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## **Good Regulatory Practices in APEC Member Economies - Baseline Study**

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**Asia-Pacific  
Economic Cooperation**

# **Good Regulatory Practices in APEC Member Economies**

## Baseline Study

November 2011



# Good Regulatory Practices in APEC Member Economies Baseline Study

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# Executive Summary

Good Regulatory Practices (GRPs) contribute directly to trade, investment, job creation, and sustained economic growth in the APEC region. For that reason, 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.

Based on the checklist, this report reviews the application of selected GRPs across the 21 APEC members. The checklist and this report focus on several procedures that promote regulatory quality standards particularly important to trade and investment such as accountability, consultation, efficiency, and transparency. Three categories of GRPs are covered in this review:

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

A striking insight of this review is the dynamism in GRPs across the APEC economies. Each of the 21 economies has made visible progress in recent years in applying GRPs in domestic regulatory activities. Some economies, such as Vietnam and Singapore, have made particularly substantial and rapid progress. Others have focused on smaller reforms, such as targeted regulatory reviews in high-priority areas, but without yet institutionalizing GRPs into the regulatory process. The progress in applying principles of transparency and regulatory review is sufficiently widespread to provide a basis for collective action by APEC in further supporting those reforms.

However, there is still an enormous agenda ahead in implementing the GRP recommended in the checklist. The intensity of application of several GRPs is indicated below:

## Summary of Intensity of Application of Selected GRP in APEC Economies

Strong (frequent to universal application)
Does the government systematically review regulations for cost and effectiveness?
Moderate (Around half of APEC economies apply the GRP)
Is a regulatory reform strategy adopted at the center of government?
Has the government published a set of good regulatory principles applicable across the government?
Does the government have a capacity to manage a government-wide program of regulatory reform?

Is there a mandatory RIA process?
Is feedback given to stakeholders after consultation is completed?
<b>Weak to Moderate (less than half of APEC economies)</b>
Does the content of the RIA meet good practices?
Are draft legal documents and RIAs published for comment before adoption?
Does the government publish at least annually a regulatory/legislative plan?
<b>Weak (A smaller minority of APEC economies)</b>
Are trade and competition principles integrated into regulatory reviews and analysis?
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

Throughout the review, there was a clear disconnect between regulatory reformers and trade issues. One of the weakest aspects of GRP is integration of trade and competition principles into regulatory reviews and analysis. Only a few economies explicitly include trade or competition principles in the development or the review of regulations. One reason for this might be that it is difficult to assess potential impacts on trade or competition. A more important reason is that trade and competition authorities are still quite distant from the mainstream of regulatory policy making. They do not have more opportunities than any other ministry to participate, and inter-ministerial coordination processes are usually weak.

Other key findings are as follows:

- About half of APEC economies have an explicit strategy for regulatory reform.
- Only one-third publish an annual legislative or regulatory plan.
- Around 12 economies have published clear regulatory quality principles for regulators to follow. The most consistent principles are those on transparency and efficiency (low-cost).
- All of the APEC economies have some kind of regulatory review underway. Those that do not have regular or annual reviews have launched one-off reviews of specific problems or specific sectors (16 economies), or even procedures in the *Doing Business* indicators (6 economies). Three economies have institutionalized large-scale reviews for ongoing reforms using the “guillotine” approach: Korea has reviewed 11,000 regulations, Vietnam has reviewed 5,700 regulations, and Mexico has reviewed more than 2,000 regulations.
- Ten APEC economies have created some kind of central body or authority explicitly tasked with oversight of regulation. These bodies are quite diverse.
- Twelve APEC economies have adopted some form of mandatory RIA, although the scope varies from economy to economy, and the standards for the content of RIA are fairly inconsistent and weak. Only four economies explicitly include trade impacts in the RIA, and only six explicitly include trade officials in the consultations on the RIA.
- Performance on the various consultation and transparency GRPs included in this review is weak to moderate. Most regulators in the APEC region 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. On sum, it seems that regulators appear to have too

much discretion in applying even minimal standards of good consultation, and there is not enough predictability for stakeholders in knowing how they should engage the regulatory process.

GRPs are directly relevant to the most pressing economic priorities facing APEC economies. There are numerous opportunities for APEC to support the continued application of GRPs in member economies. Regulatory transparency across the APEC Region should be a high priority for additional attention. Another low-cost, high-return investment would be in agreeing on more effective regulatory review mechanisms.



# 1. Introduction

This report assesses the application of selected good regulatory practices (GRP) across the 21 APEC members. The 21 summary economy reviews are contained in Annex 3. The collective results of these summaries are reported below, with some conclusions about priorities for collective action by APEC members.

In contrast to the situation of 20 years ago, no regulatory reformer in any economy has to make decisions alone. A huge body of diverse and rich experiences with various regulatory reforms is now easily available. This pool of information greatly reduces the risk of reform failure. How? International experience allows the reform community to identify “good practices.” More precisely, this means that economies with similar values or goals agree that specific reforms have performed well enough across diverse conditions to be accepted as “good practices” that can be reliably linked to desirable outcomes.

The identification of such good practices is of great value. Because we can only partly measure the impact of regulatory reform and because there is often a long lag time between the reform and the impact on the economy, we usually need indicators or guides to design regulatory reforms more likely to succeed. The risks of unsuccessful reforms whose impacts can be only partly measured can be mitigated by appropriate use of international experience. 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, is an example of the use of international experiences to increase the benefits of reforms in any one economy. The ability of APEC to generate and apply such information is one of the hidden assets of the forum.

## From the OECD-APEC Integrated Checklist on Regulatory Reform

THE CHECKLIST IS A VOLUNTARY TOOL that member economies may use to evaluate their respective regulatory reform efforts. There is no single model of regulatory reform, but this does not mean that standards, goals and well-structured institutions do not matter. Based on the accumulated knowledge of APEC and the OECD, the Checklist highlights key issues that should be considered during the process of development and implementation of regulatory policy, while recognizing that the diversity of economic, social, and political environments and values of member economies require flexibility in the methods through which the checklist shall be applied, and in the uses given to the information compiled.



## 2. Rationale for Good Regulatory Practices

Government regulation of the domestic economy increasingly arises as an issue in international trade and investment discussions and negotiations, as recognition grows of its influence on market openness. Like other regional arrangements, APEC has for years worked to raise awareness of the importance of good regulatory practice (GRP) to trade and investment. Its operational tool for this purpose is 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 reflects a growing international consensus on good regulatory practice. What SOM calls “Good Regulatory Practice” (GRP) is called by the World Bank the “regulatory governance system”<sup>1</sup> 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.”<sup>2</sup> The concept that underlies these frameworks is that quality, however defined, must be explicitly built into administrative systems that work under many competing incentives. The APEC-OECD Checklist, for example, focuses on procedures that protect regulatory quality standards such as accountability, consultation, and transparency, standards particularly important to trade and investment. The evolution of regulatory quality systems in different institutional settings has been the focus of the OECD work on regulatory reform over the last 30 years, and of the World Bank/IFC work and regional arrangements such as APEC over the last 15 years. Institutional relations and procedures that safeguard the quality of rules are today at the heart of a modern national regulatory system.

The entire system of regulatory quality procedures is important to the global trade and investment regime. The 1995 OECD recommendation on the quality of government regulation noted that regulatory quality is a shared value, because the quality of regulation in one economy affects the wealth of other economies connected by trade or investment. That was the central logic behind the creation of the OECD country review program in 1997 and the APEC regulatory quality program eight years later. Internal procedures previously seen as of purely national or even as only ministerial interest were redefined as legitimate interests of allied economies with impacts far beyond those originally understood. This insight created a shared pool of experiences in which good practices underlying regulatory quality were, over the past 15 years, identified and refined into internationally-recognized GRPs. The “shared” nature of the national regulatory system is seen through two primary linkages:

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<sup>1</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).”

<sup>2</sup> APEC-OECD Integrated Checklist on Regulatory Reform. A Policy Instrument for Regulatory Quality, Competition Policy and Market Openness.



1. Macro: Economic growth in one economy affects economic growth in another through the many economic linkages of the global economy. Good regulatory practices, even if crudely measured, are positively linked to macroeconomic performance. Pro-growth regulation in one economy increases growth in every economy linked to it through trade and investment. The benefits of good regulation are “exported,” while the costs of bad regulation are also passed on to trade and investment partners.
2. Micro: Regulation has micro effects on trade and investment for specific products, services, and sectors. Ensuring that these effects are understood and managed requires transparency, impact assessment, and use of trade-friendly regulatory approaches and designs.

Good practices in some other areas of public policy, such as tariffs, are based on quantitative targets, but GRP are instead based on functional or quality 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 really matters is not the form of those procedures and tools, but the result in terms of regulatory quality. There is no economy in which quality characteristics such as regulatory transparency or consistency are not important. However, we cannot practically measure regulatory quality directly (for reasons discussed at length by the OECD), and therefore we examine the consistency of national 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):

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.<sup>3</sup>

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<sup>3</sup> Scott Jacobs with Peter Ladegaard (2010), *Regulatory Governance in Developing Countries*, p. viii.

### 3. Review Purpose and Content

This review is based on assessing, against the GRP, the regulatory practices that exist today in APEC economies, and identifying patterns where practices meet good international practices and areas where they do not. The intent is not to score or rank individual economies, since a comparative study would require much more information and agreement on measures. Nor is the intent to imply that application of the GRPs should follow a rigid checklist. 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 a few selected GRPs that are particularly relevant to its priorities and needs. The aim of this report is not to judge individual economies, but to identify, across 21 economies, where more attention to good regulatory practices are likely to yield better outcomes – such as transparency, efficiency, market friendliness, consistency, cost minimization, and consistency with trade and investment commitments.

A complete review of the regulatory quality system in APEC economies is not possible under time constraints of this limited work. In many cases, information in English was not available in sufficient detail to understand clearly what a government is doing.<sup>4</sup> Nor is it possible to review the outcomes of good regulatory practices in the economy. Nor is it possible to review the quality of application of the formal policy framework. A highly developed consultation process in one economy, for example, might actually produce worse results than a simpler process in another economy where implementation is more successful. A more complete review such as in the OECD's country review program requires several months and enormous contextual information to understand how quality processes operate in each economy, and to relate them to broader market and social outcomes. By contrast, this review summarizes very briefly (4-6 pages) for each economy its formal practices in specific and selected areas. Where reviews or critiques of those practices are published in reputable sources, those reviews are sometimes cited.

The proposal by Australia, New Zealand and U.S. discussed at SOM2 focused on specific components of the broader quality system that are particularly important to the specific needs of trade and investment. The SOM2 proposal identified three areas of particular interest:

- Internal coordination of rulemaking activity
- Regulatory impact assessment
- Public consultation mechanisms.

A total of 12 separate quality components will be assessed in these three areas. These 12 components are identified below.

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<sup>4</sup> Annex 1 contains the key sources used for the reviews. Additional source material has been provided by several economies, and more source material is welcome.

## Internal Coordination of Rulemaking Activity

Many aspects of internal coordination are 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 national level, between national governments and supranational levels of government, and between national and subnational levels of government. The SOM2 proposal 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.

This review focuses on the three procedures cited in the SOM2 proposal and two other components from the Checklist that are central to the trade agenda. Each economy paper will examine:

- 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,
- Systematic review of existing regulations to improve their effectiveness and address burdensome requirements contained within,
- Effective interministerial mechanisms for managing and coordinating regulatory reform (i.e., coordination of regulatory reform or initiatives, if not by a central body then by institutions or coordinating mechanisms),
- Integration of competition and market openness considerations into regulatory management systems.

## Regulatory Impact Assessment (RIA)

RIA is a flexible tool that helps governments makes better regulatory decisions based on information and empirical analysis about the potential consequences of government action. Around 50 economies worldwide have now adopted various forms of RIA as a routine element in making new regulations, and an enormous body of work has been done to document what works and does not work in the design of a RIA system. The aim of RIA is to ensure that better policy options are chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action, including (sometimes) impacts on trade.

This review of the quality of RIA looks at both the methodological content of the RIA, and the processes that ensure their application. The SOM2 proposal focused on some aspects of RIA, while the APEC-OECD checklist includes many more aspects. The SOM2 proposal recommended that economies:

Establish mechanisms for effective and consistent use of the tools and best practices for developing new regulations and for reviewing existing regulations.

- When deciding to regulate, clearly identify the need for a regulatory proposal, describing the nature and significance of the problem.
- Examine feasible alternatives, including less burdensome alternatives involving market-based or voluntary solutions, for addressing the problem.
- Assess both the quantitative and qualitative costs and benefits of each alternative for addressing the problem and identify the reasons why the alternative selected best achieves the policy objective.
- Examine the incentives and mechanisms in place to review and streamline existing regulations.

This review focuses on four RIA quality components, three from the SOM2 proposal and an additional one from the APEC-OECD checklist:

1. When deciding to regulate, clearly identify the need for a regulatory proposal, describing the nature and significance of the problem.
2. Examine feasible alternatives, including less burdensome alternatives involving market-based or voluntary solutions, for addressing the problem.
3. Assess both the quantitative and qualitative costs and benefits of each alternative for addressing the problem and identify the reasons why the alternative selected best achieves the policy objective.
4. How are [trade friendly] alternatives to regulation assessed? (Question B7 in the checklist)

In addition, the review added a question, “Is there a regulatory reform strategy adopted at the center of government?” to provide a context for the other good regulatory practices. This question, one of the key quality standards from the OECD work because it is connected to the political economy of reform, is basically Question A1 in the checklist, “To what extent is there an integrated policy for regulatory reform that sets out principles dealing with regulatory, competition and market openness policies?”

## **Public Consultation Mechanisms**

Stakeholder consultation is a regulatory tool used to improve the transparency, efficiency, and effectiveness of regulation. Consultation is a structured, two-way flow of information between government and those affected by government actions that can be developed at any stage of the regulatory development, from identification of the problem to design of the instrument mix to evaluation of existing regulation. Consultation increases the quality of regulatory policies in different ways: by bringing into the discussion the expertise and perspectives of those directly affected by the regulation; by helping regulators balance competing interests and identify unintended effects and practical problems; and by fostering interactions between regulators from various parts of government.

The SOM2 proposal recommended that economies:

Fully implement the principles related to public consultation of the 2005 APEC-OECD Integrated Checklist on Regulatory Reform section on regulatory policy and the 2004 Leaders' Statement to Implement the APEC Transparency Standards in order to:

- Establish notice-and-comment procedures that provide all public stakeholders with a meaningful opportunity to comment on regulatory proposals,
- 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, and
- Ensure that regulators are held publicly accountable for how they consider public comments.

This review focuses on the three components of consultation quality identified by SOM2:

5. Establish notice-and-comment procedures that provide all public stakeholders with a meaningful opportunity to comment on regulatory proposals;
6. 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; and
7. Ensure that regulators are held publicly accountable for how they consider public comments.

## 4. Application of Good Regulatory Practices

Malaysia suggested to APEC in 2011 that APEC should identify the necessary Key Result Areas (KRAs) for the region to ensure that the required structural reforms are implemented and well achieved. This report follows that suggestion in identifying KRAs for each of the main areas examined.

### How are the Recommended GRPs Applied?

One of the most striking results of this survey of GRP practices is that it shows the dynamism in GRP across the APEC economies. Each economy has made progress in applying GRP in domestic regulation. Some have made substantial and rapid progress. In 2009, for example, Viet Nam adopted the first national requirements for consultation and for regulatory impact assessment in the regulatory process, then in 2010 created a central authority to monitor the quality of new administrative procedures affecting businesses and citizens. Other economies have focused on smaller reforms, such as targeted regulatory reviews in high-priority areas, but without yet institutionalizing the GRP recommendations into the regulatory process itself. Even for those GRPs that are widely adopted, there is great diversity in the application of various GRPs.

This review, although it is a summary based on qualitative information, shows that there is still an enormous agenda ahead in implementing the GRP recommended in the APEC-OECD Checklist. The table below lists the various GRPs in this review according to the intensity of their application in APEC economies. The intensity of application of the GRP is coded as follows:

- Strong application: Frequent to universal application.
- Moderate application: Around half of APEC economies apply the GRP.
- Weak application: A minority of APEC economies.

By far the most popular GRP is the review of existing regulations, most often based on the criterion of cost minimization. This GRP has the potential to produce enormous gains, since the stock of regulations imposes annual direct compliance costs of regulation at several percentage points of GDP, not including efficiency losses and dynamic effects.<sup>5</sup> All of the other GRPs are applied only moderately or weakly. One of the key differences between the review of regulation, and the other GRPs, is that the review of regulation can be an ad hoc or one-off reform, while the other GRPs are institutional. Ad hoc and short-term reforms are much easier to implement than institutional reforms. Therefore, it is not surprising that institutional reforms are seen less often. Another influence on the application of GRPs is the *Doing Business* indicators of the World Bank, which have generated a series of highly targeted and short-term regulatory reviews in areas covered by the indicators. None of the *Doing Business* indicators cover the more difficult institutional reforms recommended in the APEC-OECD Checklist.

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<sup>5</sup> Scott Jacobs and 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)

## Summary of Intensity of Application of Selected GRP in APEC Economies

<b>Strong</b>
Does the government systematically review regulations for cost and effectiveness?
<b>Moderate</b>
Is a regulatory reform strategy adopted at the center of government?
Has the government published a set of good regulatory principles applicable across the government?
Does the government have a capacity to manage a government-wide program of regulatory reform?
Is there a mandatory RIA process?
Is feedback given to stakeholders after consultation is completed?
<b>Weak to Moderate</b>
Does the content of the RIA meet good practices?
Are draft legal documents and RIAs published for comment before adoption?
<b>Weak</b>
Does the government publish at least annually a regulatory/legislative plan?
Are trade and competition principles integrated into regulatory reviews and analysis?
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

One of the striking and positive patterns across the APEC economies is the enormous impact of Internet tools on the application of good regulatory practices. Internet publication and information collection is used through the entire lifecycle of regulation—from the annual planning process to stakeholder consultation to the development of the regulatory impact assessment to reviews of existing regulations. This review did not cover the issue of access to regulatory text such as regulatory registries, but it is clear that here, too, the use of Internet tools is frequent, increasing rapidly, and is increasing access to information of all kinds. A Key Result Area for APEC might be to provide additional information on effective and low-cost means of using the Internet to support application of GRPs. This is discussed in the concluding section.

One of the weakest aspects of GRP is integration of trade and competition principles into regulatory reviews and analysis. Only a few economies explicitly include those principles in the development or the review of regulations. This may be because it is difficult to estimate potential impacts on trade or competition, despite the existence of tools such as the OECD's competition impact analysis. But it is more likely that trade and competition authorities are still far from the mainstream of regulatory policymaking. They do not have more opportunities than any other ministry to participate in policymaking, and interministerial coordination processes are usually quite weak. This is ironic given the emphasis in the checklist on including trade and competition perspectives in the design of regulation.

## Review of GRPs Relevant to “Internal Coordination of Rulemaking Activity”

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

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 longstanding awareness of how regulatory reforms fail: they are isolated and marginal changes to large systems, and therefore unsustainable; they do not have enough support of the political level of government to survive resistance from interests who do not want reform; they do not integrate the various components of good regulation such as efficiency, transparency, competition, and market openness; and they do not have clear goals and objectives that enabled 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, a 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.”

Performance along this GRP is *moderate* in APEC economies. The summary table below shows that, out of 21 economies, a little more than half have an explicit strategy and the rest do not. Of those that do not, various elements of good regulatory practice are integrated into other kinds of national strategies. For example, it is common to have efficiency goals for regulation in competitiveness and national development strategies, as in Malaysia, China, Brunei, Papua New Guinea, and The Philippines. GRPs are integrated into strategies for institutional development and public sector reform, in legal reforms such as administrative procedure laws, as in Viet Nam, and in targeted sectoral reforms, as in China.

### Number of Economies Applying GRP

Is there a regulatory reform strategy at the center of government?	Yes, an explicit strategy	Not an explicit strategy	Elements of GRP referenced in other national strategies
	12	9	6

An important question that should be discussed in APEC fora is whether more integrated and explicit policies or programs of regulatory reform would boost the market results of reform, speed up implementation of the beneficial regulatory reforms, and sustain regulatory reforms over a longer period. Clearly, small, one-off reforms are easier to agree and implement than broad, multiyear reforms. Yet, based on work across multiple economies over several years, the OECD believes that a broad-based regulatory reform program that is sustained over a period of time will have much greater effect in boosting economic performance. In Japan, for example, a study by the Cabinet Office indicates that a national plan for regulatory and institutional reforms in 15 areas between 2005 and 2008 had created 5.4 trillion yen of consumer benefits.

Integrating GRP principles into other national strategies is a necessary and welcome approach, since good regulation is highly relevant to wider issues of market development, public sector performance, and



democratic principles such as transparency. However, this lower-profile and less integrated approach might increase the risk of the kinds of failures seen by the OECD, in particular, producing a series of reforms that are episodic and isolated and are less likely to sustainably and substantially improve the style or means of regulation in the economy.

1. Is a regulatory reform strategy adopted at the center of government?	
<p><b>CANADA:</b> The Cabinet Directive on Streamlining Regulation (CDSR) (available at <a href="http://www.tbs-sct.gc.ca/ri-gr/directive/directive01-eng.asp">http://www.tbs-sct.gc.ca/ri-gr/directive/directive01-eng.asp</a>) came into effect on April 1, 2007. The CDSR, which introduces a “lifecycle” approach to regulation, provides guidance on managing the implementation of regulations, evaluating their performance, and reviewing regulatory frameworks.</p> <p><b>CHINESE TAIPEI:</b> Good regulatory practice was explicitly adopted in Chinese Taipei. “Deregulation and reconstruction” are main axes of the mid-term policy implementation, with</p>	<p>deregulation to serve in creating a “new platform of competitiveness.” The Government recognizes three core concepts in its regulatory reform program: (1) deregulation, simplification of administrative procedures, active innovation, and the relaxation of controls; (2) establishment of a modern and highly efficient regulatory environment under the principles of maximizing benefits, simplifying government administration, and better serving the people; and (3) establishment of active, energetic, and efficient administrative organization</p>

## 2. Does the Government Publish at Least Annually a Regulatory/Legislative Plan?

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 is *weak to moderate* in APEC economies. The summary table below shows that, out of 21 economies, less than half publish some kind of annual regulatory plan.

The quality of the annual plans that are published varies considerably. Almost all take a whole of government approach by including regulatory plans from all ministries and regulatory agencies. Of the

ten annual planning processes, only five are published on the Internet, and three of them include only upcoming legislation, not lower-level or subordinate regulation. Only one annual plan contains information on the potential costs of the regulation.

### Number of Economies Applying GRP

Does the government publish at least annually a regulatory/legislative plan?	Yes	No
	10	11

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 national regulatory systems.

