OECD Checklist contains a series of questions about the actual analytical content of the RIA, and asks, “To what extent are clear and transparent methodologies and criteria used to analyse the regulatory impact when developing new regulations and reviewing existing regulations?”

Encouragingly, APEC economies demonstrate continued investment on the entire spectrum of methodological quality issues in the RIA. Table 11 below illustrates that RIA methods are better structured in 2016 than in 2013 along a range of good RIA designs and methods.

**Table 11: Structured RIA analysis with clear content**

<b>Structured analysis in terms of impacts assessed</b>	<b>Number of economies using this approach, 2011</b>	<b>Number of economies using this approach, 2016</b>
<b>Does the RIA or other explanatory document define the problem to be solved?</b>	10	14
<b>Are non-regulatory options specifically included?</b>	8	11
<b>RIA handbook or guide published</b>	11	12
<b>Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</b>	5	8
<b>Direct costs are stated in monetary terms</b>	10	11
<b>Indirect costs are described qualitatively</b>	8	11
<b>Impacts of benefits and costs are systematically compared for every option examined</b>	5	12
<b>A reasoned explanation for why an option is recommended is included in the analysis or other document</b>	10	11
<b>Total score for RIA structure (out of possible score of 168)</b>	67	90

The first content question asks about the most important part of the RIA – the problem definition. People who have never done a RIA underestimate the importance of this step. Many regulatory failures can be traced back to the failure to understand the nature or causes of the problem being resolved through regulation. For example, governments may regulate the market in the belief that there is a market failure, when the problem is actually caused by a regulatory failure. Governments that do not understand problems often actually make things worse by regulation. If the problem definition is wrong, then the entire rest of the regulatory process will be wrong, because it is focused on the wrong problem. A structured process of defining the problem is necessary in order to ensure that the regulatory solutions are actually focused on the right issues. APEC economies with RIA performed better on this indicator in 2016, with 14 of the 18 RIA economies including problem definition in the RIA guidance.

Eleven of the 18 economies using RIA require, in 2016, that at least one option included in the RIA be non-regulatory, which is a good practice because it requires the regulator to step outside the usual regulatory



habits and consider other potential policy tools that might solve the problem at lower cost. Almost all of the rules adapted across the APEC region continue to be “command-and-control” rules requiring government inspections and punishments, rather than using other incentives to change market outcomes.

Several RIA content questions focus on how impacts are measured and presented in the RIA. Consistency and clarity in this area are needed to improve the clarity, consistency, quality, and credibility of the analysis. Practices have greatly improved in this area. There is more quantification of impacts, particularly costs, and in general clearer directions about how impacts are to be included in the analysis. Some economies are attempting to standardize and clarify cost measurements for clearer communication to decision-makers. For example, Australia developed in 2013 a Regulatory Burden Measurement (RBM) tool for reporting burdens to the Cabinet. Korea has developed an e-RIA for its Cost-in, Cost-out (CICO) initiative, similar to the one-in, one-out regulatory cost initiative in some APEC economies.

Finally, only seven of the 18 RIA economies specify clear principles for deciding which option is best. Clear principles of decision are a good practice because they reduce the discretion of the analyst to pick an option that might be politically appealing, but produces inferior results.

**Table 12: Principles for ranking options in RIA**

<b>Principle for ranking options</b>	<b>Number of economies using this principle, 2011</b>	<b>Number of economies using this principle, 2016</b>
<b>Benefits of the option to the community outweigh the costs</b>	3	4
<b>The preferred option has the greatest net benefit or the largest net present value for the community, taking into account all the impacts</b>	5	5
<b>The preferred option is the most cost effective</b>	2	2
<b>The preferred option has the lowest burden or lowest cost of any option</b>	2	3

APEC economies continue to innovate RIA methods and processes, and some of these innovations are summarized below.

**Canada:** Canada continues to find new ways to use the RIA framework to boost the quality and cost-effectiveness of regulations. The government is still implementing its “one for one” rule to control overall regulatory costs, with positive results (see Box 10).

Since 2011, the government has implemented a small business lens to “hardwire” attention to small business realities when designing regulations. The small business lens ensures that regulators are sensitive to the needs of small businesses when they design regulations. When designing regulations, regulators must demonstrate to ministers that they have done what they can to minimize the impact on small business.

The lens introduced new criteria that regulators must consider when designing regulations that will impact small business. Regulators must complete a checklist that drives consultation with small business to understand their realities at the earliest stages of design. They must also demonstrate to ministers that due consideration was given to reduce the burden associated with the option imposed upon small business. If a less burdensome option is not adopted, regulators must justify why (Government of Canada 2016b).

**Box 10: Cost calculations and Canada's One for One Strategy**

Canada is using the quantitative cost estimates in the RIA as part of an innovative cost control strategy. The One-for-One Rule came into effect on 1 April 2012, and received Royal Assent as the *Red Tape Reduction Act* on 23 April 2015. The Rule places strict controls on the growth of federal regulatory red tape imposed on business. It requires regulators to offset any administrative burden cost increases from new regulatory changes with equal reductions from existing regulations. Under the One-for-One Rule, for every new regulation added that imposes an administrative burden on business, one must be removed.

The governments reports that the One-for-One Rule is working. For example:

- Public Safety Canada recently amended the government's *Accounting for Imported Goods and Payment of Duties Regulations* by increasing the threshold from \$1,600 to \$2,500 for shipments to qualify under the Low Value Shipment (LVS) program and benefit from a streamlined process. This regulatory change allows courier companies to use a consolidated document for the release of imported goods instead of a document for each shipment and importers will no longer have to present release request entries or manifests to their local Canada Border Services Agency office in order to obtain release of these goods. Allowing more shipments to be processed through the low value stream is expected to save businesses \$688,221 in administrative costs per year.
- Public Works and Government Services Canada recently amended the government's Controlled Goods List, in part by removing items that no longer need to be targeted. With fewer items on the list and fewer organizations needing to register with the Controlled Goods Program, the administrative burden on businesses, particularly in the aerospace, defense, satellite and security industries, will decrease. Fewer companies will now require security officials, security assessments, on-site or telephone compliance inspections, and associated audits. The expected savings in administrative costs are valued at \$710,047 a year.

Source: (Government of Canada 2016a)

**Republic of Korea:** RIA has been implemented in Korea since the Basic Act on Administrative Regulations (BAAR) came into force in 1998. A recent evaluation of RIA review by the Ministry of Strategy and Finance found positive evidence that RIA has helped reduce regulatory costs (see Box 11).