2. Does the government publish at least annually a regulatory/legislative plan?	
<p>The United States has had for many years an extensive planning system for regulations under development. The <i>Unified Agenda of Federal Regulatory and Deregulatory Actions</i> is published twice a year on the Internet. It provides information in a common format to help the public identify which new regulations will affect them. All entries include information about the regulation's priority, its effects on SMEs and other levels of government, an abstract, and a timetable</p>	<p>for action. The forward planning process has been a core element of the regulatory quality control system. The planning process was intended to improve interagency co-ordination, establish the president's regulatory priorities, increase the accountability of agency heads for the regulatory actions of their agencies, and improve public and Congressional understanding of the president's regulatory objectives.</p>

### 3. Has the Government Published a Set of Good Regulatory Principles Applicable Across the Government?

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.

It is highly desirable that such regulatory quality principles not be static, but dynamic, continually being adapted and refined to meet the changing needs and political priorities of the economy, and endorsed at the highest political levels of the current government. An example is the January 2011 presidential order of President Barack Obama, which instructed regulators across the government to comply with several

principles of good regulation that clarify principles adopted earlier by other presidents. Another example is the continually evolving regulatory reform program in the Commonwealth of Australia, which has recently adopted the goal of “continuous improvement in regulatory quality.”

Performance along this GRP is *moderate* in APEC economies. The summary table below shows that, out of 21 economies, 13 have published regulatory quality principles and 8 have not. All of the economies with regulatory quality principles have published them. This is not the whole story, however, because 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 of the countries without an explicit regulatory strategy have adopted other “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.”

### Number of Economies Applying GRP

Has the government published a set of good regulatory principles applicable across the government?	Yes	No
	13	8

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 adopted principles such as these to guide government action. Transparency principles are the next most common. Twelve economies have adopted principles calling for various forms of regulatory transparency and consultation. It appears that most or all of the APEC economies can agree on the core principles of transparency and efficiency, which might suggest a channel for future APEC cooperative activity.

There is less explicit agreement on other important principles:

- Five of the 12 economies with explicit regulatory quality principles have a principle on consistency /coordination with other legal instruments. This lack of attention to consistency is odd, because lack of consistency across regulations is one of the most common complaints heard about the quality of regulatory systems in the APEC region.
- Only six of the economies with explicit regulatory quality principles have included principles on trade openness or competition, or compliance with trade and investment commitments. Again, given the emphasis in many economies on trade and investment, this seems odd. It probably signals a serious disconnect between trade and competition authorities, on one hand, and regulatory reform activities, on the other hand. The same disconnect is seen also in the exclusion of trade and competition principles in regulatory reviews and in RIAs. Here, the checklist is 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.

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

**CANADA:** When regulating, the federal government states that it will:

- Protect and advance the public interest in health, safety and security, the quality of the environment, and the social and economic well-being of Canadians, as expressed by Parliament in legislation;
- Promote a fair and competitive market economy that encourages entrepreneurship, investment, and innovation;
- Make decisions based on evidence and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm;
- Create accessible, understandable, and responsive regulation through inclusiveness, transparency, accountability, and public scrutiny;
- Advance the efficiency and effectiveness of regulation by ascertaining that the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results for Canadians; and
- Require timeliness, policy coherence, and minimal duplication throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments in Canada and abroad, and with businesses and Canadians.

**JAPAN:** The guiding principles for regulatory reform are:

- As a rule, economic regulations shall be lifted and social regulations minimized as regulations are abolished or otherwise relaxed;
- Regulatory arrangements shall be rationalized, such as by the transfer of inspection functions to the private sector;
- Regulation shall be simplified and rendered more specific;
- Regulation shall be modified so as to conform to international standards;
- Regulatory procedures shall be speeded up; and
- Transparency shall be increased in the procedures for introducing new regulations.

**RUSSIA:** The concept of regulatory reform includes:

- Performance: introduction of measures in implementing the activities of executive bodies according to the principles and procedures for management performance by the evaluation of results of their work;
- Quality: Implementation of standards for government and municipal services;
- Low-cost: development and implementation of administrative regulations and electronic administrative regulations;
- Anti-corruption: creation and implementation of specific regulatory mechanisms in the areas vulnerable to corruption;
- Regulatory review: completion of a review of redundant and overlapping functions of executive bodies and the elimination of inefficient government intervention in the economy;
- Regulatory institutions: reform of the regulatory bodies, development of outsourcing of administrative and management processes;
- Transparency and participation: ensuring the transparency and efficiency of interaction of bodies of executive power with civil society.

**SINGAPORE:** The six guiding principles state that regulations should:

- Not cost more than they have to.
- Be balanced and imposed only after listening to stakeholders.
- Foster self regulation and market discipline as far as possible.
- Contain or prevent risks through risk management approaches.
- Bring together departments and agencies to work as one Government and stem from a stakeholder-centric perspective.

The lack of consistency in good regulation principles across the APEC economies probably cannot be addressed by the APEC-OECD Checklist itself. Although the checklist is actually a statement of good regulation practices and principles, it is much lengthier and more complicated than the regulatory quality principles adopted by any one economy. It is unrealistic to expect that the checklist will be adopted in its entirety. A more productive approach might be to choose a subset of 3-4 principles and focus cooperative work on gaining agreement on practical ways to implement those principles. Clearly, regulatory transparency and efficiency are good candidates, since a high level of consensus already exists. In

response to the realities of regulatory problems in the region, regulatory consistency is probably another good principle to emphasize. Compliance with trade and investment agreements might be another APEC priority, given the relative capacity of APEC to move forward on this particular issue.

#### 4. Does the Government Systematically Review Regulations for Cost and Effectiveness?

The emphasis of the OECD and APEC on the review of existing regulations is based on a regulatory failure that is universal. Without some system of regular 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. 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 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?”

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...given the fact that there are clear areas of unproductive regulation which need to be phased out, you can expect the process of productive deregulation to continue.

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 Vietnam in 2007-2010 (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.

Performance along this GRP is **strong**. The most institutionalized form of regulatory review (an annualized and regularly scheduled review program) is used in 11 of the APEC economies. But 100% of the APEC economies have some kind of regulatory review underway. Those who do not have regular or annual reviews have launched one-off reviews that are targeted at specific problems, or specific sectors (16 economies), or even focused on the procedures included in the *Doing Business* indicators (5 economies). Large scale reviews based on the guillotine approach (Korea reviewed 11,000 regulations, Vietnam reviewed 5,700 regulations, Mexico reviewed over 2,000 regulations) have been institutionalized in all three economies as regular, on-going reforms. Investment in regulatory review is high and seems to be increasing across the APEC region.

The number of economies below adds up to more than 21 because some have launched multiple kinds of reviews, both regular and *ad hoc*.

#### Number of Economies Applying GRP

Does the government systematically review regulations for cost and effectiveness?	Yes. Annual program of reviews	Yes, targeted or sector based reviews	Yes, reviews of <i>Doing Business</i> procedures	No
	11	16	5	1

Effectiveness of these regulatory reviews cannot, of course, be assessed in this review. Ideally, one would assess the results of regulatory reviews against clear performance indicators. Since each economy's regulatory 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.

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

**HONG KONG CHINA:** The Business Facilitation Advisory Committee (BFAC) sets the priority for conducting regulatory review of selected sectors and sets up dedicated sector specific task forces to carry out the review. The task forces usually invite the relevant industry stakeholders to take part in the review. With the support of the BFAC, the government has been conducting sector-specific regulatory reviews. The regulatory reviews are built into civil service performance standards and departmental performance pledges.

**KOREA:** The Korean government decided that a Sunset Clause would be applied not only to newly enforced regulations, but also to existing ones. Within the sunset mechanism, regulations terminate their effect after a certain period of time ("Sunset Clause") or must be reviewed regularly for their sustainability ("Sunset Review Clause"). It is likely that this mechanism will enhance the transparency and effectiveness of regulations and reduce the effects of unnecessary burdensome ones.

**MALAYSIA:** PEMUDAH has adopted a rolling program of reform, each year choosing a different set of priorities on which to focus. In 2010, the priority review areas included:

- Starting a Business
- Enforcing Contracts
- Dealing with Licenses
- Dealing with Construction Permits
- Closing a business

**MEXICO:** The Federal Administrative Procedures Law requires each Federal Ministry and governmental agency to prepare and submit to COFEMER (the central regulatory reform agency), at least every two years, a biennial regulatory improvement program in order to: (i) assess and report on regulatory reform progress and, accordingly, (ii) plan in advance the new regulatory reform measures to be taken.

Currently, the Proceso Marco process entails assessment of existing laws, regulations and policies in key sectors and areas, and the crafting of proposals to reduce the administrative burden to firms by improving the regulatory framework, fostering economic competition, and thereby enhancing productivity and economic activity. In order to separate political considerations from the technical analysis, the project includes a High Level Consultative Group and a Technical Group.

**PERU:** An important driver of regulatory review in Peru is the free trade agreements (FTA) signed by Peru. The FTAs guide a regulatory view based on market openness and trade principles. For example, Peru's government revised or enacted 86 laws to implement the Free Trade Agreement (FTA) with United States. The Technical Secretariat of CIIACE was in charge of the National Council on Competitiveness (CNC) and has managed the process of coming into compliance with the FTA, with a focus on business competitiveness and competitiveness.

**THE PHILIPPINES:** In 2007, the legislature enacted the Red Tape Regulatory Act, which required all government agencies, including local government units, to streamline frontline services and devise a Citizens Charter that would contain steps and procedures for persons availing themselves of frontline services and the guaranteed performance level that should be expected for that service.

**THAILAND:** Since 2005, the Thai government has required all government agencies to review the existing laws and regulations under their responsibility and produce and submit an annual development plan. Under the plan, each agency must clearly state which laws or regulations under its administration that it intends to remove or modify. This annual development plan is one of the key performance indicators of each agency.

Some characteristics of the reviews were identified in this review. Fourteen of the regulatory reviews seemed to be based on standard methods that included cost and effectiveness information. 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. 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 did the reviews explicitly include issues of international trade and barriers to investment. Again, this seems to signal a disconnect between regulatory reformers and trade issues. It is contrary to what the OECD sees as good practice. The OECD recommends that governments “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.”

This review does suggest some possible ways forward for APEC cooperation. First, the explicit inclusion of some kind of review criteria reflecting impacts on trade, investment, or competition, would be quite useful in the reviews. The exact form of these 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 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.

Another possible approach is to develop some more detailed good regulatory review practices, 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.

## **5. Does the Government have a Capacity to Manage a Government-wide Program of Regulatory Reform?**

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 been reluctant to recommend any specific model for centralized quality management, and admitted 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.”<sup>6</sup> 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 spontaneously reformed themselves. The APEC-OECD Checklist asks a functional question, “To what extent are there effective inter-ministerial mechanisms for managing and co-ordinating regulatory reform and integrating competition and market openness considerations into regulatory management systems?”

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<sup>6</sup> Cordova-Novion, C. and S. Jacobzone (2011), “Strengthening the Institutional Setting for Regulatory Reform: The Experience from OECD Countries”, OECD Working Papers on Public Governance, No. 19, OECD Publishing.

## Number of Economies Applying GRP

Does the government have a capacity to manage a government-wide program of regulatory reform?	Yes, a central body or authority explicitly tasked with oversight of regulatory quality	No
	11	10

Performance along this GRP is *moderate*. The approach taken in the review is 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 case-by-case regulatory reviews, to managing inter-ministerial processes, to actual program implementation such as government-wide regulatory reviews. Eleven of the APEC economies have created some kind of central body or authority explicitly tasked with oversight of regulation. These bodies are quite diverse. Several are in cabinet or Prime Minister or presidential offices. Others are in ministries of finance or treasury, while others are in public-private commissions, inter-ministerial committees and councils, and special departments of the cabinet created for this purpose. As noted, international experiences are not yet clear enough to know which of these approaches are likely to produce better results.

5. Does the government have a capacity to manage a government-wide program of regulatory reform?	
<p><b>KOREA:</b> Korea is almost unique among APEC (and even OECD) countries in adopting a central IT management tool to assist the government in managing a whole-of-government regulatory quality program.</p> <p>The government reported in 2011 that more systematic support has been provided with the adoption of the Regulatory Information System in all parts of the regulatory process from the review and registration to the management of reform projects. This new system, the entire process of a regulatory review - from the initial review request by each ministry to the preparation of the review report for notification of results by the Regulatory Reform Council (RRC) - has been moved onto the internet. Since it is an integrated and comprehensive management of regulations, from their introduction to termination, it has definitely contributed to the enhancement of transparency and quality of regulatory information with increased user satisfaction, effective reviews on regulation, and the implementation of the regulatory reform projects</p> <p><b>UNITED STATES:</b> Located at the center of government, the cabinet-level Office of Management and Budget is responsible for many central management tasks of government that have</p>	<p>been very helpful to regulatory reform. These include preparation of the President's budget, legislative review, information policy, financial management, and procurement policy. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has, since 1981, when responsible for overseeing and promoting the quality of regulatory activities in the US federal government. The current staff of OIRA number around 45. OMB's traditional government-wide authority of and its control of many levers of influence in the public administration has given it the potential to be effective in promoting broad-based regulatory reform.</p> <p>To check for quality, OIRA reviews the most important regulations two times: (1) at the proposed stage before they are published for comment in the Federal Register (the national gazette); and (2) at the final stage before publication as a finished rule. OIRA's role is to review the regulations and the impact analyses in order to identify decisions and policies that are not consistent with the president's policies, principles, and priorities; to co-ordinate among agencies, including trade agencies to ensure that regulations are consistent with U.S. international obligations; to discuss any inconsistencies with the regulators, and to suggest alternatives that would be consistent.</p>

This is not the whole story, however. While only 11 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 central authority that is accountable to the top political level of the government and has an explicit cross government mandate to promote and organize some kind of regulatory reform initiative, even if only a short-term project.

The range of bodies engaged in regulatory reform activities is again diverse. They include cabinet offices, trade bodies, general economic policy coordinators and national 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.

Again, the effectiveness of these central bodies cannot be determined in this review. There are some indications however, that their effectiveness could be increased. For example, while 15 of these bodies monitor results and report on performance, only three of them set clear goals for regulatory reforms, and only five of them published schedules and deadlines for the work. This means that many of them are working under very general mandates or are unclear about what they are trying to accomplish. It is likely that their accountability for performance could be improved with some basic performance management tools.

The implications for APEC work are not very clear since international good practices themselves are not very specific about the form of central management. Agreement on their functions is clearer. They should be able to coordinate across regulatory jurisdictions, which means they should be able to take a whole of government perspective. They should be able to take a long-term perspective, which means they should not be *ad hoc* special task forces focused on a single reform. They should be able to focus on regulatory quality, which means 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, which means that they should be accountable to high political level. APEC should be able to foster the expertise of such units by creating a more focused 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.

## **6. Are Trade and Competition Principles Integrated into Regulatory Reviews and Analysis?**

The OECD principles and the APEC-OECD Checklist both 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 is *weak*. The summary table below shows that only a handful of APEC economies explicitly include trade or competition authorities or principles into regulatory drafting and/or regulatory reviews. Even in those cases, the extent to which trade and competition authorities actually influence or provide substantive input into the regulatory process is unclear.

## Number of Economies Applying GRP

Are trade and competition principles integrated into regulatory reviews and analysis?	Consultation by regulators with trade authorities in drafting process	Coordination of regulatory reviews with trade authorities	Inclusion of trade impacts in RIA	Consultation by regulators with competition authorities in drafting process	Coordination of regulatory reviews with competition authorities	Inclusion of competition impacts in RIA
	5	8	4	6	7	8

The implications of this for APEC work seem straightforward. More systematic and effective inclusion of trade and competition authorities into at least major regulatory decisions could probably be organized at low cost. This kind of reform is likely to be mostly a procedural reform rather than requiring substantial new data collection or analytical methods or other tools requiring extensive investment. 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.

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

**AUSTRALIA:** Competition principles have been at the heart of Australia's regulatory reforms since the famous National Competition Policy (NCP or Hilmer reforms) of the 1990s. In addition, the Regulatory Impact Statement explicitly includes an assessment of competition impacts and restrictions, such as promoting or restricting market entry or changes to price, output or production methods.

**CHILE:** More so than in many countries, Chile's political constitution conditions the domestic regulatory framework for trade. The principle of direct means that the provisions of international treaties signed by Chile are "self executing" and directly applicable at all levels of the domestic legal and regulatory system as if national legislation. As a result, the principle of non-arbitrary discrimination enshrined in the constitution is woven deeply into the fabric of laws, institutions, and regulatory practices relating to trade.

**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. At the same time, unnecessary restrictiveness in the stock of existing regulation is reviewed through the Biennial Programs and the RFTS developed by COFEMER. At state and local level, SARE has served to partially improve the trade and investment friendliness of sub-federal regulation, seeking to eliminate unnecessary restrictiveness. Trade and competition principles are currently explicitly integrated into the Proceso Marco, which aims to set the basis for fair competition.

## Review of GRPs Relevant to “Regulatory Impact Assessment”

### 7. Is there a Mandatory RIA Process?

No regulatory quality tool is better known than regulatory impact assessment (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 organise 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...

This report examines whether the use of RIA is required when writing new regulations. Performance along this GRP is *moderate*. Twelve APEC economies have adopted some form of mandatory RIA, although the scope varies from economy to economy. For example, in some economies the RIA applies only to legislation, while in other economies the 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, and in one economy (Indonesia), RIA is not widely used at the national level but is used by two local governments. Another economy reported that RIA is not mandatory, but is often done regardless.

### Number of Economies Applying GRP

Is there a mandatory RIA process?	Yes	Partial	No
	12	7	2

Another seven economies use some form of regulatory analysis that can be considered partial RIA. Business impact assessment is an example of a partial RIA process that is limited only to specific kinds of impacts, mostly business costs. Only two economies have no regulatory analysis at all.

This indicator, while moderate, 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. The 12 economies that have adopted some form of mandatory RIA are in various stages of implementation, with varying results.

### 7. Is there a mandatory RIA process?

**COMMONWEALTH OF AUSTRALIA:** Regulation Impact Statements or RIS are mandatory for all Commonwealth legislation or regulation that had the potential to affect business. Proposals that could have a significant impact on business and individuals or the economy must be subjected to in-depth analysis in an RIS.

**REPUBLIC OF KOREA:** In 1994, the Basic Law on Administrative Regulations and Application implemented basic elements of a regulatory quality assurance system, including clarifying principles for regulation, and requiring Regulatory Impact Assessment, advance notice of proposed new regulation, and public consultation.

**MEXICO:** All ministries and decentralized organisms of the federal administration have to submit a RIA with every regulatory proposal that imposes compliance costs on private agents.

**NEW ZEALAND:** Policy work with potential regulatory implications that will lead to submission of a Cabinet paper must have a Preliminary Impact and Risk Assessment. “Potential regulatory implications” means it includes options that involve creating, amending or repealing primary legislation or regulations.

**PERU:** Since 1993, Congress has required the government present a cost benefit analysis of bills that are presented. The requirement for Cost-Benefit Analysis (CBA) can only be waived for exceptional reasons.

### 8. Does the RIA or other explanatory document define the problem to be solved?

### 9. Does the impact analysis or other justification include options for solving the problem?

### 10 Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?

### 11. How are [trade friendly] alternatives to regulation assessed?

The APEC-OECD Checklist contains a series of questions about the 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?”

Performance along this GRP is *weak to moderate*. APEC economies have fairly inconsistent and weak standards for the content and methods of the RIA. Most of the economies using RIA have issued a guide (and even a couple of economies where RIA is not mandatory), which is a good, even essential practice. While some economies have highly structured RIA processes in which specific impacts must be included for a range of options, others require much more general analysis, or assessment of a single option, or do not require any options, or use partial RIA methods such as business impact assessment, or provide much more discretion in the content of the analysis. The table below lists a series of fairly modest content standards for RIA, which are further discussed below.

The first content question asks about the most important part of the RIA—the problem definition. People who have never done an 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 focused on the right issues.

APEC economies did not perform well on this indicator. Of the 12 economies that use RIA, only 10 require a specific section on problem definition, only 7 have a standard format for the problem definition, and only 5 require that the baseline (or future trends in the problem if the government takes no further action) be identified.

The second content question asks about another critical element of the RIA. “Does the impact analysis or other justification include options for solving the problem?” The RIA is basically a structured process of identifying options for solving a clearly defined problem, assessing those solutions against clear criteria, ranking the solutions against the criteria, and making an informed choice about the best solution for the economy. If the RIA does not do a good job of identifying practical options, then the value of the analysis is greatly reduced.

### Number of Economies Applying GRP

Does the content of the RIA meet good practices?	RIA or other explanatory document defines the problem to be solved?	Impact analysis or other justification includes options for solving the problem?	Impact assessment includes a reasonable selection of potential major impacts, negative and positive?	RIA handbook published?	RIA's analytical content meets good standards?	How are [trade friendly] alternatives to regulation assessed?
	10 (specific section on problem definition)	10 (includes options) 8 (require at least one option to be nonregulatory) 7 (specify clear principles for deciding which option is best)	8 (potential major impacts) 5 (impacts systematically compared for each option) 10 (a reasoned explanation for why an option is recommended is included in the analysis or other document)	11	10 (structured analysis with identification of potential negative and positive effects, even if qualitative) 5 (benefits precisely stated in quantitative terms with a measurement of impacts that can be measured) 10 (direct costs stated in monetary terms)	5 (trade impacts explicitly included in RIA)

APEC economies using RIA do not perform very well in this content issue, either. In 10 cases, the RIA requires options, but only 3 economies specify that at least 3 options be examined. Eight of the 12

economies using RIA require that at least one option being nonregulatory, which is a good practice because it requires the regulator to step outside the usual regulatory habits and consider other policy tools that might solve the problem at lower cost. Finally, only 7 of the 12 specify principles for deciding which option is best, which is a good practice because it reduces the discretion of the analyst to pick an option that might be politically appealing, but produces inferior results. What are these principles?

Principle for Ranking Options	Number of Economies Applying this Principle
Benefits of the option to the community outweigh the costs	3
The preferred option has the greatest net benefit or the largest net present value for the community, taking into account all the impacts	5
The preferred option is the most cost effective	2
The preferred option has the lowest burden or lowest cost of any option	2

The third group of content questions, “Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?” addresses the key question of which consequences matter in the RIA. To say that the RIA should assess costs and benefits requires that we define clearly “which costs” and “which benefits” so that the analysis can proceed consistently and predictably, focusing on the issues of most importance to the economy and the political values of the day. For this GRP, APEC economies performed better than on the other content issues. The table below shows a series of good RIA practices that improve the clarity, consistency, quality, and credibility of the analysis. Most economies who use RIA have adopted good practices in defining how impacts are to be measured and presented.

Structured Analysis in Terms of Impacts Assessed	Number of Economies Taking this Approach
RIA handbook or guide published	11
Potential major impacts are included	8
Structured analysis with identification of potential negative and positive impacts, even if qualitative	10
Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured	5
Direct costs are stated in monetary terms	10
Impacts of benefits and costs are systematically compared for every option examined	5
A reasoned explanation for why an option is recommended is included in the analysis or other document	10

There is still a great deal of room for improvement in this area. For example, some economies still focus on a few direct operating costs to businesses, such as the subset of costs included in the *Doing Business* indicators. This gives the impression that the RIA is only a business impact test that is meant to increase business profits. A RIA can indeed greatly reduce the direct costs to businesses of complying with

government regulations, and most RIAs do measure business costs. Some economies have developed specific measurement techniques focused on business costs:

- **Commonwealth of Australia:** For medium-cost regulatory proposals, the Business Cost Calculator (BCC) is an information technology-based tool designed to assist policy officers estimate the business compliance costs of various policy options during the policy development process.
- **Hong Kong China:** A partial RIA, called a Business Impact Assessment (BIA) framework, has been developed by the “Be the Smart Regulator” Program to help bureaus and departments assess the implications of their regulatory proposals and explore ways to minimize the regulatory impact on business.