### **Box 11: Strengths and weaknesses of RIA in the Republic of Korea**

The RIA system in Korea follows the classical RIA model: “When the head of a central administrative agency intends to establish a new regulation or reinforce existing regulations, he has to conduct an RIA and submit the findings. Based on the results of the RIA, the regulator makes decisions on the target, scope, and method of regulation. With the introduction of BAAR, the administrative agency that intends to establish a new regulation or amend existing regulations has to reflect the opinions of the relevant experts and conduct a self-review on the feasibility of the target, scope, and method of regulation.”<sup>1</sup>

Recent work since the last APEC report has concluded that the review of the Regulatory Reform Council of new and amended regulations, based on the RIA, has substantial positive results in reducing unnecessary rules. DaeYong Choi et al found that, “From 1998 to 2013, the RRC conducted a total of 16,089 regulatory examinations. About 12,419 regulations (77.2%) passed the examination without any amendments. But 2,972 regulations (18.5%) were recommended for revision, and 689 regulations (4.3%) regulations were withdrawn. In this regard, the RRC contributed to the prevention of inadequate regulations with an annual 22.8% revision and withdrawal average.”

However, the report found that RIA in Korea requires additional quality improvements: “...research has found that the quality of the Korean government’s RIA is not satisfactory. It was revealed that Korea’s RIA was especially weak in the comparative analysis of cost and benefits. Central to the RIA is the comparative analysis of cost and benefits. But in reality, the analysis requires high cost and professional expertise. In such a case, there has been continuous effort to increase the quality of the RIA through training and participation of professional experts.”

Source: Choi et al. 2014

**Mexico:** Improving the quantitative and substantive content of RIA has been a priority in Mexico. An online tool – the Regulatory Impact Calculator – was developed to enable regulators to assess their proposed regulation at an early stage of the process. The RIA Manual was modified to introduce additional types of RIAs, to focus on competition impact analysis, risk analysis, or a combination of both (Choi et al. 2014).

Mexico has become one of APEC’s leading innovators in RIA application. As in Korea and other APEC economies that are also OECD members, Mexico takes a classic approach to implementing RIA. In Mexico, RIAs are reviewed by the Federal Regulatory Improvement Commission (COFEMER) and if they are unsatisfactory, for example, by not providing specific impacts, COFEMER can request the RIA to be modified, corrected or completed with more information. If the amended RIA is still unsatisfactory, COFEMER can ask the lead ministry to hire an independent expert to evaluate the impact and the regulator cannot issue the regulation until COFEMER’s final opinion (OECD 2015).

### **Box 12: Mexico's More Transparent and Inclusive RIA System**

Mexico is developing a new system for RIA. The new regulatory impact analysis system, SIMIR, was launched, on 13 April 2015. This system includes facilitates the searching of regulatory proposals by stakeholders and the inputting of their ideas. Some challenges in this system are the economic resources, as well as some technical issues, such as the migration of more than 14,000 electronic files of regulatory proposals into the new system.

With this system, Mexico has developed a broad, accessible, and transparent channel to promote the opinion of the society regarding regulatory proposals, all these in favor of a more open and competitive economy. The citizens have access to better information, more data for analysis of the problem, and they can give opinions of relevant alternatives.

The OECD has pointed out that Mexico's RIA process has provided relatively more public consultation opportunities, as well as safeguards to ensure that account is taken of comments received from stakeholders. In particular, the COFEMER publishes in its website [www.cofemer.gob.mx](http://www.cofemer.gob.mx) all draft RIAs, as well as its comments on the draft RIAs and all inputs received from stakeholders. The draft RIA is required to be open to consultation for at least 20 working days but, in practice, much longer consultation periods appear to be the norm. This reflects, in part, the need for the COFEMER to undertake its initial analysis of the RIA document and publish its response.

This publication of a wide range of RIA-related documentation is possibly unique among OECD economies. Publication of COFEMER's response to the draft RIA provides stakeholders with additional information that can potentially allow them to participate more effectively in the process. For example, by highlighting weaknesses in the analysis, this material may assist stakeholders to identify data or other materials which could be fed into the analysis to enhance its quality. More generally, the publication of all stakeholder comments on the proposal provides the basis for a more detailed dialogue on its merits among interested parties.

COFEMER believes that the publication of this wide range of RIA-related documents is a key factor in ensuring that regulators take account of COFEMER's opinions and, hence, that it is a critical success factor for the RIA process.

Sources: OECD 2014

**New Zealand:** RIA has been used for years in New Zealand at a level of quality commensurate with other RIA-experienced OECD economies. Yet an evaluation of New Zealand's RIA system in 2015 suggested that "the quality of RISs has not improved; and this may in turn suggest that it is time to try different methods of strengthening the quality of analysis" (McWha et al. 2015). Similar to the findings of RIA evaluations in other economies with many years of RIA experience, the report found that most errors fell into two categories:

- Issues with the quality of policy analysis:
  - unclear problem definition, that did not identify the root cause of the problem;
  - distinguishing the marginal impacts of options; and
  - misleading use of multi-criteria analysis.

- Presentation of analysis
  - lack of substantiation/evidence;
  - insufficient discussion of issues raised in consultation;
  - lack of attention to monitoring arrangements;
  - ineffective use of tables; and
  - duplication with the Cabinet paper.

**Thailand:** RIA adoption is advancing in Thailand after ten years of disappointment. In 2004, the Cabinet approved the manual on Verification of the Need to issue a regulation and a RIA checklist was proposed by the Office of the Council of State. The checklist is a mandatory requirement for all agencies who submit a new proposal for legislation to the Cabinet for consideration. Unfortunately, this RIA checklist is not being implemented effectively. The reasons include (1) government officials suffer from lack of knowledge and RIA skills; (2) the checklist does not use the correct RIA method.

In 2015, Thailand received funding from APEC to develop guidelines for RIA under the project EC 08 2014A "ANSSR: Developing Regulatory Impact Analysis (RIA) Guideline as an anti-corruption tool". The project will include hiring experts to develop the process to implement both ex ante and ex poste RIA, including the Guidelines, Action plan, and a RIA curriculum for training the trainers. When these are approved, RIA implementation shall begin.

## C. REVIEW OF GRPS RELEVANT TO “PUBLIC CONSULTATION MECHANISMS”

**Table 13: Are draft legal documents and RIAs published for comment before adoption?**

Are draft legal documents and RIAs published for comment before adoption?	Publication is required for all draft legal documents	Consultation requirement is a legal requirement established by law or high level decree	Published routinely on the Internet	Publication is done on a central web portal rather than on individual ministry websites
Number of economies, 2011	8	13	13	8
Number of economies, 2016	12	16	17	14

Even more than efficiency, a key characteristic of a high-quality regulatory system is transparency. Transparency reduces the risks of all the other causes of regulatory failures. With transparency, for example, problems with efficiency can be corrected more quickly and easily. One part of transparency is consultation with stakeholders, which has a number of purposes in the regulatory system. The OECD recommends that regulators “Consult with all significantly affected and potentially interested parties, whether domestic or foreign, where appropriate at the earliest possible stage while developing or reviewing regulations, ensuring that the consultation itself is timely and transparent, and that its scope is clearly understood.” The APEC-

OECD Checklist recommends “Well publicised, well-organised, highly accessible and well-timed opportunities for public comment, as well as clear lines of accountability for explaining how public comments have been handled are important features of a high-level commitment to public consultation.” This review assessed a series of GRPs associated with good stakeholder consultation.

Performance on the various consultation and transparency GRPs included in this review was **weak** in 2011, but with significant improvements by 2016:

- Application of the GRP, “Publication is required for all draft legal documents,” has increased from 8 to 12 economies. The reason that this review focused on the publication of draft regulatory text for comment is that this form of consultation provides the widest access to economic actors, such as those engaged in investment and trade. Because of the wide access that it provides, and because it is extremely cost-effective, governments have increasingly used publication for comment on the Internet as a minimum standard for consultation. Still, application of this GRP continues to be weak.
- “Consultation requirement is a legal requirement established by law or high level decree” has also improved the frequency and certainty of consultation. 16 economies now have some legal framework for consultation, which puts this GRP in the moderate category. Box 13 summarizes Viet Nam’s progress in this area.
- Routine publication on the Internet has reached the strong category with 17 economies practicing this GRP.

The APEC-OECD checklist calls for predictability and transparency in the consultation process, at the same time that flexibility is needed so that the regulator can adjust the consultation to the specific context. A balance between predictability and flexibility is needed. On sum, it seems that the balance has not yet been reached. Most regulators in the APEC region continue to have enormous discretion about how they consult, who they consult, when they consult, what information they collect in consultation, on what documents they consult, and how they respond to consultations. This discretion has resulted in uneven and inadequate consultation for many new regulatory proposals across the APEC region, and therefore has increased the risks and costs of doing business.

### **Box 13: Viet Nam: A Stronger Legal Framework for Consultations**

In 2015, the General Assembly of Vietnam adopted the revised Law on Promulgation of Legal Documents. Among other improvements, the revised Law increased the requirements for collection of public opinions during the drafting of legal documents. These enhanced requirements include:

- During the formulation and promulgation of legal documents, the receipt of and response to public comments and proposals must ensure openness and democracy.
- The Law makes compulsory the collection of public opinions during the policy formulation and drafting for laws, ordinances, decrees regulating certain issues, and resolutions of provincial-level People's Councils addressing certain issues.
- A report on impacts of policies introduced in a draft law or ordinance must be posted on the portal of the National Assembly, if it is proposed by the Standing Committee of the National Assembly, Ethnic Council, a Committee of the National Assembly, or National Assembly deputies, or on the portal of the Government, if it is an initiative of the Government, or on the portal of the agency or organization that proposes the draft. The posting must last for at least 30 days.
- In addition to collecting opinions from those directly affected by the proposed policies and related agencies and organizations, collection of opinions from the Ministry of Finance, the Ministry of Home Affairs, the Ministry of Foreign Affairs and the Ministry of Justice is compulsory. These ministries shall give their opinions on financial issues, human resources, compatibility with relevant treaties to which Viet Nam is a contracting party, and the constitutionality, legality and consistency of the proposed draft document with the legal system.
- The contents put up for public comments must be relevant to each target group and focus on important policies directly affecting the business community and the public.
- Apart from the posting of the draft on the Internet, opinions may be sought for by direct questioning, circulating the draft around, holding meetings, and using the mass media. Particularly, for draft resolutions of provincial-level People's Councils, meetings on the proposed policies should be held directly with those directly affected by the policies.
- To address delay in the issuance of implementing regulations, the Law requires draft implementing regulations be prepared and presented together with the draft law. For each enacted law, a list of implementing regulations must be drawn up and the Ministry of Justice is assigned to supervise the issuance of these regulations.

Source: Viet Nam Law & Legal Forum 2015

One positive response is that central web portals consultation are now rapidly spreading across the APEC region. Some 14 APEC economies now use central web portals for regulatory consultation, and two more economies are developing central portals. When a portal is used, publication of consultation materials is done on a central web portal rather than on individual ministry websites, using standardized formats and processes.

The effect of centralized web portals on the quality of business consultation was examined in 2015 in a business survey prepared for SCSC. Its results were reported in “Regulatory Transparency and Economic Performance in APEC Economies” (Jacobs 2015). In summary, businesses believe that regulatory consultation is more transparent and predictable in economies where central web portals are used. Tables 14 and 15 below compare business responses in economies with central web portals for consultation to economies without central web portals. This table suggests that consultation is much more predictable and frequent when economies use central web portals. This is a predictable result, because central web portals allow consultation procedures to be more standardized and systematic across multiple state agencies in the government.

**Table 14: Business perception on central web portals for consultation**

<b>Do you believe that IT tools such as a central web portal for all consultations, advance consultation schedules, and online comments can make consultation in this APEC economy more transparent and predictable?</b>	
Yes	89.57%
No	10.43%

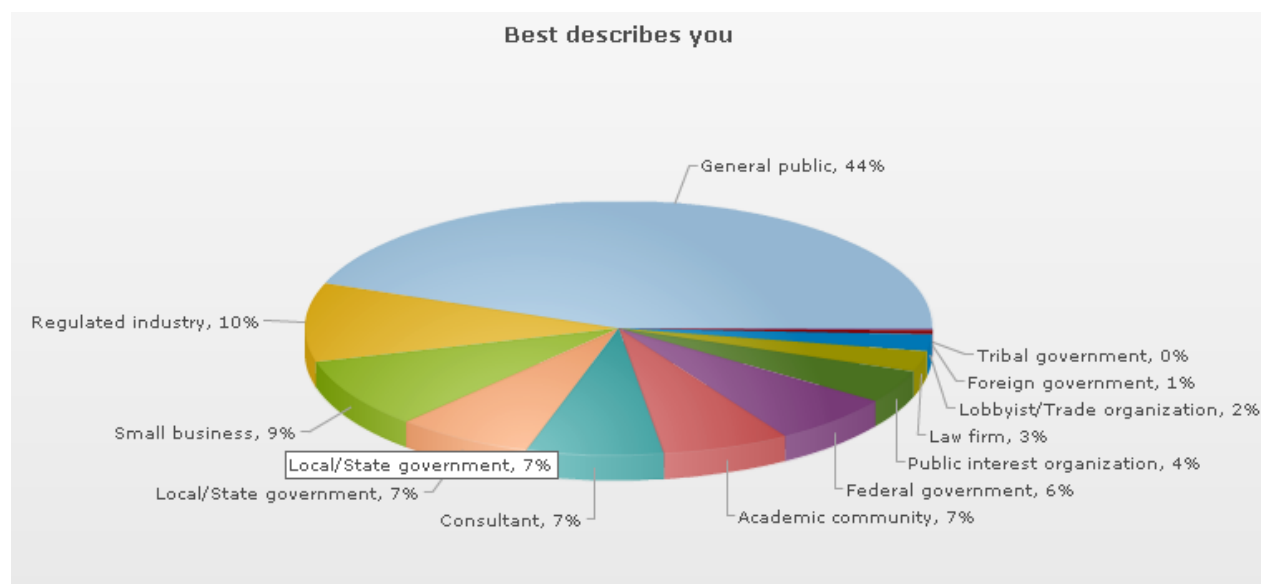
**Table 15: Opportunities for consultation, with and without central portals**