But the RIA is not really about business profits. Business costs are just an indicator of more important costs. The true costs included in the RIA are opportunity costs of national resources. Opportunity cost can be measured through simple proxies such as various measures of direct business costs (an example is the number of days spent completed procedure) or complex proxies (an example is costing the lost market opportunities due to citizens waiting for approvals or valuing an economic resource). The true value of RIA is that it values resources lost to the nation, and increases the wealth of the nation for everyone. RIA is a tool that enables a government to better allocate national economic, social, and environmental resources so as to increase the quality of life for every citizen. A better understanding of this issue would help broaden the appeal of RIA, and its relevance to important policy decisions.

#### 8. Does the content of the RIA meet good practices?

**UNITED STATES:** The RIA process is highly structured. The RIA begins with the problem definition, which, uniquely to the United States, focuses on identifying market failures. The RIA guidance document states: “Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem. Thus, you should try to explain whether the action is intended to address a significant market failure or to meet some other compelling public need such as improving governmental processes or promoting intangible values such as distributional fairness or privacy. If the regulation is designed to correct a significant market failure, you should describe the failure both qualitatively and (where feasible) quantitatively. You should show that a government intervention is likely to do more good than harm. For other interventions, you should also provide a demonstration of compelling social purpose and the likelihood of effective action. Although intangible rationales do not need to be quantified, the analysis should present and evaluate the strengths and limitations of the relevant arguments for these intangible values.”

The kinds of alternatives that should be considered are listed in the RIA guidance:

- Different Choices Defined by Statute
- Different Compliance Dates
- Different Enforcement Methods
- Different Degrees of Stringency
- Different Requirements for Different Sized Firms Different Requirements for Different Geographic Regions
- Performance Standards Rather than Design Standards
- Market-Oriented Approaches Rather than Direct Controls
- Informational Measures Rather than Regulation

**NEW ZEALAND:** The RIA Handbook requires that trade authorities be consulted when actions have potential trade impacts. The Ministry of Foreign Affairs and Trade (MFAT) is consulted when a regulatory proposal could affect New Zealand’s international obligations. The Handbook identifies these obligations as including the Agreements of the World Trade Organisation (WTO), Closer Economic Relations (CER), free trade agreements, etc. Where a proposed regulation affects, or may affect traded goods and services, or foreign investment, the advice of the Ministry should be sought on whether the proposed regulation is consistent with these obligations.

The fourth content question, “How are [trade friendly] alternatives to regulation assessed?” Returned to an issue that was discussed in earlier parts of this review. It seems that APEC economies are having a difficult time including trade impacts and alternatives in the RIA process. Only five economies explicitly include trade impacts in the RIA, and only six economies explicitly include trade officials in the consultations on the RIA. A case in point is Australia, where the mandatory Trade Impact Assessment (TIA) has been effectively abandoned because it did not prove to be very useful nor informative. Rather than a separate analysis, trade impacts should be integrated into the rest of the RIA, although the quality of the analysis is not clear.

The implications for APEC work in the RIA area are to move beyond general GRP recommendations into the groundwork of actual implementation. A great 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. It is not enough to simply agree with everyone that RIA should be adopted. 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. The central guiding principle for good RIA is practicality. 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.

APEC has done extensive work on RIA, and should do much more. Each of the RIA components in the previous paragraphs could be structured around a set of options, making it easy for an economy to tailor a practical RIA system that is likely to produce results.

## **Review of GRPs Relevant to “Public Consultation Mechanisms”**

### **12. Are draft legal documents and RIAs published for comment before adoption?**

### **13. 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**

### **14. Is feedback given to stakeholders after consultation is completed?**

Even more than efficiency, a key characteristic of a high-quality regulatory system is transparency. Transparency reduces the risk 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 publicized, 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, as important features of a high-level commitment to public consultation.” This review assessed a series of GRPs associated with consultation.



Performance on the various consultation and transparency GRPs included in this review is **weak to moderate**. Most regulators in the APEC region 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. Both the OECD and the APEC-OECD Checklist call for some predictability and transparency in the consultation process, at the same time that both acknowledge that flexibility is needed so that the regulator can adjust the consultation to the specific context. A balance is clearly needed. On sum, it seems that the balance has not yet been reached. Regulators appear to have too much discretion in applying even minimal standards of good consultation, and there is not enough predictability for stakeholders in knowing how they should engage the regulatory process.

The first GRP assessed here is use of the simple consultation method called “publication for comment.” The review asked, “*Are draft legal documents and RIAs published for comment before adoption?*” APEC economies use a wide variety of consultation methods, which are discussed below. The reason that this review focused first 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 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 the minimum standard for consultation, supplemented as needed with other more proactive forms of consultation such as hearings, focus groups, advisory committees, expert groups, and so forth.

Performance along this GRP is **weak to moderate**. Of the 21 APEC economies, only 8 require that all draft legal documents be published for comment before adoption. Thirteen economies have some kind of legal requirement for publication, but in some cases the legal requirement applies only to some kinds of regulations, such as draft legislation, and not to others, such as subordinate regulation. A little more than half (13) of APEC economies do routinely publish drafts on the Internet, and 8 of them have created a central Web portal for consultation, which is a good practice because stakeholders don’t have to search among 10 or 20 ministerial websites to find a document. They can monitor a single website, instead.

### Number of Economies Applying GRP

Are draft legal documents and RIAs published for comment before adoption?	Publication is required for all draft legal documents	Consultation is legal requirement established by law or high level decree	Published routinely on the Internet	Publication is on a central web portal rather than individual ministry websites
	8	13	13	8

The second GRP assessed is “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, which is extremely important because governments invest in many consultation activities that, in practice, are not very effective due to poor design.

## 12. Are draft legal documents and RIAs published for comment before adoption?

Examples of centralized consultation Web portals in APEC economies

- **AUSTRALIA:** Business consultation website ([www.consultation.business.gov.au](http://www.consultation.business.gov.au)).
- **CANADA:** Pre-publication is in the Canada Gazette, Part I (<http://canadagazette.gc.ca/index-e.html>).
- **HONG KONG:** A business consultation e-platform (<http://www.gov.hk/en/theme/bf/consultation/calendar.htm>) has been established under the GovHK portal to provide a channel for the business community to access to relevant business consultation information on new regulations, administrative measures and procedures that would impact on business and to provide their comments on the proposals directly to the government bureaus/departments concerned.
- **JAPAN:** An e-government portal site has a special column of 'comments' where comments can be posted and reviewed. (<http://www.e-gov.go.jp/>)
- **MEXICO:** Website of COFEMER used for comment on draft regulations is at <http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2>
- **UNITED STATES:** Comprehensive electronic regulatory dockets at [www.Regulations.gov](http://www.Regulations.gov).

Performance along this GRP is **weak**. Of the 21 APEC economies, only 2 (the United States and Viet Nam) have an explicit requirement to allow at least 60 days for response to published drafts. Others require at least 30 days, or even 20 (Korea and Mexico). Most have no minimum requirement at all. 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. This and issues affecting trade are involved. The WTO 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 be adequate time for response.

### Number of Economies Applying GRP

Are draft legal documents and RIAs published for comment before adoption?	Comment period is at least 60 days	Consultation document describes reason for the consultation	Consultation includes request for comments on all options considered	Web portal allows online submission of comments	Publication is accompanied by other consultation opportunities
	2 (around 8 economies set other minimum periods)	7	6	7	14

Other aspects of consistent consultation practices are also weak. Only 6 economies ask stakeholders to consider all of the options, not only the solution chosen by the government. The RIA document has improved the consultation practices when it is published for comment. Although only 7 economies actually prepare a consultation document describing the purpose and content of the consultation, 10 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. Although several economies use online publication for consultation, only seven economies permit stakeholders to submit comments online.

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. Regulators in Hong Kong China, for example, in addition to publication, use quantitative (surveys) and qualitative (interviews, focus groups, etc) 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.

**13. 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**

**Papua New Guinea:** "Public Private Dialogue structures are in place in PNG." Public private dialogue is recognized in PNG as an important mechanism for driving forward private sector development policy reforms. A PPD forum includes representatives of both the public and private sector. Dialogue between these bodies and the private sector is structured around the following forums and organizations: The National Working Group on Removing Impediments to Business and Investment (the Committee) is a forum designed to foster public private dialogue on policy matters and regulations that impact on the business community. The Committee was established in 2002 to formalize public private dialogue at the National Government level in PNG.

**China:** Consultation opportunities include symposia, panel discussions, and hearings. The Regulation on the Procedures for the Formulation of Rules sets four procedural requirements for holding a public hearing.

- The hearing should be open. The drafting unit should publicize the time, place and content of the hearing 30 days prior.
- Related departments, organizations, and citizens attending the hearing should be entitled to question and express opinions on the regulation being drafted.

- Accurate notes should be taken during the hearing to record speakers' opinions and the reasons for their opinions.
- The drafting unit should carefully study opinions presented in the hearing. The drafted regulation, when submitted for approval, should mention any conflicting opinions presented at the hearing, their reasons, and how a settlement was reached to resolve such differences.

**Canada:** When undertaking consultations, departments and agencies are to:

- Inform and engage Canadians on the nature and implications of the public policy issue based on available evidence, science, or knowledge;
- Include Canadians in developing policy objectives;
- Set out the process and timelines in a clear manner so that affected parties can organize and provide input; and
- Provide timely feedback to Canadians and affected parties on the outcome of the consultations and on the priorities considered in decision making.

It is a weakness because, without some kind of standardization and consistency, it is very difficult for stakeholders to understand when and how to participate in the system. This is particularly true for outsiders such as potential investors and foreign trading partners. In addition, some common consultation

methods raised risks of capture and bias, because they involve very narrow interests who are not representative of the diversity of interests in a modern economy and society.

The third GRP assessed with respect to consultation 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 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 “

### Number of Economies Applying GRP

Is feedback given to stakeholders after consultation is completed?	Yes, it is required	No or at the discretion of the regulator
	10	11

Performance along this GRP is **moderate**. Of the 21 APEC economies, 10 require that feedback be provided in some form, usually by explaining when the final regulation is published on the regulator reacted to the comments. Only 2 economies publish feedback on the central Web portal.

14. Is feedback given to stakeholders after consultation is completed?	
<p><b>CANADA:</b> Departments should demonstrate accountability by documenting how the views of stakeholders were considered during the development of the regulations and informing stakeholders of how those views were used. Where stakeholder input could not be reflected in the proposed regulations, officials should be able to outline the reason(s) why.</p> <p><b>RUSSIAN FEDERATION:</b> Federal Law 59-Φ3 of 2006 stipulates that the government has to respond in writing to</p>	<p>citizens’ comments or questions. It also requires the government to respond in writing to the authors of consultations comments.</p> <p><b>UNITED STATES:</b> The Administrative Procedure Act requires that, when an agency publishes a final rule, it must explain the factual and logical basis for its decision, how it reached its conclusion, and how it dealt with the public comments received.</p>



## 5. Conclusions and Key Result Areas for APEC Economies

There is no single model of good regulation for the very diverse economies in APEC. This review has documented a wide variety of practices, many of which, like the different modes of regulatory review, can produce beneficial results. Within this diversity, the GRPs recommended by the OECD and 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 outcomes over many years in many economies, and represent an important collective asset of APEC.

Evidence on the benefits of adopting these GRPs broadly in a national regulatory system is accumulating. It is clear that the GRPs are directly relevant to the most pressing economic priorities facing APEC economies—investment, jobs, productivity, competitiveness, and more productive use of national resources, increasing overall wealth. This evidence was reviewed and summarized in 2010 by Jacobs and Ladegaard<sup>7</sup>:

Reforms that reduce competition-restraining regulations, cut tariff barriers and ease restrictions on foreign direct investment to “best practice” levels in the OECD area could lead to gains in GDP per capita of up to 2 to 3 percent in the European Union, where productivity is already higher than in most developing economies.<sup>8</sup>

Regulatory environments that favor trade and competition have a positive impact on economy-wide productivity even when other potentially important factors, such as human capital and economy- and industry-specific effects, are accounted for.<sup>9</sup> The increase in the intensity of competition can enhance productivity by improving the allocation of resources and encouraging a stronger effort on the part of managers to improve efficiency. Cross-economy evidence suggests that economies that extensively reformed their product market regulations also experienced an acceleration of multi-factor productivity over the 1990s, while other economies experienced a productivity slowdown or stagnation.<sup>10</sup>

Regulatory reforms can boost investment. For example, liberalizing entry can spur fixed investment in some industries.<sup>11</sup> Removing numerous regulatory barriers to entry in South Korea was estimated to boost FDI by over \$26 billion over 5 years.<sup>12</sup>

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<sup>7</sup> Jacobs and Ladegaard, 2010.

<sup>8</sup> OECD (2005), “The benefits of liberalizing product markets and reducing barriers to international trade and investment: the case of the United States and the European Union,” Economics Department Working Paper No. 432, OECD, Paris.

<sup>9</sup> Nicoletti, G. and Scarpetta, S. (2003), “Regulation, Productivity and Growth: OECD Evidence,” Economic Policy, No. 36, OECD, Paris, pp. 9-72, April.

<sup>10</sup> OECD (2007), unpublished.

<sup>11</sup> Conway, Paul et al (2003), Product Market Regulation in OECD Countries: 1998 to 2003, Working Papers No. 419, Economics Department, OECD, Paris, p. 4.

<sup>12</sup> Byung Ki Ha (1999), The Economic Effects of Korea’s Regulatory Reform (in Korean), KIET, Seoul. (in Korean).

Regulatory reform, if multi-sector, can boost labor productivity and create more jobs, even if jobs are lost in sectors that are forced to restructure due to higher competition. Increased competition in sectors stimulates employment through various channels. A growing number of studies show spill-over effects from product market reforms in employment and labor productivity.<sup>13</sup> Employment gains from liberalization policies are likely to be higher in economies that have rigid labor markets.<sup>14</sup>

Those benefits will not be gained from isolated, episodic, ad hoc reforms. They will be gained only through sustained, multiyear reforms that institutionalize better means of regulating into the machinery of government, which is the purpose of the GRPs reviewed here. A successful regulatory reform program in economic terms probably includes a mix of components, including cost-cutting aimed at one-time reductions in existing costs, and regulatory governance tools such as regular reviews, 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.

This review has suggested numerous opportunities for APEC to support the continued application of GRPs in member economies. Much of the easy progress has already been made. The checklist has been adopted, awareness has been raised, and the easiest aspect of regulatory quality—review of existing regulations—is already well underway throughout the region. What many would call the “low hanging fruit” has already been plucked.

The key decisions to be made are the priorities for future action. Ideally, the selection of priorities would be based on an assessment of the costs and benefits of the options. APEC would choose to support activities that have the largest payoff in terms of economic benefits relative to the costs of support. Several options for action have been suggested in this review.

By this logic, regulatory transparency across the APEC region should be a high priority for additional attention. The OECD and others have found that transparency is the single most important quality of regulatory systems because it helps correct many of the underlying problems that lead to regulatory failure, such as excess cost, poor regulatory design, high regulatory risk, corruption, and other problems. Focus on transparency is particularly interesting since transparency tools seem to be quite cost-effective. The APEC region has experience with a range of such tools that can be considered in advancing transparency more broadly:

- **Consultation.** APEC could agree on minimum standards for quality consultation system. Such standards could include good practices such as development of a central Web portal, publication or at least 30 or 60 days, clear mandatory scope for consultation including legislation and important subordinate regulations, and a requirement for written feedback after consultation is completed. Many different methods of consultation are used in the APEC region, and some work remains to be done in assessing the best designs and practices for a range of methods.

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<sup>13</sup> Bassanini, A., and R. Duval (2006), “Employment Patterns in OECD Countries: Reassessing the Role of Policies and Institutions,” OECD Economics Department Working Paper, No. 486, OECD, Paris.

<sup>14</sup> Nicoletti, G., and S. Scarpetta (2005), “Product Market Reforms and Employment in OECD Countries,” OECD Economics Department Working Paper, No. 472, OECD, Paris.

- **Forward Planning.** When introducing quality control into a regulatory system, forward planning is a key component. Forward planning requires ministries to organize themselves, to plan ahead for consultation and other quality inputs, to inform the center of government and stakeholders about 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. APEC has experience with annual legislative and regulatory plans of various kinds. Again, publication on the Internet is cost effective and greatly improves transparency.
- **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 or IT tools, and even helped to circulate open-source software that can be adapted to fit the needs of economies.

Another low-cost, high-return investment would be agreement on more effective regulatory review mechanisms. Examples of reforms that change how economies operate abound in APEC: the Vietnamese regulatory review program of 5,700 procedures that produces \$1.45 billion in cost-savings each year, the Australian national Hilmer reforms based on principles of competition and trade, and the South Korean competitiveness reviews of 11,000 regulations that produced more than \$26 billion in new FDI. Such successful experiences provide lessons learned for all APEC Member Economies.





## Annex 1. Supplementary Sources for Summaries of GRP Practices

APEC Members	Supplementary Sources
Australia	OECD Reviews of Regulatory Reform Australia Towards a Seamless National Economy (2010)
	OECD Reviews of Regulatory Reform -- Government Capacity to Assure High-quality Regulation in Australia (2010)
	Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report
	Users Guide to the Best Practice Regulation Handbook August 2007
	Best Practice Regulation Handbook, August 2007
	Guidelines for departments and agencies on preparing and publishing annual regulatory plans, Office of Best Practice Regulation, 2008
Brunei Darussalam	Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report
	2011 APEC Economic Policy Report
Canada	Canada: Developments in Regulatory Reform. 2009 APEC Economic Policy Report
	Directive du Cabinet sur la Rationalisation de la Réglementation, 2007
	Canadian Cost-Benefit Analysis Guide Regulatory Proposals, 2007
	New Regulatory Impact Analysis Statement Template at <a href="http://www.tbs-sct.gc.ca/ri-qr/documents/nriast-nmrir/nriast-nmrir-eng.asp">http://www.tbs-sct.gc.ca/ri-qr/documents/nriast-nmrir/nriast-nmrir-eng.asp</a>
	Guidelines for Effective Regulatory Consultations, Treasury Board
Chile	Chile: Developments in Regulatory Reform. 2009 APEC Economic Policy Report
	OECD, Regulatory Management Indicators CHILE, 2011
	OECD, Enhancing Market Openness, Intellectual Property Rights, and Compliance Through Regulatory Reform in Chile, 2009
	Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011
People's Republic of China	OECD Reviews of Regulatory Reform: China. Defining the Boundary Between the Market and the State, 2009
	People's Republic of China: Developments in Regulatory Reform 2009 APEC Economic Policy Report
	BIAC Priorities for Regulatory Reform in China, Paris, 7 February 2007
Hong Kong, China	APEC Good Practice Guide on Regulatory Reform, 2008 (HK case study)
	Efficiency Unit. Be the Smart Regulator. Best Practices (undated)
	APEC, Hong Kong China. Part II: Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011
	<a href="http://www.eabfu.gov.hk/text/en/aboutus/aboutus.htm">Economic Analysis and Business Facilitation Unit website, at http://www.eabfu.gov.hk/text/en/aboutus/aboutus.htm</a>
	Economic Analysis and Business Facilitation Unit Financial Secretary's Office "Be the smart regulator" pamphlet (undated)

APEC Members	Supplementary Sources
	<p>Report Back from Hong Kong, China on the Latest Policy Developments Relating to APEC-OECD Integrated Checklist on Regulatory Reform, 2007</p> <p>Synthesis Report: The APEC-OECD Integrated Checklist for Regulatory Reform in Five Economies: Results of Self Assessments, 2006-2007 (Chapter for HKC)</p> <p>Report Back from Hong Kong, China on the Latest Policy Developments Relating to APEC-OECD Integrated Checklist on Regulatory Reform (2007)</p>
Indonesia	<p>USAID, Advancing Regulatory Reform in Indonesia. Opportunities and Challenges, 2009</p> <p>Indonesia: Developments in Regulatory Reform 2011 APEC Economic Policy Report</p> <p><a href="http://www.thejakartapost.com/news/2011/08/03/soesastro%E2%80%99s-%E2%80%98second-generation%E2%80%99-strategy.html">Soesastro's 'second-generation' strategy, 2011 at  http://www.thejakartapost.com/news/2011/08/03/soesastro%E2%80%99s-%E2%80%98second-generation%E2%80%99-strategy.html</a></p> <p>REGMAP: Institutionalizing Regulatory Reform in Indonesia: Summary Report (USAID, 2009)</p> <p>Didik Prihadi Sumbodo and Ananta Dewandhono (2009) Regulatory Impact Assessments and the Private Sector in Indonesia (USAID))</p>
Japan	<p>OECD Reviews OF Regulatory Reform. Japan. Progress in Implementing Regulatory Reform, 2005</p> <p>Government of Japan, Implementation Guidelines for ex-ante Evaluation of Regulations, August 24, 2007</p> <p>Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011</p> <p>Government of Japan. The Three-Step Economic Measures for the Realization of the New Growth Strategy, Emergent Action to Currency Appreciation and Deflation. September 10, 2010</p> <p>WTO, Trade Policy Review, Japan, Report by the Secretariat, January 2011</p>
Republic of Korea	<p>Latest Developments on Korea's Regulatory Policy <a href="http://www.oecd.org/dataoecd/62/4/45347364.pdf">www.oecd.org/dataoecd/62/4/45347364.pdf</a></p> <p>OECD Reviews of Regulatory Reform: Korea 2007 Progress in Implementing Regulatory Reform</p> <p>2011 APEC Economic Policy Report - Korea</p> <p>APEC, Korea's Response to the APEC-OECD Integrated Checklist on Regulatory Reform – Presentation, 2007</p>
Malaysia	<p>Malaysia: Developments in Regulatory Reform 2009 APEC Economic Policy</p> <p>Good Regulatory Practice - Malaysia's Experience. WTO TBT Committee Workshop on Good Regulatory Practice, 2008</p> <p>SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy. paper prepared by Group A of the National Economic Advisory Council (NEAC), 2010</p> <p>APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011</p> <p>Public Private Sector Collaboration: Towards a globally competitive Malaysia. Annual Report of Pemudah, 2010</p> <p>SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy, Group A of the National Economic Advisory Council (NEAC)), 2010</p>

APEC Members	Supplementary Sources
Mexico	OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform
	APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011
New Zealand	NZ Treasury. Independent Quality Assurance of Regulatory Impact Statements Guidance for Agencies April 2010
	Government Statement on Regulation: Better Regulation, Less Regulation 17 August 2009.
	<a href="http://www.treasury.govt.nz/economy/regulation">http://www.treasury.govt.nz/economy/regulation</a>
	Regulatory Impact Analysis Handbook, 2009
Papua New Guinea	Business Development in Papua New Guinea. Opportunities and Impediments to Private Sector Investment and Development In Papua New Guinea. Final Draft Study December 2005
	APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011
	IFC (2010) Papua New Guinea. Gender and Investment Climate Reform Assessment, January
Peru	IAP Peer Review – Peru 2003, APEC Secretariat
	Peru: Developments in Regulatory Reform 2009 APEC Economic Policy
	APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011
	Lincoln Flor Rojas. Regulatory Reform : The Peruvian Experience. APEC Seminar for Sharing Experience in APEC Economies on Relations between Competition Authority and Regulatory Bodies. Bali, June 11-13, 2008
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## Annex 2. Structured Questionnaire for Country Summaries

APEC economies are diverse, while regulatory reform is highly specific to context. Hence, no “one size fits all” formula can address regulatory reform. However, as noted above, many years of work across many countries has led to broad agreement on good regulatory practices that are essential to the efficiency and market-friendliness of regulatory regimes. These good practices can be tailored to all economies. The structured questionnaire below will be used to write the country summaries. Given the very brief space (3 pages), the country reviews will contain a brief introduction, no more than 13 paragraphs to address each of the 13 quality components, and a brief summary conclusion.