<b>In the process of developing new regulations that affect your business, are businesses usually consulted or provided an opportunity to provide comments?</b>		
	Consultation is through central web portal	Consultation is through ministry websites or other means
Always	22.95%	9.52%
Mostly	20.49%	16.67%
Some of the time	32.79%	42.86%
Rarely	13.93%	26.19%
Never	9.84%	4.76%

One of the economies using a centralized web portal found that it is accessible not only to the stakeholders but to a very wide range of stakeholders with different kinds of interests. Almost half of the stakeholders accessing the centralized web portal in the United States, for example, were from the general public, while only around 20% belong to business interests. Accessibility is, of course, a key quality component of a good consultation system (Figure 5).



**Figure 5: Stakeholders using the central consultation portal in the United States**



Source: US Office of Management and Budget 2016 presentation

Table 16 lists the URLs for the central web portals currently in use in APEC economies:

**Table 16: Central Consultation Web portals in APEC economies (end 2016)**

Economy	Central Web Portal URL	Comments
Australia	<a href="http://www.ris.dpmc.gov.au">http://www.ris.dpmc.gov.au</a>	RISs are published on the Office of Best Practice Regulation website, but consultation can occur using other means and can be published on individual ministry websites.
Canada	<a href="http://www1.canada.ca/consultingcanadians/">http://www1.canada.ca/consultingcanadians/</a>	
Hong Kong, China	<a href="http://www.gov.hk/en/theme/bf/consultation/intro.htm">http://www.gov.hk/en/theme/bf/consultation/intro.htm</a>	
Indonesia	<a href="http://www.kemenkumham.go.id">http://www.kemenkumham.go.id</a>	
Japan	<a href="http://search.e-gov.go.jp/servlet/Public?CLASSNAME=PCMMS_TLIST&amp;Mode=2#">http://search.e-gov.go.jp/servlet/Public?CLASSNAME=PCMMS_TLIST&amp;Mode=2#</a>	
Republic of Korea	<a href="http://www.better.go.kr">www.better.go.kr</a>	
Malaysia	<a href="http://rr.mpc.gov.my/service">http://rr.mpc.gov.my/service</a>	

Mexico	<a href="http://www.cofemer.gob.mx">www.cofemer.gob.mx</a> for regulatory actions from federal government agencies <a href="http://www.dof.gob.mx">http://www.dof.gob.mx</a> for technical regulations, conformity assessment procedures and sanitary and phytosanitary measures	Since 2000, Mexico has been using a free access system that contains all regulatory proposals to be issued. This system, named SIMIR, allows any citizen or firm to send comments regarding any regulatory proposal.
Peru	<a href="http://www.elperuano.com.pe/edicion/">http://www.elperuano.com.pe/edicion/</a> ; <a href="http://spij.minjus.gob.pe/spij_leg_basica.asp">http://spij.minjus.gob.pe/spij_leg_basica.asp</a>	
Singapore	<a href="https://www.reach.gov.sg/participate/public-consultation">https://www.reach.gov.sg/participate/public-consultation</a>	
Chinese Taipei	<a href="http://law.moj.gov.tw/#NEWS">http://law.moj.gov.tw/#NEWS</a>	
Thailand	<a href="http://www.krisdika.go.th/wps/portal/general/">http://www.krisdika.go.th/wps/portal/general/</a>	
United States	<a href="https://www.regulations.gov/">https://www.regulations.gov/</a>	Consultation methods have been updated with the use of the Internet.  Since 2003, Regulations.gov has enabled millions of citizens to search, view and comment on federal regulations.

An important GRP in the Checklist recommends that governments “Provide *plainly written, clear, and concise draft measures for public comment with adequate time for review, so that stakeholders and government can have a genuine dialogue that leads to improved regulatory outcomes.*” This GRP focuses on the quality of the consultation process for stakeholders, which is extremely important because governments invest in many consultation activities that, in practice, are not very effective due to poor design.

**Table 17: Quality of consultation process: Application in 21 APEC Economies**

Are draft legal documents and RIAs published for comment before adoption?	Comment period is at least 60 days	Consultation document describes the reason for the consultation	Consultation includes a request for comments on all the options considered	Web portal allows for online comments to be submitted	Publication is accompanied by other consultation opportunities
Number of economies, 2011	2	7	6	7	14

Number of economies, 2016	8	14	9	14	17
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Performance along this GRP was **weak** in 2011 and continues to be **weak** to **moderate** in 2016. Of the 21 APEC economies, only eight had in 2016 an explicit requirement to allow at least 60 days for response to published drafts. Others require at least 30 days, or seven days, or have no minimum standard at all. Korea has extended the minimum period from 20 days to 40 days. The international standard for consultation periods, which 10 years ago was 30 days, has been extended in some economies to 60 days, and even longer in complex cases. The WTO Technical Barriers to Trade (TBT) Committee has recommended with respect to Article 2.9 of the TBT Agreement a minimum comment period of 60 days. Canada requires in its Regulatory Policy that regulations covered under international trade agreements be pre-published for a minimum 75 days. Sixty days might not be needed in all cases, which is why some economies permit regulators the flexibility to decide how long they will consult, but a mandatory minimum period is a good practice because consultation is often the first victim of a lack of time. A common complaint is that regulators simply allow too little time, sometimes only a few days, for response. If consultation is to be taken seriously by stakeholders, there must always be adequate time for response.

Good progress has been made in using clearer consultation documents to communicate with stakeholders. It is quite common for governments to base consultation on legal drafts which are almost entirely inaccessible to most citizens. The number of economies using more accessible consultation documents (such as non-technical consultation requests or a RIA) has increased from 7 to 14, which is a solid step forward in opening up and increasing access to consultation on non-technical stakeholders. And, while several economies use online publication for consultation, 14 economies now permit stakeholders to submit comments online, another step forward in making consultation more efficient and accessible.

Other aspects of consistent consultation practices also continue to be **weak**. In 2016, only nine out of the 21 economies ask stakeholders to consider all of the options, not only the solution chosen by the government. This is important because the choice of regulatory design and even if regulation is the best way to achieve results is one of the fundamental decisions of the policy system. The consultation process should not exclude this issue from public discussion. In this respect, the RIA document has improved the consultation practices when it is published for comment. Around nine economies use the RIA as a consultation document. This is a good practice because the RIA describes the problem to be solved, identifies the options that were considered, identifies the consequences of various options, and explains why the government's proposed solution is the best one for the economy. This information gives the stakeholder much more scope to engage in constructive debate about the right solution.

A strong - and a weak - aspect of consultation in APEC economies is the wide diversity of consultation methods, which include stakeholder networks, hearings, symposia, surveys, public-private committees and councils, working groups, high level advisory groups, and many more. Having available a range of consultation options is a strength, because different issues call for different kinds of information and discussion, and different stakeholders have different capacities to participate in different kinds of fora. Inconsistency can be a weakness when stakeholders do not know how consultation will be done or how to participate. Some examples of diversity include:

- Regulators in Hong Kong, China, in addition to publication, use quantitative (surveys) and qualitative (interviews, focus groups) techniques to gain a full understanding of different views. Focused consultation methods that respond to the specific context can greatly increase the value of consultation.

- Among APEC economies, Singapore invests relatively highly in consultation, and uses a wider diversity of consultation tools than do most economies. Its tools include focus groups, surveys, feedback forums, stakeholder engagements, town halls and e-consultation via a central web portal. For key legislative amendments, agencies conduct a two-stage public consultation process;
  - An initial round of general feedback from the public is followed by a draft bill put up for public consultation. Businesses and key stakeholders are able to provide feedback on areas of concern.
  - Following the public engagements, many agencies produce Public Consultation Documents, outlining the background, problems, areas that they are seeking views on and the options considered. Besides distribution of the Documents to key stakeholders for comments, the Documents are published online on the agencies' websites as well as a central e-consultation portal. The public can give feedback on policy formulations through various means, including letters, emails and online submissions.

The use of social media in consultation has received increasing attention, not only in the regulatory area. Nine of 21 APEC economies now use social media in their regulatory consultation strategies, although the definition of social media seems to be very diverse, ranging from mobile applications on cell phones to email. Australia's OBPR, for example, has a twitter account where it advises on RIAs that are published for consultation. Hong Kong China launched, in 2012-13, mobile applications on the iPhone and Android platforms to provide business community with an additional channel to access the Business Consultation e-Platform at any time and from everywhere. Use of social media has broad implications for how governments communicate and listen to stakeholders, and much more development in this area would be useful in the regulatory area.

Another consultation GRP is this: "*Is feedback given to stakeholders after consultation is completed?*" Feedback to stakeholders is universally considered important, because it closes the loop between the government and stakeholder. It provides assurance that the stakeholder has been listened to, and that, even if the government does not agree with stakeholders' views, they have been fully considered. Sustaining a constructive relationship between stakeholders and regulators over multiple consultations requires that the regulator explain and react to the information received. This is what is meant by the APEC-OECD Checklist when it states, "Regulators should be held accountable for the consultation and how comments are handled so that the credibility of the consultation process is maintained."

**Table 18: Feedback to stakeholders: Application in 21 APEC Economies**

Is feedback given to stakeholders after consultation is completed?	Yes, it is required
Number of economies, 2011	10 (weak)
Number of economies, 2016	12 (weak)

Performance along this GRP was **weak** in 2011 and is still weak in 2016. Of the 21 APEC economies, only 12 require that feedback be provided in some form, usually by explaining, when the final regulation is published, how the regulator reacted to the comments. The 2014 work on business consultation found that, in many cases, businesses do not even know if their comments were read by the regulator. This "sound of silence" produces cynicism and frustration and undermines future consultation.

In the 2015 survey, two consultation and transparency questions were added the first time. These questions pertain to communications required under international trade agreements, such as notifying proposed regulations to the WTO and trade-related consultations. Performance on these two GRPs is **moderate** to **weak**, which is surprising given the high profile given to regulatory transparency in trade agreements. More work might be done on efficient means of complying with these trade-related notifications and publications.

**Table 19: Are proposed regulations notified to the WTO, as required under relevant WTO Agreements?**

	<b>Are proposed regulations notified to the WTO, as required under relevant WTO Agreements, including an electronic copy of the proposals in the notifications?</b>	<b>Are public comments submitted to the web portal from foreign stakeholders on proposed regulations linked to domestic TBT and SPS Inquiry Point Services?</b>
Number of economies, 2016	13	9

# CONCLUSIONS AND KEY RESULT AREAS FOR APEC ECONOMIES

There is no model for good regulation across very diverse economies in APEC. The 2011 baseline report, the 2013 update, the 2014 report on Consultation in the Internet Era, and this final 2016 report have documented a wide variety of practices. Many of these practices produce beneficial results, while others that meet high standards on paper produce results in practice that do not meet the intended objectives. Within this diversity, there is wide agreement that the core GRPs contained in the APEC-OECD Checklist are, if applied, likely to yield significant benefits across the APEC region. These practices have been correlated with better economic outcomes over many years in many economies, and represent an important collective asset of APEC. This agenda is still highly relevant to the economic and social goals of APEC economies.

Evidence on the benefits of adopting these GRPs broadly in a domestic regulatory system is accumulating. It is clear that GRPs are directly relevant to the most pressing economic priorities facing APEC economies – investment, jobs, productivity, competitiveness, and more productive use of domestic resources, increasing overall wealth. This evidence was reviewed and summarized in 2010 (Jacobs and Ladegaard 2010) and presented in the 2011 baseline report.

Those economy-wide benefits will not be gained from isolated, episodic, *ad hoc* reforms. They will be gained only through sustained, multi-year reforms that institutionalize better means of regulating into the machinery of government, which is the purpose of the GRPs reviewed here. Reform mechanisms should be sustainable over time, meaning that each step is institutionalized, supported, assessed and corrected as needed, and is the foundation for the next step. In other words, GRPs should be mainstreamed into the daily practice of government.