Paragraph	Content/ Main question to be Addressed	Key Questions	Key Quality indicators
1.	Introduction. This paragraph will identify the regulatory reform program in the country and its goals.	Is there a regulatory reform strategy adopted at the center of government?	A public document laying out regulatory reform strategy (Name of document)
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>			
2.	Development of an economy-wide, cost-sensitive, and forward-looking regulatory agenda that is issued on an annual basis	Does the government publish at least annually a regulatory/legislative plan?	<ul style="list-style-type: none"> <li>A plan published on the internet (website)</li> <li>Updated at least annually</li> <li>Covering all ministries/regulatory agencies</li> <li>Including only upcoming legislation</li> <li>Including also lower-level or subordinate regulations</li> <li>Containing information on potential costs of the regulation</li> </ul>
3.	Establishment of overarching and publicly available principles to guide good regulatory governance	Has the government published a set of good regulatory principles applicable across the government?	<ul style="list-style-type: none"> <li>Published by the center of government</li> <li>Principles on transparency/consultation</li> <li>Principles on efficiency/analysis</li> <li>Principles on consistency /coordination with other legal instruments</li> <li>Principles on compliance with trade and investment commitments</li> </ul>
4.	Systematic review of existing regulations to improve their effectiveness and address burdensome requirements contained within	Does the government systematically review regulations for cost and effectiveness?	<ul style="list-style-type: none"> <li>Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>Reviews identified publicly in advance</li> <li>Based on standard method that includes cost and effectiveness information</li> <li>Give explicit attention to barriers to international trade and investment.</li> <li>Results published/consulted with stakeholders</li> </ul>



Paragraph	Content/ Main question to be Addressed	Key Questions	Key Quality indicators
5.	Effective inter-ministerial mechanisms for managing and co-ordinating regulatory reform, i.e, co-ordination of regulatory reform or initiatives, if not by a central body then by institutions or co-ordinating mechanisms	Does the government have a capacity to manage a government-wide program of regulatory reform?	<p>Central body or authority tasked with oversight of regulatory quality across the government</p> <p>Accountable to the top political levels of government</p> <p>Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</p> <p>Clear goals set</p> <p>Schedules and deadlines set for results</p> <p>Includes monitoring of results and regular performance reporting</p>
6.	Integration of competition and market openness considerations into regulatory management systems	Are trade and competition principles integrated into regulatory reviews and analysis?	<p>Consultation by regulators with trade authorities in drafting process</p> <p>If central body, coordination of regulatory reviews with trade authorities</p> <p>Inclusion of trade impacts in RIA</p> <p>Consultation by regulators with competition authorities in drafting process</p> <p>If central body, coordination of regulatory reviews with competition authorities</p> <p>Inclusion of competition impacts in RIA</p>
<b>REGULATORY IMPACT ASSESSMENT</b>			
7.	When deciding to regulate, clearly identify the need for a regulatory proposal, describing the nature and significance of the problem.	Does the RIA or other explanatory document define the problem to be solved?	<p>Specific section on problem definition</p> <p>Standard format for problem definition, including identification of the underlying causes of the problem</p> <p>Baseline or future trends in the problem are identified</p>
8.	Examine feasible alternatives, including less burdensome alternatives involving market-based or voluntary solutions, for addressing the problem	Does the impact analysis or other justification include options for solving the problem?	<p>Specifies minimum number of options to be examined (at least 3)</p> <p>At least one option to be non-regulatory</p> <p>Standard format stated for comparing options based on systematic assessment of impacts</p> <p>Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</p>
9.	Assess both the quantitative and qualitative costs and benefits of each alternative for addressing the problem and identify the reasons why the alternative selected best achieves the policy objective	Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?	<p>RIA handbook or guide published</p> <p>Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</p> <p>Direct costs are stated in monetary terms</p> <p>Indirect costs such as effects on trade or competition are described qualitatively</p> <p>Impacts of benefits and costs are</p>

Paragraph	Content/ Main question to be Addressed	Key Questions	Key Quality indicators
			<p>systematically compared for every option examined</p> <p>A reasoned explanation for why an option is recommended is included in the analysis or other document</p>
10.	How are [trade friendly] alternatives to regulation assessed?	How are [trade friendly] alternatives to regulation assessed?	<p>Trade impacts are explicitly included in the RIA</p> <p>Trade impacts are explicitly included in the consultations with stakeholders</p> <p>Trade officials have an opportunity to see the RIA and draft legal documents</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>			
11.	Establish notice-and-comment procedures that provide all public stakeholders with a meaningful opportunity to comment on regulatory proposals	Are draft legal documents and RIAs published for comment before adoption?	<p>Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</p> <p>Consultation requirement is legal requirement established by law or high level decree/order</p> <p>Published on the Internet</p> <p>The RIA is included with the legal document</p> <p>Publication is done on a central web portal rather than on individual ministry websites</p>
12.	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		<p>The comment period is at least 60 days</p> <p>A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</p> <p>Consultation includes a request for comments on all the options considered, not just on a legal document</p> <p>Web portal allows for online comments to be submitted</p> <p>Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</p>
13.	Ensure that regulators are held publicly accountable for how they consider public comments	Is feedback given to stakeholders after consultation is completed?	<p>Written feedback on how the government responded to the comments is a mandatory part of consultation</p> <p>Feedback is published on the Internet Web portal</p>
<b>CONCLUSIONS</b>			
14.	Assessing the pattern of responses across the 12 areas	What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?	Is the government moving in the right direction, regardless of its starting point?



## **Annex 3. Summaries of GRP Practices in APEC Members**

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Indonesia	98
Japan	106
Malaysia	114
Mexico	122
New Zealand	129
Papua New Guinea	137
Peru	142
Philippines	149
Republic of Korea	155
Russian Federation	163
Singapore	171
Thailand	178
United States	186
Viet Nam	194

## Australia

Australia	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>✓ A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>The Commonwealth Government of Australia has laid out what the OECD calls “an ambitious regulatory reform agenda to build a seamless national economy and unleash productivity.” (OECD, Australia: Towards a Seamless National Economy, 2010). The Australian government reports that, since 2007, an ambitious regulatory reform agenda has reflected the policy objective that well-designed and targeted regulation reduces costs and complexity for business, individuals and the not-for-profit sector and that better regulation will enhance Australia’s productivity and international competitiveness. The government is working on institutionalizing what it calls “continuous improvement in regulatory quality,” which it contrasts with “previous episodic efforts.” (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>✓ Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The Annual Regulatory Plans in Australia are part of the whole-of-government consultation policy. The Government has stated that, “Regulatory plans provide business and the community with ready access to information about past and planned changes to Commonwealth regulation, and make it easier for business to take part in the development of regulation that affects them.”</p> <p>Departments and agencies responsible for regulatory changes that may impact business and individuals or the economy are required to prepare and publish an Annual Regulatory Plan in July. Individual departments and agencies manage the coordination and publication of Annual Regulatory Plans in their portfolio. (Best Practice Regulation Handbook, August 2007)</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>In 2006 the Government endorsed the following six principles of good regulatory process identified by the Taskforce on Reducing Regulatory Burdens on Business.</p> <ul style="list-style-type: none"> <li>• Governments should not act to address ‘problems’ until a case for action has been clearly established. This should include establishing the nature of the problem and why actions additional to existing measures are needed, recognising that not all ‘problems’ will justify (additional) government action.</li> <li>• A range of feasible policy options (including self-regulatory and co-regulatory approaches) need to be identified and their benefits and costs (including compliance costs) assessed within an appropriate framework.</li> <li>• Only the option that generates the greatest net benefit for the community, taking into account all the impacts, should be adopted.</li> </ul>

Australia	
	<ul style="list-style-type: none"> <li>• Effective guidance should be provided to relevant regulators and regulated parties in order to ensure that the policy intent of the regulation is clear, as well as the expected compliance requirements.</li> <li>• Mechanisms are needed to ensure that regulation remains relevant and effective over time.</li> <li>• There needs to be effective consultation with regulated parties at all stages of the regulatory cycle.</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Each year, Departments and agencies communicate their review schedule (all regulation subject to review in the upcoming year) and strategies in their Annual Regulatory Plan.</p> <p>A whole-of-government review of regulation was completed in July 2008, which identified more than 200 pieces of redundant regulation for removal. Follow-up action on the review of regulation is well advanced. To date, this exercise has resulted in the removal of close to 60 redundant legislative provisions or regulations. The government will shortly introduce a new Bill to amend or repeal almost 30 Acts where the provisions no longer have any function or purpose. Further, the government has initiated a major review of the stock of existing subordinate regulation. As part of the government's response to the Global Financial Crisis announced in the <i>Updated Economic and Fiscal Outlook</i>, a review of pre-2008 subordinate legislation and other regulation will document those regulations which impose net costs on business and to identify scope to improve regulatory efficiency. Around 30,000 subordinate instruments are being reviewed to identify priorities. (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p> <p>An interesting approach to regulatory review is the Better Regulation Ministerial Partnerships, projects agreed between the Minister for Finance and Deregulation and his counterparts to address specific regulatory concerns. A number of partnerships are now underway including in relation to the simplification of product disclosure statements for financial services and improvements relating to health technology assessment processes. (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p>

Australia	
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>✓ Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>Australia has created a set of political, technical, and intergovernmental management capacities for regulatory reform.</p> <p>Regulatory reform is established at the political level in the center of government with the creation of a portfolio position of Minister for Finance and Deregulation, and a Minister assisting the Finance Minister on Deregulation.</p> <p>At the technical level, advisory and gatekeeper roles have been strengthened and consolidated by supplementing the Office of Best Practice Regulation (OBPR) with a new Deregulation Policy Division (DPD), and locating both functions within a central agency of government (the Department of Finance and Deregulation). (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p> <p>The OBPR administers Regulatory Impact Analysis (RIA, called Regulatory Impact Statements or RIS in Australia) by reviewing the adequacy of RIA (required for all Australian government regulatory proposals with significant impacts) and in reporting annually on agency compliance. The government has reaffirmed the independence of the OBPR. Another challenge function is provided by DPD, which advises on how regulatory costs can be minimized and challenges the quality of new regulatory proposals and the effectiveness of current regulation.</p> <p>In addition, DPD provides secretariat services to the Business Regulation and Competition Working Group (BRCWG) of the Council of Australian Governments (COAG)—a group which focuses on removing regulatory costs and barriers between jurisdictions.</p> <p>The Productivity Commission (PC) is an independent body responsible, inter alia, for preparing public information papers and submissions on regulation. The Australian government continues to task the PC to conduct systematic public reviews to examine scope for future regulatory reform, to benchmark regulatory compliance across jurisdictions and to measure and report on the regulatory burden on business. (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>✓ Inclusion of trade impacts in</li> </ul>	<p>Competition principles have been at the heart of Australia's regulatory reforms since the famous National Competition Policy (NCP or Hilmer reforms) of the 1990s.</p> <p>In 2007, first ministers of Federal and State and Territories' governments agreed to a new National Reform Agenda (NRA). The goal of the competition and regulation stream of the NRA is to facilitate a "National</p>

Australia	
<p>RIA</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with competition authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>Seamless Economy”, through the elimination of internal regulatory barriers to facilitate the transfer of goods, labor and services within the national market. According to the Productivity Commission, the competition and regulatory streams of the NRA could increase GDP by 1.7% in the long run and the human capital stream could boost GDP by 8.5 to 9%.</p> <p>In addition, the RIS explicitly includes an assessment of competition impacts and restrictions, such as promoting or restricting market entry or changes to price, output or production methods.</p> <p>With respect to trade impacts of regulations, the OECD found that Australian regulatory impact assessment mechanisms and their explicit consideration of market openness impacts significantly contribute in avoiding unintended trade-restrictive effects. Market openness considerations are also high in the Commonwealth-State dialogue agenda. (OECD, Australia: Towards a Seamless National Economy, 2010)</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>Regulation Impact Statements or RIS are mandatory for all Commonwealth legislation or regulation that had the potential to affect business. Proposals that could have a significant impact on business and individuals or the economy must be subjected to in-depth analysis in an RIS.</p> <p>As with all other RIA processes, the first step of the Australian RIA is to analyze the problem. The RIS should clearly identify the fundamental problems that need to be addressed. This part of the analysis must:</p> <ul style="list-style-type: none"> <li>• present evidence on the magnitude (scale and scope) of the problem;</li> <li>• document relevant existing regulation at all levels of government, and demonstrate that it is not adequately addressing the problem;</li> <li>• if the problem involves risk, identify the relevant risks and explain why it may be appropriate for government to act to reduce them; and</li> <li>• present a clear case for considering that additional government action may be warranted, taking into account existing regulation and any risk issues.</li> </ul> <p>There is a proportional approach to the depth of analysis in the RIS:</p> <ul style="list-style-type: none"> <li>• All regulatory proposals are required to undergo a preliminary assessment to establish whether they are likely to involve an impact on business and individuals or the economy.</li> <li>• If there are likely to be medium business compliance costs, a quantitative assessment of the compliance costs should be prepared using the Business</li> </ul>



Australia	
	<p>Cost Calculator (BCC) or an approved equivalent.</p> <ul style="list-style-type: none"> <li>• If the proposal is likely to have a significant impact on business and individuals or the economy, more detailed analysis should be undertaken and documented in a Regulation Impact Statement (RIS). If the impacts include medium or significant compliance costs, quantification of compliance costs forms part of the RIS.</li> </ul> <p>A baseline assessment is not included in the RIS guidance.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>✓ Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The RIS should identify a range of viable options including, as appropriate, non-regulatory, self-regulatory and co-regulatory options. If only one option (apart from the status quo) is considered feasible, the RIS should provide sound justification for considering only two options. Options that should be considered include:</p> <p>Forms of regulation</p> <ul style="list-style-type: none"> <li>• self-regulation;</li> <li>• quasi-regulation;</li> <li>• co-regulation; and</li> <li>• explicit government regulation (black letter law)</li> </ul> <p>Alternative instruments</p> <ul style="list-style-type: none"> <li>• no specific action;</li> <li>• information and education campaigns (including labelling requirements or media campaigns);</li> <li>• market-based instruments (including taxes, subsidies and user charges);</li> <li>• tradeable property rights (marketable rights);</li> <li>• pre-market assessment schemes (such as listing, certification and licensing);</li> <li>• post-market exclusion measures (such as bans, recalls, licence revocation provisions and ‘negative’ licensing);</li> <li>• codes of conduct or practice (including service charters);</li> <li>• standards (including voluntary and regulatory standards); and</li> <li>• other mechanisms, such as public information registers, mandatory audits and quality assurance schemes.</li> </ul> <p>The RIS should provide a clear statement as to which is the preferred option and why. It should demonstrate that:</p> <ul style="list-style-type: none"> <li>• the benefits of the proposal to the community outweigh the costs; and</li> <li>• the preferred option has the greatest net benefit for the community, taking into account all the impacts.</li> </ul>

Australia	
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>Both costs and benefits are included in the RIS: “Assessing the impact of regulation, including analysing the costs and benefits, is therefore important to ensure that it delivers the intended objective without unduly causing adverse effects.”</p> <p>Quantification of compliance costs is expected in the RIS. The RIA guidance states that, “If there are likely to be <i>medium</i> business compliance costs, you are required to prepare a full compliance cost assessment” and that “Where there are likely to be <i>significant</i> compliance costs, the quantification of these costs will form part of the RIS.” Where the impacts are considered significant, the RIS should include a quantified cost-benefit analysis. For medium-cost regulatory proposals, the Business Cost Calculator (BCC) is an information technology-based tool designed to assist policy officers estimate the business compliance costs of various policy options during the policy development process. (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>✓ Trade impacts are explicitly included in the RIA</li> <li>✓ Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Formally, the Commonwealth requires a Trade Impact Assessment (TIA) as part of the RIS. However, in practice, TIAs did not prove to be very useful and informative, and have fallen into dis-use. The RIS is thought to be broad enough to cover trade impacts that might be have covered in the TIA. The RIS guidelines call for “impact on Australia’s international capital flows or trade” to explicitly assessed in the RIS.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry</li> </ul>	<p>The Australian Government has made a commitment to improving mechanisms for consultation with business and supporting appropriate consultation with all relevant stakeholders. (Best Practice Regulation Handbook, August 2007)</p> <p>Australian government consultation requirements, outlined in the Best Practice Regulation Handbook, are applied to all major regulatory initiatives and cover all aspects of regulation development. This includes the ideas stage of policy proposals through to the post-implementation review. RISs are also published on agency websites and in explanatory memoranda to legislation.</p> <p>Consultation planning begins with the annual regulatory plan. The Plan</p>

Australia	
websites	<p>should include a consultation strategy for all regulatory proposals which require a business. To provide transparency and embed best practice consultation requirements, the Plans should address the following:</p> <ul style="list-style-type: none"> <li>• What consultation has already occurred on the proposal?</li> <li>• What is the objective of each consultation round?</li> <li>• Who will be consulted at each round?</li> <li>• In what form will consultation occur at each round?</li> <li>• When will each round of consultation commence?</li> <li>• How long will the round last?</li> </ul> <p>The nature and extent of consultation should be commensurate with the potential magnitude of the problem and the impact of proposed regulatory and non-regulatory solutions. Consultation may include green papers and/or exposure drafts for major or complex regulation. (Australia: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p> <p>An important step is the business consultation website (<a href="http://www.consultation.business.gov.au">www.consultation.business.gov.au</a>). The business consultation website is a mechanism to inform businesses about future regulatory activity and for the Government to work with stakeholders to obtain information, minimize compliance costs and improve regulation. The business consultation website was established to:</p> <ul style="list-style-type: none"> <li>• enable registration of relevant stakeholders prepared to be consulted on particular regulations;</li> <li>• automatically notify stakeholders, including businesses and Government agencies, of consultation processes in areas where they have registered an interest;</li> <li>• provide information on the Government's public consultation objectives and policies;</li> <li>• include information about new and upcoming changes to regulation; and</li> <li>• provide links to current and past consultation processes.</li> </ul>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> </ul> <p>✓ Consultation includes a request for comments on all the options considered,</p>	<p>In 2006, the Australian Government adopted a whole-of-government policy on consultation, which sets out best practice principles that need to be followed by all agencies when developing regulation. This policy contains seven principles for best practice consultation:</p> <ul style="list-style-type: none"> <li>• <b>Continuity</b> — Consultation should be a continuous process that starts early in the policy development process.</li> <li>• <b>Targeting</b> — Consultation should be widely based to ensure it captures the diversity of stakeholders affected by the proposed changes. This includes state, territory and local governments, as appropriate, and relevant Australian Government departments and agencies.</li> <li>• <b>Appropriate timeliness</b> — Consultation should start when policy</li> </ul>

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<p>not just on a legal document</p> <ul style="list-style-type: none"> <li>✓ Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>objectives and options are being identified. Throughout the consultation process, stakeholders should be given sufficient time to provide considered responses.</p> <ul style="list-style-type: none"> <li>• <b>Accessibility</b> — Stakeholder groups should be informed of proposed consultation and be provided with information about proposals through a range of means appropriate to these groups.</li> <li>• <b>Transparency</b> — Policy agencies need to explain clearly the objectives of the consultation process and the regulation policy framework within which consultations will take place, and provide feedback on how they have taken consultation responses into consideration.</li> <li>• <b>Consistency and flexibility</b> — Consistent consultation procedures can make it easier for stakeholders to participate. However, this must be balanced with the need for consultation arrangements to be designed to suit the circumstances of the particular proposal under consideration.</li> <li>• <b>Evaluation and review</b> — Policy agencies should evaluate consultation processes and continue to examine ways of making them more effective. (Best Practice Regulation Handbook, August 2007)</li> </ul> <p>No minimum period is set for the consultation period. The Handbook states that “There is a broad range in the length of consultation rounds across departments and agencies. However, as a guide, six weeks seems appropriate for effective consultation where the quantification of business compliance costs is required.”</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no explicit procedure to provide written feedback to stakeholders. However, the Handbook states that “To provide credibility to the consultation process, policy agencies should also show stakeholders how they have taken consultation responses into consideration.”</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>The Commonwealth of Australia has integrated GRP into national regulatory regimes for many years. In recent years, after some critical reviews of the implementation of quality tools such as RIA, attention to the quality of regulation has increased with new attention to RIA and consultation, and more investment in regulatory reviews. The emphasis on competition principles as the basis for regulatory review is another good practice of value to other countries.</p>

## Brunei Darussalam

Brunei Darussalam	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Brunei Darussalam has not developed an explicit regulatory reform strategy for GRP. However, regulatory issues are integrated into the long-term development framework. The National Vision or the <i>Wawasan Brunei 2035</i> aims to create a nation with highly educated and skilled people; one that provides for a high quality of life and one that supports a dynamic and sustainable economy. Embedded within the framework is the “Outline of Strategies and Policies for Development (OSPD)” that is intended to guide ministries and government bodies towards the achievement of the 2035 National Vision. Among the strategies and policy directions included in the OSPD, the “Institutional Development Strategy” particularly provides for a strong foundation for the regulatory reform agenda in Brunei. (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>A plan published on the internet (website)</li> <li>Updated at least annually</li> <li>Covering all ministries/regulatory agencies</li> <li>Including only upcoming legislation</li> <li>Including also lower-level or subordinate regulations</li> <li>Containing information on potential costs of the regulation</li> </ul>	<p>Not at this time.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>Principles on consistency /coordination with other legal instruments</li> <li>Principles on compliance with trade and investment commitments</li> </ul>	<p>The “Institutional Development Strategy” contains several principles in directions that are relevant to good regulatory principles:</p> <ul style="list-style-type: none"> <li>Promoting national competitiveness through policies that encourage productivity, economic openness and competition (Policy Direction # 12);</li> <li>Ensuring a modern legal system that is clear in its provisions ... (Policy Direction #26);</li> <li>Introducing regulatory frameworks in line with international best practices (Policy Direction #27);</li> <li>Building a modern and effective civil service that facilitates national development (Policy Direction # 28);</li> <li>Streamlining government procedures and regulations to enable prompt decision making, provision of high quality public services and minimisation of “red-tape” (Policy Direction # 29);</li> <li>Ensuring that the economic policy is well planned and implemented among the key government agencies and all others involved (Policy</li> </ul>

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	Direction #31). (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>There is not a rolling program of regulatory review across the whole of government, but the government has recognized “the need for continuous and positive reviews of regulations, particularly those that may help streamline government procedures and reduce the burden on businesses.” (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report) To that end, reviews of existing regulations occur through several channels.</p> <p>In the public sector, frequent reviews of current operational and administrative systems, including process and procedures, are aimed at improving the overall standard and performance of the civil service so as to create better standards of governance, better efficiency in service delivery as well as greater transparency and accountability. For example, the Change Management Committee was established in April 2008 to suggest, coordinate and facilitate initiatives to streamline business processes.</p> <p>Regulatory reviews are undertaken by sector-specific regulators and agencies concerning issues in their jurisdictions. (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p> <p>Multilateral agencies such as the IMF, WTO, APEC and ASEAN engage in regular policy reviews for Brunei. (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>Currently, no specific, central agency in Brunei has responsibility for reviewing and undertaking regulatory reforms. All agencies are mandated to undertake necessary regulatory reforms to raise productivity and improve performance in the public and private sectors. This helps to ensure continuous progress that will align Brunei’s development with global trends. (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p> <p>However, several public bodies in Brunei play a role in regulatory reforms:</p> <p>In 2007, the Steering Committee for Public Service Delivery (Jawatankuasa Pandu Pemberian Perkhidmatan Kepada Orang Ramai oleh Agensi-agensi Kerajaan) was formed and co-chaired by the Prime Minister’s Office. Among its responsibilities, the committee is mandated to address issues and problems that lead to poor services delivery by the civil service as well as to facilitate integrated coordination among relevant government agencies involved. Under the purview of this committee, the Change Management</p>

Brunei Darussalam	
	<p>Committee works to improve business processes, as noted.</p> <p>The Ministry of Industry and Primary Resources plays a major role in co-ordinating reform efforts, particularly in facilitating a good environment for businesses in the private sector. The Ministry initiated Brunei's participation in the "World Bank - Ease of Doing Business" study and plays a major role in disseminating the results of the study as well as in highlighting issues to be addressed by the relevant government agencies and stakeholders.</p> <p>The Department of Economic Planning and Development is the main agency responsible for the formulation of the Long-Term Development Plan (LTDP) for economic and social policy and planning for the nation. The LTDP emphasizes on the monitoring and evaluation of strategies, policies, programs and projects especially through key performance indicators (KPI). (Brunei Darussalam: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Trade and competition principles are not explicitly integrated into regulatory reviews and analysis.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>RIA has not been adopted in Brunei. Rather, in the absence of a centralised authority responsible for regulatory reform, Brunei currently depends on the strengths and capabilities of individual government agencies to conduct research and undertake reform measures that would enable the economy to be more effective, efficient and innovative.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined</li> </ul>	<p>Not at this time.</p>

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<p>(at least 3)</p> <ul style="list-style-type: none"> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>Not at this time.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Alternatives and options are not explicitly assessed in the development of new regulations.</p>



Brunei Darussalam	
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>One of the Moral Pillars and Work Ethics of the Civil Service is “Solidarity, consultation and participatory”. There has been a commitment to more transparent civil service, such as through adoption of the client’s charter or <i>Tekad Pemedulian Orang Ramai</i> (TPOR) as a strategy to improve the services given to the public, including businesses. However, Brunei has not developed an explicit consultation process during the development of new laws and other forms of regulation.</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There are not explicit guidelines to consultation during regulatory development.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Not at this time.</p>

Brunei Darussalam	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>Brunei has recognized that the development and efficient functioning of the market and the private sector is crucial to achieve its economic and social plans. Integration of the GRPs recommended by APEC is still at an early stage, as Brunei has focused most of its reform resources on improving the quality of the civil service. This reform lays a good foundation for future work on improving the quality of the regulatory functions of the government.</p>

## Canada

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<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>The key policy governing regulation in Canada is the <i>Cabinet Directive on Streamlining Regulation</i> (CDSR) ( <a href="http://www.tbs-sct.gc.ca/ri-qr/directive/directive01-eng.asp">http://www.tbs-sct.gc.ca/ri-qr/directive/directive01-eng.asp</a>) that came into effect on April 1, 2007. The CDSR, which introduces a “lifecycle” approach to regulation, provides guidance on managing the implementation of regulations, evaluating their performance, and reviewing regulatory frameworks. The Regulatory Affairs Sector of the Treasury Board of Canada Secretariat (TBS-RAS) is responsible for providing advice and guidance to regulatory departments and agencies with the implementation of the CDSR requirements.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <p>✓ A plan published on the internet (website)</p> <p>✓ Updated at least annually</p> <p>✓ Covering all ministries/regulatory agencies</p> <ul style="list-style-type: none"> <li>• Including only upcoming legislation</li> </ul> <p>✓ Including also lower-level or subordinate regulations</p> <ul style="list-style-type: none"> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>As part of the annual Report on Plans and Priorities (RPP) to the Parliament, Departments and agencies are to</p> <ul style="list-style-type: none"> <li>• Develop regulatory plans and priorities for the coming year(s); and</li> <li>• Report publicly on plans, priorities, performance, and regulatory review in accord with Treasury Board guidelines.</li> </ul>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <p>✓ Published by the center of government</p> <p>✓ Principles on transparency/consultation</p> <p>✓ Principles on efficiency/analysis</p> <p>✓ Principles on consistency /coordination with other legal instruments</p> <p>✓ Principles on compliance with trade and investment commitments</p>	<p>According to the CDSR, the Government of Canada protects and advances the public interest by working with Canadians and other governments to ensure that its regulatory activities result in the <i>greatest overall benefit to current and future generations of Canadians</i>. When regulating, the federal government states that it will:</p> <ul style="list-style-type: none"> <li>• <b>protect and advance the public interest</b> in health, safety and security, the quality of the environment, and the social and economic well-being of Canadians, as expressed by Parliament in legislation;</li> <li>• <b>promote a fair and competitive market economy</b> that encourages entrepreneurship, investment, and innovation;</li> <li>• <b>make decisions based on evidence</b> and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm;</li> <li>• <b>create accessible, understandable, and responsive</b> regulation through inclusiveness, transparency, accountability, and public scrutiny;</li> <li>• <b>advance the efficiency and effectiveness</b> of regulation by ascertaining that the benefits of regulation justify the costs, by focussing human and</li> </ul>

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	<p>financial resources where they can do the most good, and by demonstrating tangible results for Canadians; and</p> <ul style="list-style-type: none"> <li>• <b>require timeliness, policy coherence, and minimal duplication</b> throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments in Canada and abroad, and with businesses and Canadians.</li> </ul> <p>The CDSR further states that when regulating, departments and agencies are responsible for ensuring that relevant legislation and directions from Cabinet and the Treasury Board are followed, including the following:</p> <ul style="list-style-type: none"> <li>• Statutory Instruments Act;</li> <li>• User Fees Act;</li> <li>• Financial Administration Act;</li> <li>• Cabinet Directive on Law-making;</li> <li>• Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals;</li> <li>• A Framework for the Application of Precaution in Science-based Decision Making about Risk; and</li> <li>• A Framework for Science and Technology Advice: Principles and Guidelines for the Effective Use of Science and Technology Advice in Government Decision Making.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Does the government systematically review regulations for cost and effectiveness?</li> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Departments and agencies are to evaluate their regulatory programs according to the time frames and cycle established in the Treasury Board Policy on Evaluation to demonstrate results for Canadians. Rather than a rolling program of evaluation, reviews are targeted at high-impact or high-risk regulations.</p> <p>Departments and agencies are to regularly assess the results of performance measurement and evaluation to identify regulatory frameworks in need of renewal. Once identified, departments and agencies are to examine the regulation with a focus on:</p> <ul style="list-style-type: none"> <li>• the effectiveness of the current regulation in meeting the policy objective;</li> <li>• the current instrument selection, level of intervention, and degree of prescriptiveness;</li> <li>• clarity and accessibility of the regulation to users; and</li> <li>• the overall impact on competitiveness, including trade, investment, and innovation.</li> <li>• high-risk impact regulatory programs require a Performance Measurement and Evaluation Plan (PMEP)</li> </ul> <p>Planning, priority- and timeline-setting, and the measuring and reporting of outcomes of regulatory review should be determined by departments and agencies in collaboration with affected parties.</p>

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<ul style="list-style-type: none"> <li>✓ Does the government have a capacity to manage a government-wide program of regulatory reform?</li> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>Regulatory management in Canada is part of the Cabinet-level apparatus.</p> <p>The Treasury Board is a Cabinet committee of the Queen's Privy Council of Canada. It is responsible for accountability and ethics, financial, personnel and administrative management, comptrollership, approving regulations and most Orders-in-Council. The Treasury Board of Canada Secretariat (TBS) is the administrative arm of the Treasury Board. It supports Treasury Board ministers and strengthens the way government is managed to ensure value for money in government spending and results for Canadians.</p> <p>The Regulatory Affairs Sector at TBS supports the Treasury Board Committee by providing advice to the Governor General and by providing management and oversight of the government's regulatory function. In addition, it provides policy leadership on the federal regulatory policy, a.k.a. the Cabinet Directive on Streamlining Regulation (CDSR). TBS-RAS is responsible for ensuring that the analysis provided by departments and agencies on policy and regulatory proposals is consistent with the commitments and directions set out in the CDSR and that the analysis effectively supports ministerial and Cabinet decision making. Draft regulations must, for example, be approved by Treasury Board before they are pre-published in the Canada Gazette.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>✓ Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Interdepartmental: Officials should coordinate regulatory consultations across departments and agencies before seeking the views of stakeholders, in order to ensure consistency and support. Depending on the issue, such consultations may range from phone calls or emails to a series of interdepartmental meetings. Significant effort should be made to ensure that all relevant departments and agencies have an opportunity to participate and that differences are resolved before outside stakeholders are engaged.</p> <p>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."</p> <p>The Guidelines on International Regulatory Obligations and Cooperation and Appendix B of the CDSR offer guidance on the assessment of trade impacts and complying with international trade obligations.</p> <p>For low and medium impact regulations, the RIAS requires a statement on domestic and international coordination and cooperation including trade impacts. When specific Canadian requirements are proposed, a statement of</p>

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	<p>the rationale for the Canadian approach is required.</p> <p>The Guide mentions possible competition impacts, but does not require an assessment of competition impacts in the RIAs.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>✓ Baseline or future trends in the problem are identified</li> </ul>	<p><i>Canadian Cost-Benefit Analysis Guide (2007)</i>: The first step in any policy analysis is to identify and define precisely the key features and sources of the issues. The issues may decline in importance or become increasingly serious in the future without government intervention. Certain public policy issues such as health and the environment are often characterized by risks associated with the baseline scenario, i.e. the scenario without a policy. Understanding and assessing the nature of the risks in this case becomes one of the key decision factors for government intervention.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p><i>Canadian Cost-Benefit Analysis Guide</i>: It is important that departments and agencies consider the mix of regulatory and non-regulatory options.</p> <p><b>Regulatory approaches</b></p> <ul style="list-style-type: none"> <li>• Performance standards vs engineering or design standards</li> <li>• Stringency of the standard and compliance level</li> <li>• Timing</li> <li>• International and regional issues</li> <li>• Size of firm</li> <li>• Enforcement methods</li> </ul> <p><b>Non-regulatory approaches</b></p> <ul style="list-style-type: none"> <li>• Tradable permits</li> <li>• Taxes or charges</li> <li>• Subsidies or tax incentives</li> <li>• Deposit-refund schemes</li> </ul> <p>The impacts of each of the alternative options should be assessed and compared with the baseline scenario to arrive at the incremental net benefits of the option.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> </ul>	<p>The Canadian Cost-Benefit Analysis Guide, 2007 along with the RIAs Writer's Guide, 2009, are the federal government's guides for conducting RIA. Improving the quality of the RIA continues to be a policy priority. The Treasury Board has stated that one of its priorities in 2011–12 is to continue to implement the Cabinet Directive on Streamlining Regulation to help increase departmental capacity for regulatory analysis in priority areas. (Treasury Board of Canada Secretariat 2011–12, Report on Plans and</p>

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<ul style="list-style-type: none"> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>Priorities)</p> <p>The impacts of a regulatory option can be classified into three sets of activities. The first is to identify all possible impacts for each of the regulatory and non-regulatory options. The second step is to determine how these impacts are related to the fundamental variables that will determine their magnitude over time, e.g. growth in real income, relative price changes, and technological trends. The third step is to make projections of these fundamental variables and use these values to make projections over time of the benefits and costs produced by the potential interventions.</p> <p>Some impacts may be difficult to quantify because of their nature or the lack of data or scientific knowledge. These impacts should be described and documented. While quantifying the benefits assists the decision makers in understanding the magnitude of the effects of alternative regulatory policies, some benefits may be too difficult to quantify in monetary terms. However, they also can be too important to ignore. In this situation, one should list all quantitative information that cannot be monetized; explain why these physical quantitative items cannot be monetized; etc.</p> <p>The costs are simply the costs of the resources used as a consequence of the implementation of the policy. There are generally two types of direct costs: one is the compliance costs incurred by the private sector and the other is the administrative costs incurred by government. There also may be other indirect costs associated with the particular cases.</p> <p>Once the incremental benefits and costs have been quantified in monetary terms for both the “with policy” scenario and the baseline scenario, we can calculate the net present value of the incremental benefits using the discount rate. The preferred option from an efficiency perspective would be the one with the largest net present value.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>✓ Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p><i>Canadian Cost-Benefit Analysis Guide: International and regional issues:</i> Regulators also need to consider the international impacts of their regulations. By limiting the number of specific Canadian requirements, one can often obtain the same level of benefits with minimal trade impacts if any.</p> <p>The requirement for a 75 day comment period after publication in the Canada Gazette if there is an international trade impact allows trading partners an opportunity to comment. There is no specific guidance on how to conduct trade impact analysis, however.</p>

Canada	
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>The <i>Cabinet Directive on Streamlining Regulation</i> requires that interested and affected parties be consulted on the development or amendment of regulations, the implementation of regulatory programs, and the evaluation of regulatory activity against stated objectives.</p> <p>Draft regulations must be approved by the appropriate Cabinet committee (currently the Treasury Board) before they are pre-published in the <i>Canada Gazette</i>, Part 1. Pre-publication is intended to provide a final opportunity to obtain comments on the proposed regulations, determine whether any stakeholders were missed in the consultative process, and examine the extent to which the proposal is in keeping with the original consultations.</p> <p>The Regulatory Impact Analysis Statement (RIAS) is a summary of the expected impact of a regulatory initiative that addresses each of the requirements of the CDSR and is pre-published in the <i>Canada Gazette</i>, Part I (<a href="http://canadagazette.gc.ca/index-e.html">http://canadagazette.gc.ca/index-e.html</a>). It should be comprehensive and written in simple, clear, concise language that the general public can easily understand.</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>✓ Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There is no one-size-fits-all approach to regulatory consultations. The size and scope of the consultative process depend on the proposed regulations and the number of people or groups affected by them. Departments and agencies are responsible for identifying interested and affected parties, and for providing them with opportunities to take part in open, meaningful, and balanced consultations at all stages of the regulatory process. When undertaking consultations, departments and agencies are to:</p> <ul style="list-style-type: none"> <li>• inform and engage Canadians on the nature and implications of the public policy issue based on available evidence, science, or knowledge;</li> <li>• include Canadians in developing policy objectives;</li> <li>• set out the process and timelines in a clear manner so that affected parties can organize and provide input; and</li> <li>• provide timely feedback to Canadians and affected parties on the outcome of the consultations and on the priorities considered in decision making.</li> </ul> <p>Departments and agencies are to publish proposals in the <i>Canada Gazette</i>, Part I, to allow for a public comment period and to then take the comments received into consideration. The standard comment period is 30 days, but it can vary based on legislative requirements, international obligations, and other considerations. A minimum comment period of 75 days is required for proposals for new and changed technical regulations that may affect international trade.</p> <p>Departments and agencies should note that publishing proposed regulations</p>



Canada	
	in the Canada Gazette is not a substitute for meaningful consultations on the development of regulatory proposals.
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Departments should demonstrate accountability by documenting how the views of stakeholders were considered during the development of the regulations and informing stakeholders of how those views were used. Where stakeholder input could not be reflected in the proposed regulations, officials should be able to outline the reason(s) why.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>Canada has a well-developed and transparent regulatory system that has been positively reviewed by the OECD. Canada's regulatory quality practices in the areas reviewed in this summary reflect most of the APEC GRP recommendations. Recent developments in the national regulatory policy continue to add detail to the RIA, the consultation requirements, and the national management of regulatory quality.</p>

## Chile

Chile	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Chile does not have an explicit regulatory policy promoting government-wide regulatory reform. However, it reports having aligned several laws with the 2005 OECD Guiding Principles for Regulatory Quality and Performance, which are the basis for the GRP principles recommended by APEC. (OECD, Regulatory Management Indicators CHILE, 2011)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The Chilean government does not publish a list of primary laws or subordinate regulations to be prepared, modified, reformed or repealed in the near future. (OECD, Regulatory Management Indicators, Chile, 2011)</p> <p>The annual Message of the President on the 21st of May, and the Ministry's public accounts, describe the most important policy changes scheduled for the following year in law and in regulation. This early planning process could form the basis for a complete agenda in future.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>• Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>Chile has not adopted general principles for GRP applicable across the government.</p> <p>The OECD reports that the Chilean State general administration rules (Law 18 575, see Articles 3, 5 and 24) contain general principles of good public management and regulation including the procedural role of the government when creating or implementing regulation. (OECD, Regulatory Management Indicators Chile, 2011) In addition, other GRP principles have been integrated into Chilean laws, such as "Reduce the burden on business." Law 20.500 of 2011 on associations and citizen participation in public governance says that public bodies should establish mechanisms for citizen participation, public accountability and participatory consultations.</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and</li> </ul>	<p>There is no systematic program for regulatory review. The OECD reports that ex post evaluation is not mandatory in Chile and no mechanisms exist that would allow the public to recommend modifications. Neither are sunset clauses or specific review requirements used. (OECD, Regulatory Management Indicators Chile, 2011)</p> <p>Regulatory reviews have been triggered by international indicators. International benchmarks such as those defined by the Doing Business Report have helped identify areas where burdensome administrative procedures are currently undermining Chile's international competitiveness</p>

Chile	
<p>effectiveness information</p> <ul style="list-style-type: none"> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>and have helped trigger important reforms. (Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011) In this review, SEGPRES consults the opinion of all ministries whose areas of action are affected by a regulatory reform.</p> <p>Chile has also implemented various programs to reduce red tape for over a decade and has set quantitative targets in a number of areas. The programs employ differing permutations of several strategies including: new technologies for regulatory administration such as e-Government; streamlining of government process requirements; reallocating powers and responsibilities between government departments and between levels of government.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>• Accountable to the top political levels of government</li> <li>• Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>Chile has neither a central regulatory oversight authority nor an advisory body that reviews broad areas of regulation against good regulatory principles. However, Chile reports that the Ministry of the Presidency (SEGPRES) assesses the legislative quality, legal status, technical foundation, and coherence of all draft bills and a significant portion of draft decrees. (OECD, Regulatory Management Indicators Chile, 2011, as amended by Chile, Oct 2011)</p> <p>The Ministry of Finance analyses the impact of draft primary laws on the national budget. (OECD, Regulatory Management Indicators Chile, 2011)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>The government of Chile reports that “when necessary, the Ministry of Foreign Affairs participates in the process of drawing up new laws or norms and is responsible for ensuring their compatibility with the economy’s international obligations.” (Chile: Developments in Regulatory Reform. 2009 APEC Economic Policy Report)</p> <p>When draft bills or decrees may impact on competition, in its review process SEGPRES request the opinion of the Ministry of Economy or the National Competition Agency (FNE).</p> <p>Interestingly, the OECD recently reported that, more so than in many countries, the Political Constitution of Chile conditions the domestic regulatory framework for trade. The principle of direct means that the provisions of international treaties signed by Chile are “self executing” and directly applicable at all levels of the domestic legal and regulatory system</p>

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	<p>as if national legislation. As a result, the principle of non-arbitrary discrimination enshrined in the constitution is woven deeply into the fabric of laws, institutions and regulatory practices relating to trade. (OECD, Enhancing Market Openness, Intellectual Property Rights, and Compliance Through Regulatory Reform in Chile, 2009)</p> <p>The OECD found, for example, that “The principles contained within the Constitution in combination with a number of clear implementing laws, and well functioning inter-ministerial processes overseen by the General Directorate for International Economic Relations (Direcon), represent a framework for regulating trade policy highly supportive of market openness” and “The comprehensive application of the non-discrimination principle throughout Chile’s legal and regulatory framework for trade is an example of OECD best practice.”</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>The OECD recommended in 2009 that the government should “Consider adopting a pilot programme for RIAs that includes trade and investment impacts as key components of analysis.” (OECD, Enhancing Market Openness, Intellectual Property Rights, and Compliance Through Regulatory Reform in Chile, 2009)</p> <p>All draft laws and decrees contain a section that explains the reason for the new regulations, which, if fully elaborated to include the magnitude, trends, and causes of the problem being solved, could function as a problem definition.</p> <p>Chile reports that since February 2010, a new Primary Law (20 416) is intended to improve the conditions for doing business, and requires government agencies to assess the costs of new subordinate regulations on small businesses. The process involves a brief questionnaire to be completed by the agencies which are required to explain and justify the legislative proposal, and then to estimate the potential compliance and financial costs. Chile reports that completed questionnaires are published online. (OECD, Regulatory Management Indicators Chile, 2011)</p> <p>In addition to the new cost questionnaire, which is a form of partial RIA, the government applies important elements of RIAs in specific areas. For instance, Decree 77/2004 requires that in the development of technical rules and standards certain elements of RIAs are applied including: use of performance rather than design based regulations; conducting meaningful consultations with adequate time periods for taking comments into account; providing public explanations of why comments are (or are not) taken</p>

Chile	
	aboard; and assessing alternative approaches to achieving regulatory objectives when designing new regulations. (OECD, Enhancing Market Openness, Intellectual Property Rights, and Compliance Through Regulatory Reform in Chile, 2009)
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	See above.
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	No RIA handbook has been published, and there is little information on the content of the RIAs done for technical standards.