Every government will design its own reform path. Governments should start and move forward as they can and as opportunities arise. Step by step reforms that work are better than overly ambitious reforms that fail. A successful regulatory reform program in economic terms probably includes, over time, a mix of the GRPs assessed in this report: cost-cutting aimed at one-time reductions in existing costs, and regulatory governance tools such as regular reviews of existing regulations, regulatory quality principles and oversight, better forms of RIA and consultation, which are aimed at sustaining lower costs, reducing policy risks, improving resource allocation, and building a regulatory framework for socially beneficial and trade friendly growth.

What might be the next steps to support the mutually advantageous adoption of GRPs across the APEC region? This study finds that:

- These studies highlight the value of monitoring and documenting the adoption and implementation of GRPs among APEC economies, over time, against key areas of the Checklist.
- Regulatory transparency, and particularly consultation, across the APEC Region are a high priority for additional investment. The APEC region offers experience with a range of tools that can be considered for broader application:
  - Consultation. APEC could agree on minimum standards for a quality consultation system. Such standards could include good practices such as development of a central Web portal, publication for at least 30 days, and constructive means for written feedback after consultation is completed. In particular, it is clear that businesses react positively to the improved access and transparency of central web portals. The APEC region offers many examples of successful

web portals, and, in this period of information management, it should be fairly simple to move from scattered consultation sites in many ministries to a central site which functions as a one-stop shop for stakeholder consultation.

- Forward planning. When introducing quality control into a regulatory system, the forward planning system is a key component. Forward planning requires the ministries to organize themselves, to plan ahead for consultation and other quality inputs, to provide information to the center of government and to stakeholders on their plans, and to empower managers at the center of government to set priorities, to coordinate between regulatory bodies, and to insist on quality control measures to be done during the development process.
- IT tools. One of the most exciting developments across the APEC region is the use of IT tools such as Web portals for consultation, collection of comments and feedback stakeholders, publication of RIAs to collect information, coordination across agencies, and even centralized management of the entire regulatory system from the center, as in Korea. APEC could assist in developing functionalities and specifications of IT tools.
- Launching additional effective regulatory review mechanisms would significantly boost growth in developing and transition economies where regulatory environments create high barriers to market entry and competition, moving to market-friendly regulation seems to significantly add to growth performance. Again, the APEC region offers many different approaches to regulatory review – ranging from broad domestic reviews to targeted or sectoral reviews -- that are quite adaptable to all APEC economies. There has been, however, little attempt to develop effective designs of regulatory review that could be used by APEC economies as they design their own programs.
- Building performance measurement and monitoring systems into regulatory reforms, particularly for the use of central government agencies which are managing complex reforms over many ministries over time, could greatly boost the effectiveness of regulatory reform initiatives at low cost. There are many approaches and examples in APEC economies, and a survey of these methods could be useful in clarifying choices and methods for governments.

It is clear that there is a growing demand in the APEC region for more concrete and operational information on GRPs. The 2005 Checklist met the needs of the time by providing a general framework for the kinds of GRPs that would support the goals of the APEC. But, as APEC economies have implemented GRPs, they want to move beyond general frameworks into the details of design and implementation. The focus now is not so much on a checklist of general GRPs, but on getting real results on the ground in terms of economic growth and opportunity. This requires more detail, more specificity, more evaluation, and more technical discussions among practitioners about how to get better results investment in GRPs.

In considering how APEC could support the continuing adoption and improvement of application of GRPs, four possible approaches should be considered:

- I. *More directive and smaller commitments to specific reforms.* Some of the components of GRPs could be considered to be sufficiently field-tested with such positive results across so many economies in the APEC region and other regions that they are now “best practice.” APEC institutions could facilitate an agreement among APEC economies to universally adopt specific reforms of this kind (perhaps in a defined schedule), develop cases and other information to facilitate these reforms, and promote continual improvement in their application. Examples of this kind of reform are
  - a. Use of a central web portal for Internet consultations and regulatory information (a one-stop-shop for consultation),

- b. Providing at least 30 days for responses to public comments, and
  - c. Development and publication of periodic regulatory agendas.
2. *Larger and more general commitments.* Following on the experience of the 2005 checklist, APEC institutions might instead seek to adopt more general commitments to selected GRPs, which it would support through continued surveys of this kind, exchange of experience and information, and development of more operational materials that could be adapted by Member economies to their own needs. The appropriate APEC institution might:
- a. Identify challenges in adoption of GRPs, such as methods for cost assessment of new regulatory proposals, or efficient ways of meaningful consultation during regulatory development, or organizing large-scale programs of regulatory review, and agree to a focused work program in those areas to improve application. Useful materials could include technical materials that lay out options for application, assessment of economies' experiences with various approaches, and more operational checklists for design and application of these GRPs.
  - b. Choose 3-4 regulatory quality principles, and focus cooperative work on building cases and information on practical ways to implement those principles. A high level of consensus already exists in many areas, such as regulatory transparency, regulatory market-friendliness, SME-friendliness, or trade-facilitative regulation. With respect to the last, compliance with trade and investment agreements might be another APEC priority, given the relative capacity of APEC to move forward on this particular issue. Another area for this kind of work is to map out the details of good regulatory review programs, including the role of stakeholders, the development of explicit review criteria and performance indicators, and the procedures for organizing regular or large-scale reviews. The diversity and richness of experience across APEC economies suggest that there can be quite a lot of mutual information exchange and learning in the region.
  - c. Develop technical methods that could be practically applied. The explicit inclusion of some kind of review criteria reflecting impacts on trade, investment, or competition, would be quite useful in regulatory reviews. The exact form of these review criteria could be developed by APEC, reflecting the need to have a practical review methodology that can be carried out quickly and accurately within the usual constraints of time, data, and resources. The cost effectiveness of this could be quite high, because these criteria can simply be integrated into existing regulatory review processes, thereby getting more benefit out of the same investment.
  - d. Based on the growing investment in RIA across the APEC region, this would be an obvious area for work. APEC work in the RIA area should move beyond general GRP recommendations into the groundwork of actual methods and implementation. A great deal of work is needed to develop practical methods of RIA, build capacities for implementation, create the procedures within which RIA is integrated at an early stage into policy processes, create quality control for RIA such as central review and stakeholder scrutiny, and develop the data resources needed to produce credible and relevant analysis. The fastest way for economies to develop RIA expertise is to work with experts in other economies in creating a system that works for them. No economy has simply adopted a RIA method or model from another economy, but every successful economy has used extensive input from other economies to test ideas, reject approaches that simply have not worked anywhere, and tailor a system that they can use in the day to day work of regulation.



3. *Capacity building and promoting experience:* Another channel of work might be to develop a series of training opportunities such as workshops and case studies that can be used by Member economies as they see fit. APEC members already have had good results from supporting APEC-region training programs in areas such as RIA. Continuing and expanding these kind of training and learning services would both raise awareness of the importance of adopting GRPs, and improve the performance of GRPs that are adopted. It would be most effective if a modular approach were adopted, in which APEC economies could choose from a range of more technical to less technical training services. As noted, the value of general information is declining, while the demand for more specific and operational information is increasing.

For example, more systematic and effective inclusion of trade and competition authorities into at least major regulatory decisions could probably be organized at low cost. APEC could collect information on the processes and methods by which these authorities become involved in the day-to-day basis with regulatory decisions, and developed some good practices. It may be that training of trade and competition authorities is needed to increase their capacity to assess regulatory instruments, and to identify and recommend more trade and competition friendly alternatives. Some economies have explicitly adopted competition impact tests, such as the one developed by the OECD, but in practice these tests are quite technical and difficult to implement. Consultation with competition authorities is probably a lower cost and more effective quality control method than a complex written analysis.

4. *Continuing to survey progress across the APEC region.* Most international groups of economies have developed some kind of periodic tracking system to follow the activities of members in key areas. This is important for GRPs as well, because without the broad picture of where and how GRPs are being implemented, it is quite difficult to know how to facilitate continued progress. The 2011 baseline report and this 2016 update demonstrate the value of presenting a structured and rigorous picture across the APEC region. An appropriate APEC institution should consider institutionalizing, every 2 to 3 years, further progress reports.

# ANNEX I: METHOD OF THE REVIEW

This review is based on assessing, against the selected GRPs in the 2005 Checklist, the effective functionalities that exist in APEC economies, documenting changes over time in those functionalities, and identifying patterns where practices meet good international standards and areas where they do not. The intent was not to score or rank individual economies, since a comparative study would require much more information and agreement on measures.

Good practices in some areas of public policy, such as tariffs, are based on quantitative targets, but GRPs are instead based on functional characteristics that take an enormous variety of forms in different institutional settings. These functional characteristics are carried out through specific procedures and tools (the so-called “better regulation” toolkit). What matters is not the form of those procedures and tools, but the result in terms of regulatory quality. However, we cannot practically measure regulatory quality directly (for reasons discussed at length by the OECD), and therefore we examine the consistency of domestic quality practices with what is agreed to be good regulatory practice. The link between GRP and economic outcomes is summarized by Jacobs and Ladegaard (2010):<sup>6</sup>

*There is growing evidence that good regulatory practices, even if crudely measured, are positively linked to microeconomic performance at the level of the firm. Successful application of regulatory tools and instruments that ensure efficient, effective and transparent regulation will also create greater regulatory quality and predictability, which will eventually impact business investment decisions. In other words, the “regulatory governance toolbox” is relevant to sustainably cutting business costs and increasing competition by addressing the critical issues of market institutions and incentives. Given the enduring and entrenched regulatory cultures in many countries, regulatory governance reforms that directly change policy processes seem a necessary step to sustain reforms over time.*

To document this consistency, the 2011 baseline report contained two important components. A summary report reviewed patterns of implementation of GRPs across the entire APEC region, and presented examples from many economies. An Annex to the report contained summaries of GRPs in each of the 21 APEC Members, using an identical format for each summary. The information for the summary reports was collected using existing documents and sources, and the draft summaries were reviewed and commented on by each economy.

The 2011 baseline report used a highly structured approach based on common questions, indicators, and definitions in order to provide a more rigorous and consistent view across many economies. The 2011 report identified practices using the following approach:

- Three key areas of the Checklist were included in the report: internal coordination of rulemaking activity; regulatory impact assessment; and public consultation mechanisms. These three areas are at

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<sup>6</sup> Scott Jacobs with Peter Ladegaard. 2010. *Regulatory Governance in Developing Countries*, Investment Climate Advisory Services/World Bank Group, Washington, D.C. at [http://www.fias.net/ifcext/fias.nsf/Content/BRG\\_Papers](http://www.fias.net/ifcext/fias.nsf/Content/BRG_Papers). This paper states that, “Partly driven by evidence of widespread regulatory failure, the notion is becoming mainstream that a regulatory governance system is needed to build and safeguard quality through regulatory policies, institutions, processes, and instruments (much as a fiscal and budgeting system is needed to safeguard the quality of government taxing and spending).”

the core of the “better regulation” agenda successfully applied around the world in economies with different economic strategies, legal systems, and administrative cultures.

- A survey was circulated among the 21 economies. To provide more precision and consistency in understanding the application of GRPs in the three key areas, 13 main questions were identified and answered across these three areas for each of the 21 economies.
- Across the 13 main questions, 57 key quality indicators were assessed for each economy.

This method of precise questions and indicators was adapted from the review process developed by the OECD in 1997, and more recently applied by the World Bank/IFC. It permitted a fairly rapid approach to the review and provided opportunities for correction and completion by Member economies, but had limitations. The brief summaries did not contain the enormous contextual information needed for in-depth reviews. Also, the summaries necessarily focused on formal policies, not the quality of application of the formal policy framework. The actual results of GRPs in an economy might be quite different from the formal policies. A highly developed consultation process that is not respected in one economy, for example, might well produce worse results than a simpler process in another economy where implementation is more successful. Assessing the actual implementation of GRPs in each economy is a much larger task that cannot be completed without more detailed reviews.

The 2013 update followed closely the structured method of the 2011 report, for two reasons: a highly structured approach based on common questions and definitions continued to be necessary to provide a consistent and relevant view across many economies, and it was necessary to closely follow the content of the original report to satisfy the purpose of identifying trends across time for APEC economies.

The collection of information for the 2016 final report followed the same structured approach in the design of the survey and the use of additional information provide details and validation as needed. However, the 2015 survey added a number of new questions that reflected the growing interest in the details of GRP design and implementation. The 2015 survey asked for three kinds of information:

- 1) Examples or cases that show, in the respondent’s view, progress on GRPs in the Member Economy since 2011. This qualitative information will be used to illustrate practices across the APEC region, and provide concrete examples or cases that will be useful to other economies;
- 2) Answers to more detailed questions on the current use of specific GRPs that will permit a more precise overview of trends and investment in APEC Member economies;
- 3) Answers to more detailed questions on economies’ implementation of the 12 actions identified in the APEC Ministerial declaration in 2014 as strengthening conduct of public consultations on proposed regulations in the internet era.