Chile	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>✓ Trade impacts are explicitly included in the consultations with stakeholders</li> <li>✓ Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Decree 77/2004 supports that regulation be non-restrictive on trade, however, formal assessments of the impact that new regulations are likely to have on inward and outward trade and investment are conducted rarely. (OECD, Enhancing Market Openness, Intellectual Property Rights, and Compliance Through Regulatory Reform in Chile, 2009)</p> <p>Chile seems to have used ex poste regulatory reviews rather than ex ante RIA to reduce trade impacts of regulation. Chile's favorable regulatory environment results in part from its efforts to minimize conflicting or inconsistent regulations between the central government and sub-central government administrations that may hinder the free circulation of goods and services within the country.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>On April 20, 2009, the Law of Transparency came into force. Its purpose is to regulate (1) the principle of transparency in the public sector, (2) the right of access to information of Public offices, (3) the procedures for the practice of law, and (4) exceptions to the disclosure of information. It does not explicitly cover consultation in regulatory practices, but says that public bodies should establish mechanisms for citizen participation, public accountability and participatory consultations. From August 16, 2011, all public bodies have had to define the modalities of implementation of these general principles.</p> <p>This should be a major step forward to formalizing procedures for consultation within government when preparing new regulation. Consultation for subordinate regulations has mainly consisted of informal consultation within the government. However, Chile reports that when developing primary laws, proposals are routinely circulated for comment among experts and stakeholders. In the preparation of major regulatory reforms, it is also common to set up a preparatory public committee/commission. (OECD, Regulatory Management Indicators CHILE, 2011) In addition, competition, trade and consumer policy bodies are consulted in some cases and the environment agency is consulted when new regulations may have an environmental impact. (OECD, Regulatory Management Indicators, 2011)</p> <p>Despite the lack of an overall consultation process, on reviewing the Chilean system the OECD has found that "transparency is well supported in Chile's regulatory system." It noted that "Mandatory and effective consultation procedures exist for, technical regulations, government procurement and areas covered by international agreements," but recommended that "Consideration should be given to making such mandatory consultation</p>

Chile	
	<p>procedures a generally applicable law. (OECD, Enhancing Market Openness, 2009)</p> <p>There is a special case for SMEs, as noted before. Public bodies that propose policies affecting SMEs must make a "light RIA" and publish it on its website along with the draft of the regulation.</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There is no minimum period specified for consultation, although this is rapidly improving. Through the implementation of the new Law on Transparency, several agencies have formally committed to make public consultations through virtual points (web) for a minimum period of 15 working days.</p> <p>The OECD noted:</p> <p style="padding-left: 40px;">Authorities retain significant discretion over the conduct of consultations because no general law or regulation exists which provides procedural guidelines or minimum standards for consultations. Thus, significant procedural leeway is accorded to authorities when implementing consultations in areas such as which parties are consulted, how long comment periods will be and whether consultations will be conducted based on full or partial texts of draft laws and regulations. In practice, however, it is possible to know the content of bills and to follow their progress via the website of the National Congress and its Chambers.</p> <p>However,</p> <p style="padding-left: 40px;">Despite the absence of generally applicable mandatory laws or regulations governing consultation processes, the practice of consultations in Chile is regularly carried out in a manner that stakeholders affected by proposed laws and regulations legislations are consulted with periods for comments allowing for meaningful consultations.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Not at this time.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Chile has succeeded in establishing a regulatory environment that is highly favorable to business. It has done this through rigorous implementation of international treaties and market openness principles throughout the regulatory system, and targeted reviews designed to reduce regulatory costs. Formal consultation procedures are weak, but in practice stakeholders seem satisfied with the transparency. To safeguard the gains that have been</p>

Chile	
	achieved, Chile might wish to consider formalizing a light RIA and public consultation procedures for all forms of regulation.



## People's Republic of China

People's Republic of China	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Reform of regulations has long been part of the Chinese economic development policies. In 2003, the Chinese government added more systemic arrangements for regulatory reform, the basic orientation of which was to reduce regulation and to bring into play the fundamental role of the market in resource allocation, step by step.</p> <p>Regulatory reform has been an important part in the annual plan of economic system reform. The <i>Opinions on Deepening the Reform of Economic System in 2009</i> addressed many areas closely related to regulatory reform, including the reforms of governmental economic management, monopolised sectors, prices of resource products, energy-saving and environmental protection, industrial structure and enterprise development, the public service system, fiscal and finance sectors.</p> <p>While GRP and principles are not explicitly included in this regulatory strategy, aspects of GRP such as efficiency, competition (removing regulatory barriers to competition) and market openness have been integrated into the broader regulatory reform efforts. For example, the AML deals extensively with abuse of administrative powers. One of the general principles set out in the first part of the Anti-Monopoly Law of 2008 is that administrative agencies and other organisations empowered by law or regulation with responsibilities for public administration shall not abuse their powers to eliminate or restrict competition (Art. 8). (OECD, 2010)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The Chinese government makes arrangements in its annual plan for reform and formulating corresponding policies. There is not a specific regulatory or legislative plan prepared by the whole of government, though, that can be used by stakeholders to prepare for upcoming regulatory proposals.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>• Published by the center of government</li> </ul>	<p>China's current reform aims to create a unified and open modern market system with orderly competition by raising the role of the market in resource allocation:</p> <ul style="list-style-type: none"> <li>• to improve the competitiveness and production efficiency of enterprises</li> </ul>

People's Republic of China	
<ul style="list-style-type: none"> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>and increase the efficiency, level and quality of public entities;</p> <ul style="list-style-type: none"> <li>• to advance regulations in a scientific, democratic and legal manner; and</li> <li>• to improve social welfare and promote economic development.</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>Empowered by the State Council, the National Development and Reform Commission (NDRC) is responsible for regularly reviewing the overall progress of economic reform. The implementation of regulations in different fields is examined by respective functional departments. The People's Congress and its standing committee at all levels, the State Council and local governments examine the implementation of related laws, regulations and rules within their respective scope of responsibility pursuant to related provisions of the Law on Legislation. Senior government levels regularly evaluate the performance of lower levels, wherein the effect of the application of related regulations is an important item of evaluation.</p> <p>To transform government functions and reduce government interference in the market, China has overhauled the administrative examination and approval system and rigorously reviewed those items requiring administrative examination and approval since 2001. After careful examination and deliberation, these items were either maintained, cancelled or subjected to lower levels based on the principles of lawfulness, rationality, effectiveness, responsibility and supervision.</p> <p>Since the promulgation and implementation in 2005 of the Several Opinions of the State Council on Encouraging, Supporting and Guiding the Development of Individual and Private Economy and Other Non-Public Sectors of the Economy, related departments of the central government and local governments have examined, trimmed and revised the laws, regulations and policies that restrict the access of non-public sectors of the economy to market. (People's Republic of China: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> </ul>	<p>Currently, China does not have a dedicated and integrated institution to supervise regulatory reform. In accordance with the Supervision Law of the Standing Committee of People's Congress at All Levels, the standing committees of People's Congress at all levels supervise the work of government at their respective levels, including the supervision of regulatory reform and the review of the enforcement of laws and regulations.</p> <p>The Chinese central government, i.e. the State Council, makes</p>

People's Republic of China	
<ul style="list-style-type: none"> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>comprehensive arrangements for regulatory reform. The National Development and Reform Commission (NDRC) is the governmental department responsible for providing general guidance and co-ordinating the economic reform. Its responsibilities include drawing up annual plans for regulatory reform and drafting comprehensive reform schemes. (People's Republic of China: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Not explicitly. However, the broader economic development strategy does have competition and market openness components, which are integrated into specific regulatory reforms. There is no requirement that regulators consider competition and trade issues in drafting new policies or legal norms.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>China has yet to use the Regulatory Impact Analysis (RIA) tools recommended by APEC. However, China approves of the RIA framework. In fact, similar methods of investigation and analysis, expert consultancy, majority opinion and external example as advocated by RIA, have been used by the Chinese government and its departments for many years.</p> <p>In 2009, China reported that it plans to deepen the reform of its administration system to further transform government functions, reduce the number of items requiring administrative examination and approval, and improve the scientific and democratic decision-making mechanisms of the government as well as government publicity. China will actively reflect on the experience and practice of RIA, carefully judging the appropriate time and method of implementation. (People's Republic of China: Developments in Regulatory Reform 2009 APEC Economic Policy Report)</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be</li> </ul>	<p>Not at this time.</p>

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<p>non-regulatory</p> <ul style="list-style-type: none"> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>Not at this time.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>No special analysis is required. However, the 2002 State Council <i>Notice on How To Handle the Notification, Enquiry and Review Work After Entry Into WTO</i> issued by the Office of State Council mandated that a reasonable period should be granted to collect comments and suggestions after publication and before enforcement of the laws, administrative regulations and other measures involving or affecting trade. (OECD, 2010) This opportunity for complaints, even though it occurs after publication, allows opportunity for stakeholders to carry out analysis of trade impacts.</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is</li> </ul>	<p>Public consultation is not a legally guaranteed right. Nevertheless, provisions for public consultation are included in the <i>Ordinance Concerning the Procedures for the Formulation of Administrative Regulations</i> and the <i>Regulation on the Procedures for the Formulation of Rules</i>. Similar provisions can be found in the rules of some individual departments and local governments for drafting regulations. For example:</p>

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<p>legal requirement established by law or high level decree/order</p> <ul style="list-style-type: none"> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<ul style="list-style-type: none"> <li>• The <i>Provisional Regulation on Administrative Transparency</i> (Provisional Regulation) applied by MOFCOM is a useful example already operating within the Chinese regulatory system. The Provisional Regulation requires the ministry to release drafts of rules that may affect non-government interests for a minimum 10-day comment period and to take public comments into consideration when the draft regulations are finalised. (OECD, 2010) The Ministry publishes these drafts on the Internet and in the China Foreign Trade and Economic Cooperation Gazette.</li> <li>• Requirements for consultation apply in some legal areas. The Administrative Licence Law (enforced in 2004) stipulated that the issues and procedures required of administrative licences should be made known to the public, and that hearings should be held on such issues and procedures if necessary.</li> <li>• During the authorisation and application phase of drafting local government regulations, the public are entitled to apply for authorisation of regulations. However, there is no such stipulation in the administrative rules and regulations on the procedures for the drafting of regulations in government ministries and commissions.</li> </ul>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>During the drafting period, the primary means of consultation include symposia, panel discussions and hearings. For those involving the immediate interests of citizens or where great differences of opinion exist, a hearing must be held and the results made public.</p> <p>The <i>Regulation on the Procedures for the Formulation of Rules</i> sets 4 procedural requirements for holding a hearing.</p> <ul style="list-style-type: none"> <li>• The hearing should be open. The drafting unit should publicise the time, place and content of the hearing 30 days prior.</li> <li>• Related departments, organisations and citizens attending the hearing should be entitled to question and express opinions on the regulation being drafted.</li> <li>• Accurate notes should be taken during the hearing to record speakers' opinions and the reasons for their opinions.</li> <li>• The drafting unit should carefully study opinions presented in the hearing. The drafted regulation, when submitted for approval, should mention any conflicting opinions presented at the hearing, their reasons, and how a settlement was reached to resolve such differences.</li> </ul> <p>The <i>Regulation for the Formulation of Rules</i> stipulates that opinions from concerned parties shall be recorded and listed during the drafting of administrative and local rules. Experts shall be called to expound on professional or technical issues related to the drafting of regulations. During the period of examination, the investigating organ shall examine whether the drafting organ has correctly handled opinions on the draft regulation from</p>

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	<p>different organisations, institutions and individuals. In the case that “no hearing record” or “no record of different opinions” is provided, the investigating organ shall “postpone or return to the drafting unit.”</p> <p>According to the OECD (2010), improvements in these regulations indicate that the Chinese government is aware of the necessity and importance of ensuring public openness. However, current regulations do not provide complete guarantees. A formal standard for determining whether regulatory affairs are important or bear upon a citizen’s immediate interests does not exist. The regulatory organ has full control of the right to decide whether a hearing is held and how the hearing is organised. Despite the requirement that different opinions be recorded in the draft regulation for examination, there are no requirements regarding the authenticity or scope of the opinions recorded. No regulations are available concerning participants in, or the effectiveness of, the hearing.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement for feedback to stakeholders.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>China’s regulatory reforms have been a core component of its economic strategies over 30 years. For most of this period, regulatory reform consisted of changes to specific policies. In recent years, the government has begun to include regulatory quality principles in its reform plans. The increasing transparency and consultation of the regulatory system is moving toward a more systematic, government-wide consultation process, and RIA is being considered as a next step in the government.</p>

## Chinese Taipei

Chinese Taipei	
<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>Good regulatory practice has been explicitly adopted in Chinese Taipei. “Deregulation and reconstruction” are main axles of mid-term policy implementation, with deregulation to serve in creating a “new platform of competitiveness.” (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>The Government recognizes three core concepts in its regulatory reform programme: (1) deregulation, simplification of administrative procedures, active innovation, and the relaxation of controls; (2) establishment of a modern and highly efficient regulatory environment under the principles of maximizing benefits, simplifying government administration, and better serving the people; and (3) establishment of active, energetic, and efficient administrative organization. (WTO, Trade Policy Review of Chinese Taipei, WT/TPR/S/232, 2010)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>Not at this time.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The Government has stated that two principles should guide the choice of regulations: cost-benefit principles and least burden, or lowest-cost, principles.</p>

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<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual or periodic program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>✓ Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>In 2008, to carry out deregulation efficiently and continuously, Chinese Taipei set up a comprehensive coordination mechanism for deregulation, which combines calls for suggestions from the public and the private sector, evaluation of deregulation suggestions, policy-making models, supervision and evaluation. The Council for Economic and Planning Development (CEPD) calls ministries and commissions together for a "rolling" review of regulations. To help the government enhance the economic and financial legal environment, CEPD set up a web portal on the CEPD's website to provide a channel for the general public and experts to present suggestions on deregulation through the Internet. (<a href="http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0012725">http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0012725</a>) As part of this, the CEPD and the Ministry of Economic Affairs (MOEA) regularly organize seminars with non-Chinese-Taipei investors to gather their suggestions on laws and regulations.</p> <p>The CEPD regularly reports on the progress of deregulation to the ministers without portfolio, and announces the Government's response to deregulation suggestions on the platform website. By the end of 2009, administrative agencies had completed over 400 items of deregulation. (WTO, Trade Policy Review of Chinese Taipei, WT/TPR/S/232, 2010).</p> <p>Another review channel focuses on SMEs. Article 12-1 of the <i>SME Development Statute</i> states the regulatory authority shall conduct a periodic review of all laws and regulations concerning SMEs. It shall evaluate SME's ability to adapt to these laws and regulations as well as their impact on SMEs. The regulatory authority shall submit a report to the Parliament within three months of the end of each year.</p> <p>Regulatory review is increasingly being done a sectoral basis, rather than rule by rule. In 2009, the Government launched reviews to revise laws and regulations to create a favorable environment for the development of six emerging industries: biotechnology, travel and tourism, green energy, medical care, high-end agriculture, and cultural and creative industries</p> <p>Regulatory reviews in Chinese Taipei have also used the World Bank's Ease of Doing Business report to set priorities for streamlining administrative procedures. To improve the overall business environment, the government uses the World Bank's survey results as a basis for self-diagnosis in seeking out the strengths and weaknesses of Taiwan's doing business environment and pinpointing areas for improvement. To review these procedures, the government studies the suggestions put forth by the business sector and uses them as a reference in the implementation of policy.</p>



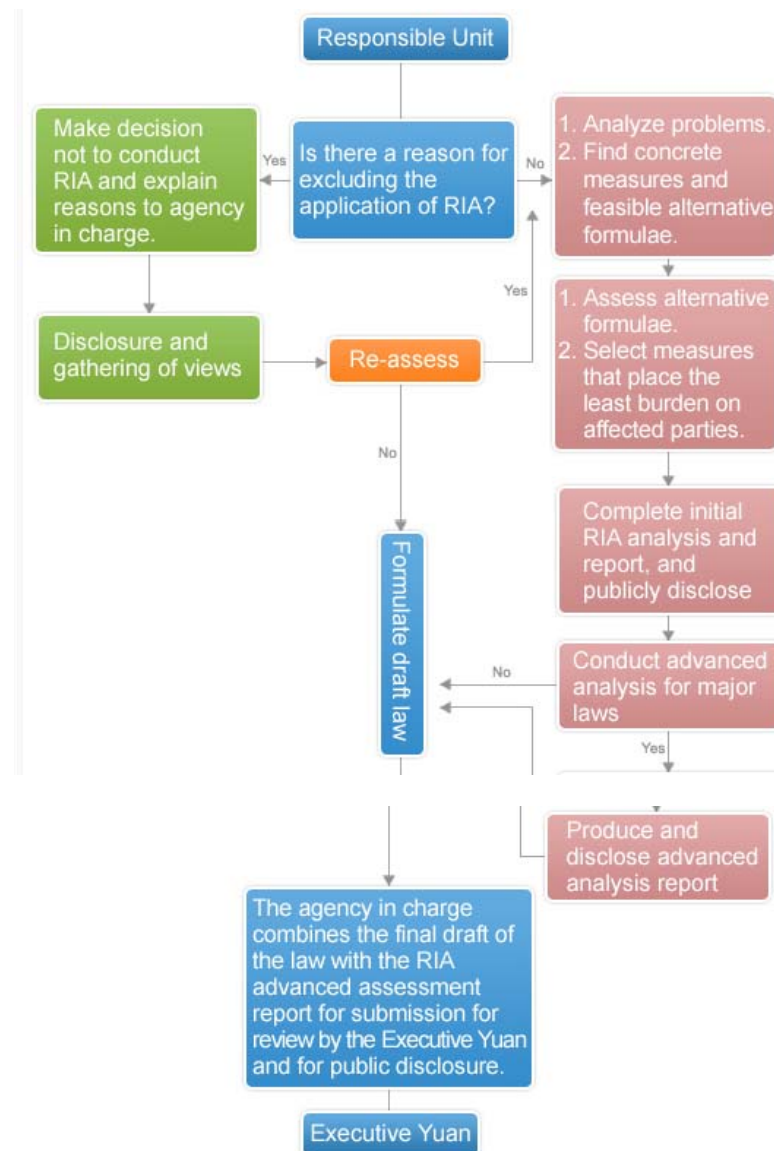
Chinese Taipei	
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Council for Economic and Planning Development (CEPD) was designated to take charge of promoting regulatory reform to increase competitiveness and, at the same time, push forward with government reform, according to the Government Reform Guidelines passed by the Cabinet during its 1560th meeting on January 2, 2000.</p> <p>The CEPD evaluates the performance of major economic development projects. Its Centre for Economic Deregulation and Innovation (CEDI) is in charge of coordinating the overall deregulation and regulatory reform programme.</p> <p>CEPD is mandated to work with the Committee of Laws and Regulations (in The Cabinet), the Research, Development, and Evaluation Commission (in The Cabinet), along with the Ministry of Justice in respect to regulatory policies.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>Trade impacts are not explicitly included in regulatory reviews or RIA. However, Chinese Taipei has introduced the “OECD Competition Assessment Toolkit” to assist government agencies in evaluating the competition impacts of laws and regulations.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are</li> </ul>	<p>Chinese Taipei has had an RIA process since 2000. RIA was made mandatory in a simplified form in 2006. (WTO, Trade Policy Review of Chinese Taipei, WT/TPR/S/232, 2010) Legal requirements for RIA exist, but are stated very generally compared to other RIA countries. Chapter 1, Point 2 (1) of the <i>Guidelines on Central Administrative Agencies’ Legal Matters</i> states “... as for the aspects and scope of the impact of bills, there should there be a comprehensive evaluation,” and Point 3, Paragraph 4 in <i>Guidelines for Bills Submitted by Cabinet Agencies for Review</i>, which states, “there should be a</p>

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identified

comprehensive evaluation concerning the aspects and scope of the impact of bills, including impacts towards costs, benefits, and human rights, etc.”

The current RIA process is shown below. In general, agencies should evaluate the impact of new regulations via various methods and compare the social impacts of different measures and alternatives to ensure that society as a whole would benefit from the regulation. (Chinese Taipei’s Self-Assessment Report for the APEC-OECD Integrated Checklist on Regulatory Reform, 2006)



In accord with the conclusions of the Conference on Sustaining Taiwan's Economic Development (COSTED), which reached the common opinion to establish an RIA system, agencies of the Executive Yuan are currently charged with putting this into effect. These agencies are the Legal Affairs

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	<p>Committee, the Research, Development and Evaluation Commission (RDEC), and the Council for Economic Planning and Development (CEPD). The RDEC has been charged with planning and setting up an information platform and database for RIA. (<a href="http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009090">http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009090</a>)</p> <p>The CEPD reports that “the CEPD is currently taking gradual steps in conjunction with related government departments to implement such a system in Taiwan, so that the process of drawing up regulations will fully incorporate input from those who will be affected and will include assessment of any possible addition of costs that may result from the regulatory change.” (<a href="http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009090">http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009090</a>)</p> <p>To encourage relevant government agencies to fully embrace the spirit of RIA in their regulatory procedures, the CEPD has introduced a related category in its “Golden Ax Awards” for recognizing and rewarding the spontaneous bottom-to-top implementation of RIA in government departments.</p> <p>The Chinese Taipei RIA approach follows good practice in following a structured, standardized method, beginning with the problem definition, although there is no mention of the baseline assessment.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The RIA process outlined above requires that feasible alternative measures be selected, assessed, and compared. The alternative that creates “the least burden on affected parties” (the lowest cost option) shall be selected.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative</li> </ul>	<p>Because RIA is in the initial stage of implementing an RIA system, experience in doing RIA is limited. In order to avoid an excessive impact on existing law-making procedures, the Government has decided that it is best to start by targeting only draft statutes, and wait until sufficient experience has been built up before extending its scope of application to executive orders and other governmental actions. Hence, the scope of RIA in Chinese Taipei is, at this time, more limited than in other countries with RIA programs.</p> <p>In 2005, CEPD, the Research, Development, and Evaluation Commission,</p>

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<p>terms with a measurement of impacts that can be measured</p> <ul style="list-style-type: none"> <li>✓ Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>and the Committee of Laws and Regulations (The Cabinet) presented Regulatory Impact Analysis: A Case Study Analysis and Operational Manual to be used for the reference of various Cabinet agencies.</p> <p>Quality control of the RIA is not yet developed in the RIA process, and, in light of international good practice in this area, is a priority for future development.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not explicitly included.</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>Chinese Taipei has general legal provisions for consultation. Articles 154 to 156 of the Administrative Procedure Act state that when formulating a legal order, the administrative authority shall cause it to be publicly announced in a government publication, unless the situation is so urgent that prior announcement to the public is clearly impossible. It is also required that any person may give the designated authority his or her opinions within a specified period. (APEC, Best Practices in Decision-Making, 2009 2009/TEL40/LSG/005)</p> <p>In its 2011 APEC report, the government reported “significant results in terms of increasing government efficiency, public participation, and government transparency.” To increase public participation, executive agencies conduct studies on public participation mechanisms and promote citizen conferences, and use public opinion surveys, online interactive platforms and other channels in order to understand public opinions while establishing major policies. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>RIA has become one of the main channels for consultation. The government</p>

Chinese Taipei	
	<p>states that “The core spirit of RIA lies in providing the public with an opportunity for ex-ante participation in the drawing up of regulations and for the timely submission of their input on issues of concern to them, and through this and other information gathering to conduct an assessment of the impact of legislation so as to enable the presentation of the most appropriate and feasible proposals therefor, and thereby avoid the subsequent imposition of an excessive burden on the people, or the occurrence of such a gap between regulation and actuality that it is difficult for the regulation to be enforced.”</p> <p>When executive agencies conduct RIA, they should make public announcement of related issues for perusal by the general public, and should seek the opinions of the public through questionnaire surveys, public hearings, or other appropriate means. Also, they should post the specific provisions, purposes and chosen measures of the draft regulations, the facts, basis and details of their impact on the public, the views of industry, and responses to opinions expressed by the public, together on a relevant public website where they can be read by the general public, in order to achieve procedural transparency and comply with the objective of public supervision of executive agencies. In other words, in the RIA process, the public act as providers of fact and opinion, and through this and other such systems act as supervisors of government agencies. (at <a href="http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009086">http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0009086</a>)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders</li> </ul>	<p>Chinese Taipei has not published more detailed consultation requirements or a policy laying out minimum consultation requirements such as the time to be given for response.</p>

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are included	
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement for feedback to stakeholders.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Chinese Taipei has moved progressively over 10 years to integrate GRP into regulatory practices. Various consultation processes are available to regulators, and a simple RIA process has been adopted. Regulatory reviews are underway through multiple channels. While procedures for quality control for RIA and consultation are not as well developed as some other countries, Chinese Taipei has expressed its intent to continue to converge with good OECD practices.</p>

## Hong Kong China

Hong Kong China	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>✓ A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>The Hong Kong, China (HKC) Government has invested substantial efforts to cut red tape, simplify regulations, eliminate out dated and unnecessary regulatory requirements, and reduce compliance cost and administrative burden to business so as to facilitate their operation and development. It has created an evolving set of initiatives and implementation units to improve the quality of new regulations and review the quality of old regulations. It has also promoted a smart regulation and business facilitation culture within the Civil Service. Several documents and guidelines have been published to guide the program.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>✓ A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies               <ul style="list-style-type: none"> <li>• Including only upcoming legislation</li> </ul> </li> <li>✓ Including also lower-level or subordinate regulations               <ul style="list-style-type: none"> <li>• Containing information on potential costs of the regulation</li> </ul> </li> </ul>	<p>The Government informs the Legislative Council of its legislative plan at the commencement of the Legislative Council session and updates the Legislative Council of the plan, if necessary. The lists of bills and subsidiary legislation planned for review by the Legislative Council in its current term can be accessed via the Legislative Council's website.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>✓ Principles on consistency /coordination with other legal instruments               <ul style="list-style-type: none"> <li>• Principles on compliance with trade and investment commitments</li> </ul> </li> </ul>	<p>The “Be the Smart Regulator” Programme has published a set of good regulatory practice (GRP) principles for regulators. The principles cover the areas in the figure at right, and are discussed in more detail below.</p>

### The Life-cycle of Smart Regulations

#### 1. Plan

- all direct and indirect costs fully understood
- alternatives to regulation meticulously evaluated

#### 2. Consult

- open and inclusive consultation
- regulatory impact assessment undertaken


#### 4. Review

- streamlined processes
- timetabled reviews

#### 3. Implement

- clear, transparent and accessible rules and regulations
- proportionate and effective enforcement



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<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>✓ Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>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. In partnership with the BFAC, the Government has been conducting sector-specific regulatory reviews in the real estate development, retail, food business and entertainment sectors.</p>  <p>The Economic Analysis and Business Facilitation Unit (EABFU) was formed under the Financial Secretary's Office in 2004. Under the direction of the BFAC, the EABFU conducts regulatory reviews on specific sectors and coordinates with departments/bureaux concerned in taking forward business facilitation initiatives endorsed by the BFAC. (APEC Good Practice Guide on Regulatory Reform, 2008 (HK case study))</p> <p>The Government has implemented the "Be the Smart Regulator" Programme since 2007 to improve the efficiency, transparency and customer-friendliness of its licensing services for business. Under this Programme:</p> <ul style="list-style-type: none"> <li>• The EABFU and the Efficiency Unit (EU) co-ordinate with 29 relevant bureaux/departments to make various improvements (including legal, procedural and technological solutions) to their business licensing and to reduce compliance costs to business while safeguarding public interests. Bureaux/departments concerned are encouraged to review their regulations periodically and include in their annual action plans regulatory reviews to facilitate trade buy-in, support and the formulation of regulatory options that underpin a sound licensing system. To establish an efficient regulatory regime, bureaux and departments are also encouraged to conduct ongoing process reviews to improve inter-departmental co-ordination and to reduce the time required for licence issuance. Performance pledges are established and reviewed periodically for continuous improvement.</li> </ul> <p>Ten Business Liaison Groups (BLGs) for major business sectors have been established to facilitate communication and resolution of regulatory and licensing issues between the business sectors and government bureaux/departments. So far, around 600 issues raised at the BLG meetings</p>



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	<p>have been clarified or resolved.</p> <p>The regulatory reviews are built into civil service performance standards. 25 B/Ds have provided 56 new/revised departmental performance pledges and 47 new/revised licensing guides to improve the efficiency and transparency of the licensing regime for business.</p> <p>GRP principles and best practices that have been implemented by bureaux/departments were disseminated within the Civil Service through various means such as intranet on business facilitation initiatives, newsletters, workshops, training courses, seminars, and experience sharing sessions.</p> <p>The Government has reported that, in all practical circumstances, HKC's regulation, competition and market openness policies do not discriminate between goods, services, or service suppliers in like circumstances, be they foreign or domestic. There are rare and well-defined situations where suppliers of goods and services are limited, and they are mainly involved in areas related to public health, safety, security and the environment, and they are required to fulfill their obligations under international agreements. Such measures are kept under constant review with the objective to facilitate trade as far as possible. More importantly, all non-tariff measures are consistently applied with no discrimination between goods of different origin/different sources. (Report from Hong Kong, China on the Latest Policy Developments Relating to APEC-OECD Integrated Checklist on Regulatory Reform, 2007, 2007/SOM3/EC/031)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>✓ Clear goals set</li> <li>✓ Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>The business facilitation and regulatory review program under the leadership of the Financial Secretary coordinates the business facilitation efforts of all government bureaux and departments, using several specialized bodies.</p> <p>The BFAC and its sector-specific task forces, together with the EABFU, function as a quality control mechanism to varying degrees. The BFAC advises and reports to the Financial Secretary on the development and implementation of programs and measures to facilitate business. This serves as a channel for the senior management of the Government to monitor regulatory reform progress. (APEC Good Practice Guide on Regulatory Reform, 2008 (HK case study)) The EABFU and EU co-ordinate with bureaux/departments concerned to take forward improvement measures under the “Be the Smart Regulator” Programme. The EABFU also works closely with departments/bureaux in conducting Business Impact Assessments (BIAs).</p>

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<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>The BIA framework developed under the “Be the Smart Regulator” Programme serves as a general guide to conduct BIA studies. In general, BIA covers, among other things, an assessment of the impact on competition, the impact on small and medium-sized enterprises, business compliance difficulties, costs and benefits to business, etc. Consultation with relevant business stakeholder groups is conducted to understand their concerns and assess the above trade impacts. Please see the next section for details of BIA.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>In HKC, full Regulatory Impact Assessment (RIA) study is not compulsory for new regulatory proposals. However, it is often done for major policy proposals with a significant regulatory impact. (APEC Good Practice Guide on Regulatory Reform, 2008 (HK case study)) The Government has issued clear internal guidelines to ensure that prior to formulating new policies and legislation, their impact on the business environment and the public at large of HKC should be fully assessed. All Policy Bureaux, in submitting new policies and legislation to the Executive Council for deliberation, are required to attach an assessment on the impact of such policies and legislation on the business environment (a kind of partial RIA), and the assessment must first be endorsed by the Government Economist. The internal guidelines also require all Policy Bureaux to incorporate consideration for fair competition, sustainable development, impact on employment and the environment, in all new policies and legislation submitted to the Executive Council for deliberation.</p> <p>The “Be the Smart Regulator” Programme recommends that RIA be undertaken as follows:</p> <ul style="list-style-type: none"> <li>• Publish the intended outcome of proposed regulation</li> <li>• Describe alternatives and the results of consultation</li> <li>• Analyse potential costs and benefits to all stakeholder groups: community, business and regulators</li> <li>• Prioritise preferred courses of action and detail how they will be implemented, monitored and reviewed (Economic Analysis and Business Facilitation Unit Financial Secretary’s Office "Be the smart regulator" pamphlet (undated))</li> </ul> <p>To facilitate a systematic and focused assessment of the business impact of</p>

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	<p>regulatory proposals, a partial RIA, called a Business Impact Assessment BIA framework has been developed under the “Be the Smart Regulator” Programme to help bureaux and departments assess the implications of their regulatory proposals and explore ways to minimize the regulatory impact on business. Under the BIA framework, BIA comprises four stages. At the first stage, the problem, desired outcome and regulatory proposal are clearly stated. The business environment and its future trends are assessed at the second stage. The third stage covers the assessment of business impacts. The fourth stage consolidates assessment results and recommends refinements to regulatory proposals (including mitigation measures and monitoring/evaluation mechanisms).</p> <p>Bureaux and departments can deploy the framework as a general guide to conduct BIA studies. Through conducting BIAs, unreasonable regulatory or licensing requirements can be avoided and compliance costs and administrative burdens on businesses can be minimized. (APEC, Hong Kong China. PART II: Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011)</p> <p>The EABFU headed by the Government Economist (see above) provides analysis and advice to the Government on a wide range of economic matters, including the economic implications of major policy proposals. Within the Unit, the Business Facilitation Division (BFD) co-ordinates the Government's efforts on business facilitation under guidance of BFAC. The BFD encourages and assists policy bureaux and departments to undertake studies and projects for exploring and implementing improvement measures to facilitate the development and operation of the business sector. These studies and projects include undertaking BIA studies on proposed regulatory activities to reduce the impact and compliance costs to the business sector. (<a href="http://www.eabfu.gov.hk/text/en/aboutus/aboutus.htm">http://www.eabfu.gov.hk/text/en/aboutus/aboutus.htm</a>)</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>While a full RIA study is not mandatory, the RIA undertaken should include an assessment of the merits of viable regulatory and nonregulatory options. (APEC Good Practice Guide on Regulatory Reform, 2008 (HK case study))</p> <p>The “Be the Smart Regulator” Programme recommends that during regulatory development, alternatives to regulation be evaluated. Bureaux/departments are encouraged to:</p> <ul style="list-style-type: none"> <li>• Consider industry self-regulation, codes of practice, third-party certification, etc, before prescriptive regulation</li> <li>• Balance risk to the community with the level of Government’s involvement and the burden on business” (Economic Analysis and Business Facilitation Unit Financial Secretary’s Office "Be the smart</li> </ul>

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	<p>regulator" pamphlet (undated))</p> <p>The BIA framework has also recommended that options (e.g. a non-regulatory option) be identified for study.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>The "Be the Smart Regulator" Programme has recommended that all direct and indirect costs be fully understood. The emphasis in BIA is on the analysis is on costs and other business impacts, not on social or wider economic benefits. BIA entails a structured analysis of regulatory proposals with identification of potential negative and positive impacts. These include benefits to business; business compliance difficulties, costs and administrative burdens; impact on competition, impact on small and medium-sized firms, etc. With respect to costs, analysts should:</p> <ul style="list-style-type: none"> <li>▪ Analyze the burden of regulations, including the administrative burden and compliance costs for business, higher pricing for the community, and the regulator's costs;</li> <li>▪ Investigate the costs of alternatives to regulation. (Economic Analysis and Business Facilitation Unit Financial Secretary's Office "Be the smart regulator" pamphlet (undated))</li> </ul>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>✓ Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>In assessing regulatory impacts, subject bureaux/ departments will consult trade officials, as appropriate.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is</li> </ul>	<p>The Government has issued a <i>General Circular</i> to set out the policy and principles of public consultation and the importance of keeping the public informed of the results of consultation as general guidelines for all bureaux and departments. Generally, consultation papers are made available on the websites of relevant bureaux, departments or regulatory authorities, and are usually accompanied by press releases to inform the public.</p>

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<p>legal requirement established by law or high level decree/order</p> <ul style="list-style-type: none"> <li>✓ Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>A business consultation e-platform (<a href="http://www.gov.hk/en/theme/bf/consultation/calendar.htm">http://www.gov.hk/en/theme/bf/consultation/calendar.htm</a>) has been established under the GovHK portal to provide an additional channel for the business community to access relevant business consultation information on proposed new regulations, administrative measures and procedures that would impact on business and to provide their comments on the proposals directly to the government bureaux/departments concerned. The e-platform offers useful features such as business consultation calendar and subscription to receive updates as shown in the above diagram.</p> <div style="border: 1px solid #ccc; padding: 10px; margin: 10px 0;"> <p style="text-align: center; background-color: #f4a460; margin: 0;"><b>Business Consultation e-Platform</b></p> <ul style="list-style-type: none"> <li>• <b>Introduction</b></li> <li>• <b>Business Consultation Calendar</b></li> <li>• <b>Upcoming Consultation Exercises</b></li> <li>• <b>Current Consultation Exercises</b></li> <li>• <b>Archives of Consultation Documents &amp; Related Reports</b></li> <li>• <b>Subscription to Receive Updates</b></li> </ul> </div> <p>The BFAC has also provided an effective forum for the Government to consult the business sector on regulatory proposals and thrash out implementation details with a view to minimizing the regulatory impact on business. (APEC, Hong Kong China. Part II: Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>✓ Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>✓ Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>The “Be the Smart Regulator” Programme has recommended open and inclusive consultation-</p> <ul style="list-style-type: none"> <li>• Start early – before proposals are developed</li> <li>• Consult widely – include the views of industry, professionals, academics and the community</li> <li>• Use quantitative (surveys) and qualitative (interviews, focus groups, etc) techniques to gain a full understanding of different views</li> <li>• Provide easy access (typically Internet-based) to consultation papers, regulatory impact assessments, etc</li> <li>• Explain rationale for positive and negative decisions before they are taken on board</li> </ul>

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<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>The “Be the Smart Regulator” Programme recommends that regulators “explain the rationale for positive and negative decisions before they are taken on board.”</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>The HKC Government has implemented many of the GRPs recommended by APEC. Regulatory reviews are well designed and institutionalized. Business participation in reform is systematic and is based on Internet tools that should increase access and reduce cost of consultation. Full RIA study is not compulsory, but policy bureaux are advised to duly assess the impact on the business environment and the public at large before formulation of new policies and legislation. A focused approach called BIA is used to help reduce compliance costs to businesses to a minimum through refinement of regulatory proposals and introduction of mitigation measures while safeguarding public interests.</p>

## Indonesia

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<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Regulatory reform has had a prominent place in the governments' development strategy. The Plan for 2004-2009 listed priority reform areas which included (1) legal reform to establish a mechanism for review and reform of laws and regulations and improve transparency in legal enforcement and (2) better public services delivery by enhancing transparency, openness and accountability of civil service.</p> <p>These initiatives have generated important results, but reports have 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. (Advancing Regulatory Reform in Indonesia, 2009).</p> <p>As part of its efforts to develop a more systematic regulatory quality program, the government of Indonesia decided to undertake an Indonesia – OECD Review of Regulatory Reform in Indonesia 2011-2012 (see <a href="http://www.oecd.org/document/6/0,3746,en_33873108_39418603_47361030_1_1_1_1,00.html">http://www.oecd.org/document/6/0,3746,en_33873108_39418603_47361030_1_1_1_1,00.html</a>). This review is intended to assist the Indonesian Government in its efforts to improve the processes by which it makes and enforces regulations with the aim of supporting the interests of business and citizens, attracting and retaining investment, improving services and raising public welfare. The review will focus on issues directly relevant to GRP, such as the administrative and institutional arrangements for ensuring that regulations are effective and efficient and also consider regulatory policy, competition policy and market openness. The OECD review is a signal of government commitment to move forward with this agenda.</p> <p>Regulatory reforms to improve the investment climate are part of the National Medium-Term Development Plans 2010-14.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>✓ A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>✓ Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the</li> </ul>	<p>The National Legislation Programme (PROLEGNAS) is the legislation mechanism to issue new laws or to amend existing laws in a certain period of time. The output of this process is a list of priorities of bills (draft laws) which will be issued in the years 2010 – 2014. The list is issued every year by the Legislation Board of House of Representatives (DPR).</p> <p>The list of priority draft laws or PROLEGNAS can be accessed through the website of Ministry of Law and Human Rights at <a href="http://www.djpp.depukumham.go.id/prolegnas-2010-2014.html">http://www.djpp.depukumham.go.id/prolegnas-2010-2014.html</a> and <a href="http://bphn.go.id/prolegnas/">http://bphn.go.id/prolegnas/</a></p>

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regulation	<p>The PROLEGNAS is annually updated, based on Law No. 12/2011 on the Formulation of Laws &amp; Regulation. The Prolegnas consist of draft laws or bills from all Ministries/Bodies. It also covers lower lever/sub-ordinate regulations including local regulations issued under PROLEGDA, a legislation programme for local government.</p> <p>Prolegnas and Prolegda do not provide any information of potential costs of the draft laws &amp; regulations once they are implemented.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The mechanism to formulate laws and regulations is stipulated under Law No. 12/2011 on the Establishment of Legislation, issued to amend Law No. 10/ 2004. The Law is published by the Central Government but regulations can also be issued by local governments.</p> <p>The Law embraces the principles of transparency, public consultation, and efficiency. Article 5 of Law No. 12 of 2011 stipulates that rulemaking should be based on the good regulatory principles, including clarity of purpose (a), effectiveness and efficiency (e), and transparency (g). Article 96 of the Law stipulates the right of public to participate in rule making process, including to provide inputs through the means stated in the Law.</p> <p>The Law does not contain the principle of compliance with trade and investment commitments.</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>According to a 2009 report, Indonesian ministries and other governmental agencies, national and local, do not carry out regulatory reviews because of lack of human resources and technical ability to carry out large-scale and systematic regulatory review. “Regulatory review and evaluation are not parts of the ordinary working of Indonesian bureaucracies,” the report concludes. (Didik Prihadi Sumbodo and Ananta Dewandhono (2009) Regulatory Impact Assessments and the Private Sector in Indonesia (USAID))</p> <p>An <i>ad hoc</i> regulatory review program was initiated in 2007, which involved the regulatory review of 1000 regulations using a systematic filtering process. The Directorate for Analysis of Law and Regulation (Direktorat Analisa Peraturan Perundang-undangan or DAPP) led this review. A later review of this process recommended that such reviews broaden the review criteria to include stronger economic competitiveness criteria (compliance burden and economic inefficiency standards). (Advancing Regulatory Reform in Indonesia. Opportunities and challenges, 2009)</p> <p>In 2009, DAPP in BAPPENAS announced a new systematic initiative to inventory and simplify laws and regulations at the national and local levels.</p>



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	<p>The proposed approach will assign legal bureaus among ministries and local governments to form teams to catalogue and review all laws and regulations, with the aim of identifying problematic instruments that are hampering the achievement of development priorities. The review process was intended to be augmented with stakeholder consultations to develop actionable recommendations to revise, merge or revoke problematic laws and regulations. (Advancing Regulatory Reform in Indonesia, 2009)</p> <p>To improve the quality of local regulations and to prevent lower regulations from conflicting with higher regulations, the Ministry of Home Affairs, as well as the Ministry of Finance, has conducted analysis of several thousand local regulations. From 2001-2009, from a total of 13,387 regulations, 3,513 regional regulations were recommended to be revoked, and 1,878 were actually revoked because they created a high-cost economy and contradicted higher level regulations. For the year 2010, 407 regional regulations were revoked. The Ministry of Home Affairs will continue to gradually review 12,000 local regulations; about 3,000 regulations will be reviewed every year.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>• Accountable to the top political levels of government</li> <li>• Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>No central body is explicitly tasked with regulatory reform oversight. The Ministry of Justice and Human Rights, i.e. Directorate General of Legislation and National Law Development Agency are assigned with duties and responsibilities to guide and control the planning and formulation of laws and regulations. Some important functions of the Directorate General of legislation that could contribute to regulatory reform among others are: a) prepare policies relating to planning, methods, and technical design of the legislation, b) develop guidelines, norms, criteria, standards, and procedure for the preparation of legislation, c) coaching related to planning and formulations of legislations.</p> <p>As an elaboration of its task, in the context of regulatory reform, the National Law Development Agency duties and functions include: to develop and manage program plan of national legislation and to communicate it to the public through public consultation.</p> <p>The enactment of Law No. 12/2011 also stated that all upcoming regulations must be on the list of Prolegnas' upcoming regulations in which the Ministry of Law and Human Rights will act as the Leading Sector.</p> <p>Although Indonesia has not created a central regulatory reform management capacity, it has created regulatory reform responsibilities that are managing elements of the GRP agenda. The difficulty of managing government-wide reforms was recognized by the government in 2011, "The factors that might be considered as the impediment of reforms are the problem of coordination</p>

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	<p>among related agencies and between central government and local governments. In addition, the abundant numbers of regulations which might be conflicting one and another are also a kind of obstacle in reforms.” (Indonesia: 2011 APEC Economic Policy Report at <a href="http://publications.apec.org/publication-detail.php?pub_id=1153">http://publications.apec.org/publication-detail.php?pub_id=1153</a>)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Trade and competition principles are integrated into regulatory reviews and analysis for Laws related to trade or investment. Consultation with trade authorities is conducted for laws and regulations related to trade and investment.</p> <p>The Indonesian Commission for the Supervision of Business Competition (KKPU) undertakes policy advocacy and recommendations, which have reformed government policies and regulations into the policies and regulations which accommodate competition. However, competition analysis is not integrated into the development of new laws and regulations.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>The Indonesian government as a whole has yet to adopt the Regulatory Impact Analysis (RIA) tools recommended by APEC, although the private sector continues to request that this tool be adopted. Some government institutions have adopted this tool. A 2009 report stated that</p> <p style="padding-left: 40px;">Regulatory impact analysis was introduced to the Indonesian national government, via the then Ministry of Industry and Trade by the 2002 ADB Deregulation and Competition Project. The Project produced a training manual and trained a cadre of Ministry officials in the methodology. The manual was translated into Bahasa Indonesia, and the manual, along with revised Indonesian iterations of it, remains in circulation for government use. Through this effort, the idea of regulatory review and regulatory impact analysis secured a small foothold in at least one ministry. Today, the research arm of the current Ministry of Trade, Litbang, uses this form of cost/benefit thinking in its policy analytic work. To date, it has conducted two substantial regulatory impact analyses, one on rattan and the other on cocoa. More importantly, it has adopted a cost-benefit mindset in its consideration of regulations. (Didik Prihadi Sumbodo and Ananta Dewandhono (2009) Regulatory Impact Assessments and the Private Sector in Indonesia (USAID))</p> <p>Several local governments have adopted RIA i.e. Pare Pare, Sragen.</p>