Responses to the 2015 survey were received through mid-2016, and secondary information collection continued through July 2016. Hence the information presented in this final report is assumed to represent the situation from 2011 to 2016.

# REFERENCES

- APEC. 2011. *2011 Leaders' Declaration Annex D - Strengthening Implementation of Good Regulatory Practices*. 13 November. [http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011\\_aelm/2011\\_aelm\\_annexD.aspx](http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm/2011_aelm_annexD.aspx)
- Australian National Audit Office. 2016. *Implementing the Deregulation Agenda: Cutting Red Tape*. 4 May. <https://www.anao.gov.au/work/performance-audit/implementing-deregulation-agenda-cutting-red-tape>
- BAPPENAS. 2015. *National Strategy on Regulatory Reform in Indonesia*. [http://dapp.bappenas.go.id/upload/file\\_article/document/\(buku-strategi-nasional-reformasi-regulasi\)-Buku%20Reformasi%20Regulasi%20-%20FINAL%20FIX\(1\).pdf](http://dapp.bappenas.go.id/upload/file_article/document/(buku-strategi-nasional-reformasi-regulasi)-Buku%20Reformasi%20Regulasi%20-%20FINAL%20FIX(1).pdf)
- Bennett, Jeff & Susan E. Dudley. 2014. *Australia's Regulatory 'Bonfire'*. Fall 2014, United States. [http://object.cato.org/sites/cato.org/files/serials/files/regulation/2014/10/regulationv37n3-8\\_7.pdf#page=13](http://object.cato.org/sites/cato.org/files/serials/files/regulation/2014/10/regulationv37n3-8_7.pdf#page=13)
- Choi et al. 2014. *The Regulatory Reform System and Policy Coordination in Korea: A Guillotine Rule of Regulatory Clearance for Economic Crisis Management*. Ministry of Strategy and Finance, December. <http://www.ksp.go.kr/publication/modul.jsp?idx=182>
- Commonwealth of Australia. 2014. *Regulator Performance Framework*. October. [https://cuttingredtape.gov.au/sites/default/files/files/Regulator\\_Performance\\_Framework2.pdf](https://cuttingredtape.gov.au/sites/default/files/files/Regulator_Performance_Framework2.pdf)
- Cordova-Novion, Cesar & Stéphane Jacobzone. 2011. *Strengthening the Institutional Setting for Regulatory Reform: The Experience from OECD Countries*. OECD Working Papers on Public Governance, No. 19, OECD Publishing. <http://regulatoryreform.com/wp-content/uploads/2015/02/OECD-Strengthening-the-Institutional-Basis-for-Regulatory-Reform-Cordova-2011.pdf>
- Frangos, John. 2015. *New Transparency in Licensing: Overview of the Licensing Facilitation Act*. Informed Counsel, Vol 6, No 3, 24 August. <http://www.tilleke.com/resources/new-transparency-licensing-overview-licensing-facilitation-act>
- Government of Canada. 2016a. *Frequently Asked Questions – Regulatory Reforms*. <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/frequently-asked-questions-regulatory-reforms.html>
- Government of Canada. 2016b. *Small Business Lens*. <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/small-business-lens.html>
- Hong Kong Government. 2016. *About the Smart Regulator Programme*. <http://theme.gov.hk/en/theme/bf/smart/>
- Jacobs, Scott & Peter Ladegaard. 2010. *Regulatory Governance in Developing Countries*. Investment Climate Advisory Services/World Bank Group, Washington, D.C. [http://www.fias.net/ifcext/fias.nsf/Content/BRG\\_Papers](http://www.fias.net/ifcext/fias.nsf/Content/BRG_Papers)
- Jacobs, Scott. 2015. *Regulatory Transparency and Economic Performance in APEC Economies*.
- Korte. 2015. *Obama executive order a return to the 'nudge'*. USA Today, 15 September. <http://www.usatoday.com/story/news/politics/2015/09/15/obama-executive-order-return-nudge/72311024/>
- Malaysia Productivity Corporation. 2013. *Government of Malaysia, National Policy on the Development and Implementation of Regulations*, Regulatory Review Department. 13 July.

Malaysia Productivity Corporation. 2015. *RURB: Reducing Unnecessary Regulatory Burdens on Business - Malaysia Experience*. 29 September. <http://www.eria.org/events/Reducing-Unnecessary-Regulatory-Burdens-on-Business-Malaysia-Experience.pdf>

McWha, Vhari, Jo Smith & Kieran Murray. 2015. *Regulatory Impact Analysis evaluation 2015*. 31 July. Sapere Research Group, prepared for the Treasury. <http://www.treasury.govt.nz/regulation/informationreleases/pdfs/ria-review-2015.pdf>

National Development Council. 2014. *HeadStart Taiwan Project*. August. <http://ws.ndc.gov.tw/001/administrator/25/ckfile/14305ab9-48c0-4251-9d26-9410f5fc4fab.pdf>

New Zealand Treasury. 2015a. *Best Practice Regulation: Principles and Assessments*. February. <http://www.treasury.govt.nz/regulation/bpr/bpregpa-feb15.pdf>

New Zealand Treasury. 2015b. *Government Expectations for Regulatory Stewardship*. 21 September. <http://www.treasury.govt.nz/regulation/stewardship>

Obama. 2015. *Executive Order – Using Behavioral Science Insights to Better Serve the American People*. 15 September. <https://obamawhitehouse.archives.gov/the-press-office/2015/09/15/executive-order-using-behavioral-science-insights-better-serve-american>

OECD. 2014. *Regulatory Policy in Mexico: Towards a Whole-of-Government Perspective to Regulatory Improvement*. OECD Publishing, Paris, 25 February.

OECD. 2015. *OECD Regulatory Policy Outlook 2015*. p. 107.

Perez, Daniel R. 2015. *Insights on South Korea's Public-Private Partnership for Regulatory Reform*. 21 December. <https://regulatorystudies.columbian.gwu.edu/insights-orea%E2%80%99s-public-private-partnership-regulatory-reform>

Radaelli, Claudio & Fritsch, Oliver. 2012. *Measuring Regulatory Performance: EVALUATING REGULATORY MANAGEMENT TOOLS AND PROGRAMMES*. OECD, Expert Paper No. 2, 2 July. [https://www.oecd.org/gov/regulatory-policy/2\\_Radaelli%20web.pdf](https://www.oecd.org/gov/regulatory-policy/2_Radaelli%20web.pdf)

Viet Nam Law & Legal Forum. 2015. *New Law on Promulgation of Legal Documents*. 11 February. <http://wmagazine.vn/new-law-on-promulgation-of-legal-documents-5061.html>

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