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	<p>Yogyakarta Municipality and Gorontalo Province.</p> <p>Recently, Law No. 12 of 2011 mandates that the formulation of law must consider its impact, i.e. its efficiency and effectiveness in solving a problem in the society. To be included in the National Legislation Program, bills must meet certain criteria set up by the National Law Development Agency. Among these requirements is a legal document, the Academic Manuscript. A representative Academic Manuscript shall contain a problem identification, proposed problem solving, and potential benefit and cost (at least qualitative) of the proposed law.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The Academic Manuscript may not contain a non-regulatory option, as the content of the Manuscript normally is directed to support the regulatory option, rather than non-regulatory options.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>Yes, in part. To support the function of the National Development Planning Agency in the planning and budget allocation for formulating laws in a rational way, the Directorate of Analysis of Laws and Regulations, Bappenas, has devised a special tool for regulatory analysis. It contains various criteria, among others to identify the positive as well as negative impacts of laws and regulations on society and on the state budget.</p> <p>These regulatory analysis tools have also been introduced and consulted by Bappenas to Provinces, Regencies, Municipalities, Mayoralties to conduct self-assessment on problematic regulations for further follow-up, either revision, revocation, amendment or improvement.</p> <p>A RIA manual was produced by the Ministry of Industry and Trade about 10 years ago, and is available for general government use, but has not been formally adopted government-wide, since RIA is not used in most institutions.</p>

Indonesia	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Alternatives to regulation are not systematically assessed.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>The public has the right to participate in the formation of laws and regulations, as ensured in Article 88 of Law 12 of 2011. Public consultation is conducted in either draft laws and regulations process using the measures mentioned above, including putting the draft laws and regulations on the website, conducting public meeting, and others. However, comments and inputs from public for laws and regulations are not yet commonly documented, except for comments and inputs for draft laws initiated by DPR.</p> <p>In 2009, USAID through APEC-Technical Assistance and Training Facility (TATF) conducted a research study on “Improving Public Consultation in the Rulemaking Process” on three Indonesian agencies: Ministry of Finance, Ministry of Communication and Information and Ministry of Trade. The study found that forms of consultation have been used in formulating new draft laws and new regulations. The following forms of consultation were reported by all three ministries as being used frequently but not all in every case:</p> <ul style="list-style-type: none"> <li>• Preparation of the academic analysis of the draft laws and regulations; academic analysis study must be attached to the draft laws &amp; regulations.</li> <li>• Small group meetings with experts and stakeholders including university experts, business associations and NGOs</li> <li>• Posting of a draft on department’s website with invitation for comments</li> <li>• Public hearings, meetings, and workshops to which public is invited</li> <li>• Focus group discussion</li> <li>• Hiring of external consultants</li> <li>• Random surveys of community members.</li> </ul> <p>The Indonesian process of “socialization” is considered to be a part of public consultation. This is a process whereby a government agency explains to the stakeholders about a draft law or regulation or policy that is being considered to be adopted. This process continues to be carried out after a new law or regulation is approved. “Socialization” is used as one way to solicit</p>

Indonesia	
	<p>comments from the public on the draft law or regulation and also for implementing regulations once they approved. Socialization of the (draft) Laws &amp; Regulations is conducted under the coordination of the House of Representatives and the related Ministries/Agencies.</p> <p>The mechanism of public consultation as mentioned above based on the Law No. 12/2011 on Formulation of Laws &amp; Regulations (which amends Law No. 10/2004 of the same subject)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There are no governing guidelines in more detail about the procedures for public consultation.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>In accordance with Article 96 of Law No.12 of 2011, public input on draft laws and regulations can be done either orally or in writing through public hearings, during parliament working visits, socialization, and / or seminars, workshops, and / or discussion. Public input is to be reported by the formulating institutions to the Parliament. Public input has not been published in a web portal.</p>
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving</p>	<p>In recent years, Indonesia has moved to implement a broader and broader program of regulatory reform that reflect some of the GRPs recommended by APEC. Its work to create leadership units for regulatory reform, to review a number of regulations using a systematic process, and to improve</p>

Indonesia	
in the right direction, regardless of its starting point?	stakeholder consultation since 2009 are important advances. Its invitation to the OECD to conduct a national review of regulatory practices should provide the basis for a sustainable program of regulatory reform.

## Japan

Japan	
<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>The Japanese government has, over a period of years, adopted numerous programs of regulatory reform aimed at reducing high domestic costs to improve competitiveness and increase consumer purchasing power, removing barriers to development of new growth sectors, and improving Japanese consumers' quality of life. It has worked through a series of regulatory reform packages.</p> <p>A study by the Cabinet Office indicates that these regulatory and institutional reforms in 15 areas between 2005 and 2008 had created 5.4 trillion yen of consumer benefits. (Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011) Most recently, under the "Regulatory Reform 100 to Revitalize Japan" program, the Government has said it will "strenuously implement the regulatory and institutional reforms, including frontloading already-determined ones, that are highly effective in creating demand and jobs... In addition, in FY 2011, it will tackle such additional tasks as change the rules that stifle potential demand, mainly with regard to regulatory and institutional frameworks related to the New Growth Strategy." (Government of Japan. The Three-Step Economic Measures for the Realization of the New Growth Strategy, Emergent Action to Currency Appreciation and Deflation. September 10, 2010)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>Japan does not publish an annual legislative or regulatory plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <p>✓ Published by the center of government</p> <p>✓ Principles on transparency/consultation</p> <p>✓ Principles on efficiency/analysis</p>	<p>Japan adopted a series of "good regulation" principles in 1998 that continue to fundamentally guide the regulatory reform program. The Three year Programme for the Promotion of Deregulation adopted by the Cabinet in March 1998 and revised in March 1999 set out explicit objectives and a set of core strategic goals aimed at achieving them. The objectives are to:</p> <ul style="list-style-type: none"> <li>• Implement fundamental reforms in Japan's socio-economic structures;</li> <li>• Create a free and fair socio-economic system which is fully opened to the</li> </ul>

Japan	
<ul style="list-style-type: none"> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>world and based on rules of accountability and market principles; and</p> <ul style="list-style-type: none"> <li>• Transform administrative stance from a priori regulation and supervision to ex post facto checking and scrutiny.</li> </ul> <p>The policy direction is explicitly market-based. The guiding principles for the pursuit of these objectives provide more operational indications of what is meant by regulatory reform. They are:</p> <ul style="list-style-type: none"> <li>• As a rule, economic regulations shall be lifted and social regulations minimized as regulations are abolished or otherwise relaxed;</li> <li>• Regulatory arrangements shall be rationalized, such as by the transfer of inspection functions to the private sector;</li> <li>• Regulation shall be simplified and rendered more specific;</li> <li>• Regulation shall be modified so as to conform to international standards;</li> <li>• Regulatory procedures shall be speeded up; and</li> <li>• Transparency shall be increased in the procedures for introducing new regulations. (OECD, Regulatory Reform in Japan, 1999, Paris)</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>✓ Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Since the 1990s, the Japanese government has promoted a rolling 3-year program of regulatory reviews called the Three-Year Programs for Promoting Deregulation, which have reviewed thousands of regulations in various economic activities and sectors.</p> <p>In 2010, the government launched intensive regulatory reviews in five strategic fields: acceleration of urban revitalization and investment in housing; promotion of investment in and use of the technologies related to the environment and energy; creation of demand and jobs in the medical and nursing care sectors; local revitalization activities such as tourism promotion; and economic strategies to open Japan wider to the outside world. An interesting regulatory review program in Japan was organized around the concept of special zones for structural reform. These are specially designated zones, established at the initiative of local governments or private businesses, where special regulatory measures tailored to local conditions are brought in.</p> <p>The Special Zones for Structural Reform initiative, the idea of allowing specific geographical areas to act as a testing ground for regulatory changes, was first proposed by advisory councils comprised of private sector members representing businesses and academia. Under this initiative, interested parties, such as local governments, private firms and citizens, are invited to submit regulatory reform proposals, which are then reviewed by a committee of cabinet ministers. Many of such proposals have been accepted, while others have been rejected. Examples of successful reforms include:</p> <ul style="list-style-type: none"> <li>• Kita-kyushu international physical distribution special zone: special measures including relaxed land use regulation has attracted new businesses with 190 billion yen of new investment and 4,800 new employments.</li> </ul>



Japan	
	<ul style="list-style-type: none"> <li>• Shodoshima • UchinomiTown olive promotion special zone: special measures to allow leasing of agricultural land to corporations have vitalised agricultural activity and tourism.</li> <li>• Kobe advanced medical industry special zone: special measures to accept foreign researchers have attracted new businesses including university-launched venture businesses.</li> <li>• Ota foreign language special zone: establishment of an integrated elementary and secondary school where most of the curriculums are taught in English has proved to be very popular. (Economy and FOTC Responses to the LASIR Stock-Take Survey, 2011)</li> </ul> <p>By advancing structural reform in the region where they are located, reform zones are designed to stimulate the local economy and by extension that of Japan as whole</p> <p>(<a href="http://www.cao.go.jp/en/minister/specialzones.html">http://www.cao.go.jp/en/minister/specialzones.html</a>)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>✓ Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>Since the 1990s, Japan has had a long-standing program of regulatory reform, with many different bodies created to design and promote programs of reform. Before 2010, the Council for the Promotion of Regulatory Reform, an advisory body to the Prime Minister, deliberated important issues on regulatory reform. It also took over the functions of Market Access Ombudsman Council. The Council worked in close cooperation with the Headquarters for the Promotion of Regulatory Reform headed by the Prime Minister and made up of the full Cabinet. (<a href="http://www.cao.go.jp/en/reform/reform.html">http://www.cao.go.jp/en/reform/reform.html</a>) The Council on Regulatory Reform (CRR) in the Prime Minister's office has helped to consolidate support for the government's agenda since 2000.</p> <p>Since March 2010, regulatory and systematic reform is being handled by the Government Revitalization Unit, working with a new National Policy Unit that reports directly to the Prime Minister and acts as a command center to promote cross-ministerial planning and coordination. The NPU was created in 2009. The Government Revitalization Unit has taken over coordination of regulatory reform specifically.</p> <p>The Government Revitalization Unit's subcommittee on regulatory and institutional reforms will hold further discussion on regulatory and institutional frameworks in general, including the items specified in the New Growth Strategy and this economic measures from the perspective of responding to changes in the trend of the times (Government of Japan. The Three-Step Economic Measures for the Realization of the New Growth Strategy, Emergent Action to Currency Appreciation and Deflation. September 10, 2010)</p>

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<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>Trade and competition principles are included in most regulatory reviews. Trade and competition principles are not explicitly included in regulatory analysis. EU partners have stated that “better integration of the need to avoid trade restrictiveness into the regulatory system would enhance the business environment and help avoid disputes with trading partners.” (EU Proposals for Regulatory Reform in Japan, 2009)</p> <p>The Implementation Guidelines for Ex-ante Evaluation of Regulations indicate that if it is apparent that the enactment, or revision or abolition of regulations has impacts on trade or competition, such impacts shall be described qualitatively. Since April, 2010, the ministries and agencies have started filling out a checklist on the understanding and analysis on the impacts on competition as a trial when they conduct an ex-ante evaluation of regulations. The Japan Fair Trade Commission is contributing to the task by providing consultation when ministries and agencies fill out the checklist.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>✓ Baseline or future trends in the problem are identified</li> </ul>	<p>The Government decided to prepare for future introduction of RIA as part of the Three-year Plan and Programme for Regulatory Reform of March 2004. RIA was then experimentally started in Japan. The Programme called for RIA to be conducted by Ministries and Administrative Agencies on planned and existing regulations, beginning in 2004, as appropriate. In 2005, the Government published the Basic Guidelines for Implementing Policy Evaluation to strengthen the evaluation system; this publication (and other relevant administrative decisions) stipulated the introduction of RIA.</p> <p>Implementation was meant to be done at the level of individual regulatory bodies without quality control by higher level bodies. Some individual regulatory bodies have implemented RIA. For example, the 35th meeting of the Price Stability Policy Council on 27 October 2004 proposed that guidelines on RIA in the public utility fees sector be drafted. RIA guidelines were drafted, although the extent to which they are currently applied is unclear. The RIA guidelines drafted by the Council are based on the US and OECD approaches, and represent good practice.</p> <p>In its review of 2005, OECD stated that the text of the Plan does not indicate the criteria to be employed. The plan implies, rather, that formal, binding obligations regarding RIA will emerge from an experimental, introductory phase. The OECD felt that training programs were needed, and that the government should consider establishing a center-of-government unit which could monitor the progress being made in ministries to introduce and diffuse RIAs. (OECD Reviews of Regulatory Reform. Japan. Progress in</p>

Japan	
	<p>Implementing Regulatory Reform, 2005)</p> <p>In 2007, RIA was formally adopted in Japan. Policies that require mandatory RIA are policies intended to enact, or revise or abolish regulations as stipulated in item (vi) of Article 3 of the Order for Enforcement of the Government Policy Evaluation Act (Cabinet Order No. 323 of 2001). The extension of RIA to all important regulations is still under discussion.</p> <p>RIA guidelines were published in the 2007 <i>Implementation Guidelines for ex-ante Evaluation of Regulations</i>. The RIA shall begin with: “The existing status and problems of regulations shall be explained specifically and clearly, including the current system and policy structure (clarifying related clauses and their contents), causes of the problems, inconvenience caused by the maintenance of the existing status, and future possibilities. “</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The 2007 Implementation Guidelines require that “alternatives shall be presented and compared with each other” and that “If possible, non-regulatory means shall be presented as alternatives. In the case of deregulation, if the regulation in question is possibly abolished, its abolition shall be subject to comparison as an alternative in principle.” The evaluation report shall be structured with the following sections:</p> <ol style="list-style-type: none"> <li>1. Purpose, contents and necessity of regulations</li> <li>2. Costs of regulations</li> <li>3. Benefits of regulations</li> <li>4. Results of policy evaluation (such as analysis of cost-benefit relationship)</li> <li>5. View of experts and other related matters</li> <li>6. Time or conditions for review</li> </ol> <p>The analysis should attempt to judge “whether benefits to be generated by regulations can justify costs arising from such regulations.”</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as</li> </ul>	<p>The Implementation Guidelines for ex-ante Evaluation of Regulations recommends that regulators use cost-benefit analysis, converting benefits and costs into monetary values. It recommends that,</p> <p style="padding-left: 40px;">If quantitative prediction is difficult, qualitative analysis shall be conducted, requiring clear explanation based on the importance of each element. If costs and benefits are predictable quantitatively but difficult to convert into monetary value, cost-effectiveness analysis may be conducted.</p> <p>As noted, the guidelines indicate that if it is apparent that the enactment, or abolition of regulations has impacts on trade or competition, such impacts shall be described qualitatively.</p>

Japan	
<p>effects on trade or competition are described qualitatively</p> <ul style="list-style-type: none"> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>The government has not adopted a standard RIA method that includes trade impacts. In January 2011, the WTO found that:</p> <p style="padding-left: 40px;">While administrative organs are required to conduct ex-ante evaluation of regulations, and a procedure for ex-ante regulatory impact analysis has been introduced, cost-benefit analysis is not frequently used when formulating, revising, or abolishing policies and measures; such analysis is rarely used to evaluate existing measures, such tariff and non-tariff protection of agriculture, or to evaluate the economic effects of preferential trade agreements (PTAs). ... Publication of such quantitative analysis by the Government can help it adopt trade and related policies and measures that are more cost-effective.” (WTO, TRADE POLICY REVIEW, Japan, Report by the Secretariat, January 2011)</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>Public comment procedures for new regulations and revisions to existing regulations went into effect in April 1999. The Public Comment Procedure of 1999 sets out regulations for the implementation of a system for public comments within the rulemaking process. Within that general framework, ministries and agencies were to establish consultation procedures. For example, METI confirmed in 2001 that, “In the development of cabinet orders, ministerial ordinances, notifications and other measures related to energy, METI will, to the extent possible, allow a 30-day comment period, and where appropriate and possible, a longer time period.”</p> <p>The public comment procedures were required by law in 2006. The Revised Administrative Procedure Law, which entered into force in April 2006, requires ministries and agencies to publish draft regulations for comments from the public. The revised law stipulates that ministries and agencies must publish draft regulations (including draft cabinet orders or ministerial orders) and receive comments from the public; they must allow, in principle, at least 30 days to receive comments from the date of publication of the draft.<sup>1</sup> Ministries and agencies are required to consider the comments submitted by the public</p>

<sup>1</sup> If the authorities decide that comments are required within less than 30 days of publication, they must publish the reason for their decision.

Japan	
	<p>and must publish these comments, as well as the result of the consideration by the ministries and agencies, and the reason for this result. (WTO, TRADE POLICY REVIEW, Japan, Report by the Secretariat, January 2011)</p> <p>Public comment gathering in Japan is conducted largely via the Internet. An e-government portal site has a special column of ‘comments’ where comments can be posted and reviewed. (<a href="http://www.e-gov.go.jp/">http://www.e-gov.go.jp/</a>)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>✓ Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>The target period for consultation is 30 days, but in practice it is not mandatory.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>✓ Feedback is published on the Internet Web portal</li> </ul>	<p>Feedback is published on an e-government portal site (e-Gov: <a href="http://www.e-gov.go.jp/">http://www.e-gov.go.jp/</a>). The Administrative Procedure Act (APA) Article 43 and public notice pursuant to APA require ministries and agencies to publish the comments submitted by the public, the result of the consideration by the ministries and agencies, and the reason for this result on "the e-Gov" site.</p>

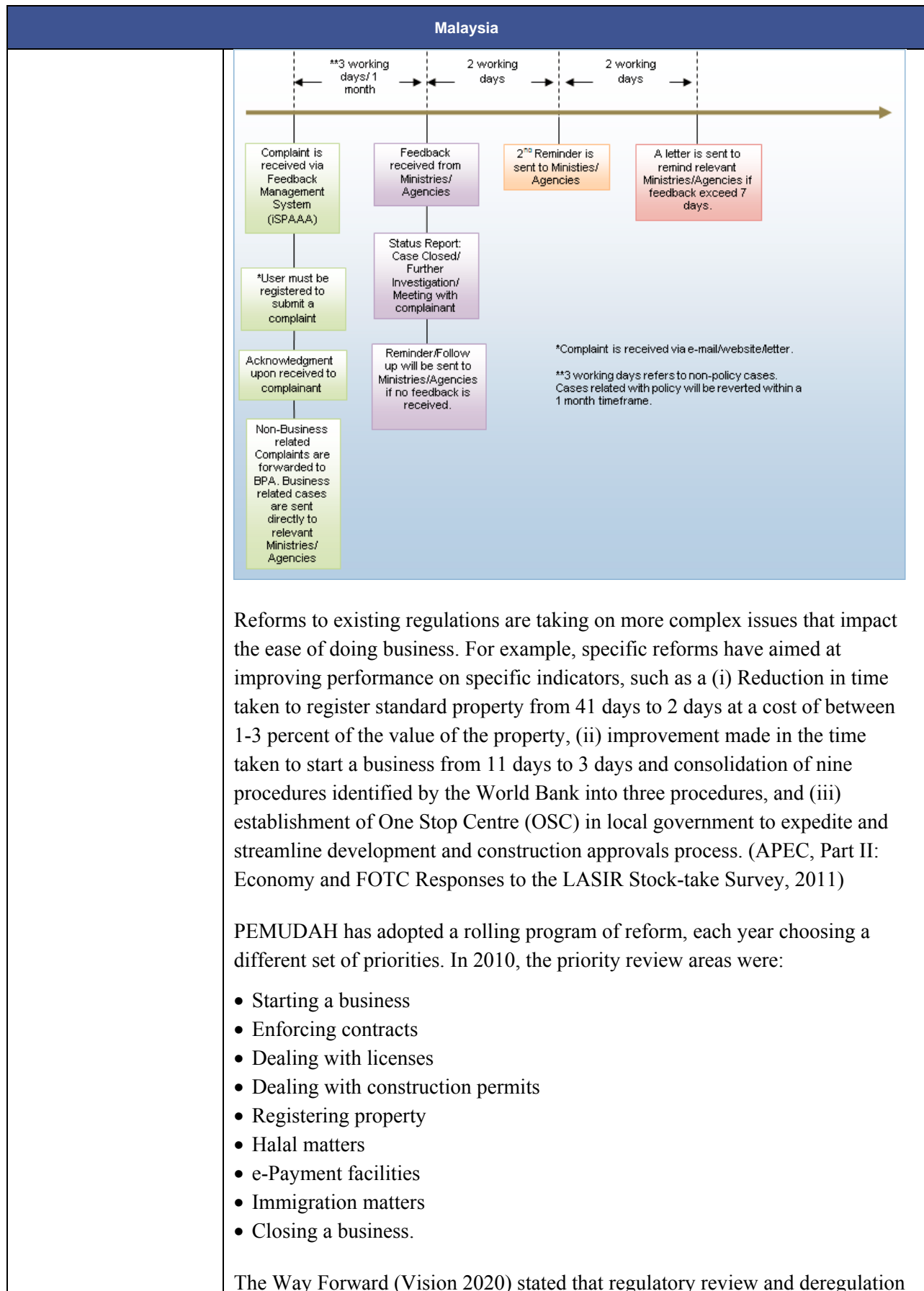
Japan	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Japan has taken a series of steps over more than 15 years that are consistent with the GRP recommended by APEC. The legal and policy framework for GRP is largely in place, such as for RIA and stakeholder consultation. The OECD has praised the framework, but concluded that “sustained, comprehensive action is needed to ensure the thorough implementation of measures already taken, to broaden the constituencies in and out of government supporting the regulatory reform agenda, reinforcing procedures and institutional capacities to ensure that good regulatory practices become integral to the culture of the public administration. A whole-of-government approach is one of the main challenges for Japan’s next three-year Program for Regulatory Reform.”</p>

## Malaysia

Malaysia	
<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>Malaysia has progressively moved toward adoption of the GRP principles recommended by APEC through a series of national plans such as the Economic Transformation Programme, the Government Transformation Programme and the Strategic Reform Initiatives outlined in the New Economic Model.</p> <p>In supporting the work of the Special Taskforce to Facilitate Business (PEMUDAH), a public-private sector partnership with the mandate to promote an easier business environment, the Prime Minister articulated in 2010 that “Its central aim was to inject a sense of urgency into the way government works with business; to ensure business is facilitated and not bogged down in red tape; that remnants of corruption are rooted out; and, that only so much regulation as is necessary is in place, and no more.” (Public Private Sector Collaboration: Towards a globally competitive Malaysia. Annual Report of Pemudah, 2010)</p> <p>The national regulatory strategy in Malaysia is progressively more complex, taking on regulatory quality issues that are at the heart of the GRP tools.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The government does not publish an annual regulatory or legislative plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>• Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency/coordination with other legal instruments</li> <li>• Principles on compliance with trade</li> </ul>	<p>The government of Malaysia has not adopted regulatory principles specifically based on GRP, but has adopted reform principles that are relevant to GRP. The current principles underlying the work of PEMUDAH are:</p> <p>To achieve a globally benchmarked, customer-centric, innovative, entrepreneurial and proactive public and private sector delivery service in support of a vibrant, resilient and competitive economy and society, driven by the following values:</p> <ul style="list-style-type: none"> <li>▪ A sense of urgency</li> <li>▪ Proactive public-private sector collaboration</li> <li>▪ Facilitation, not hampering</li> <li>▪ No more regulation than necessary</li> <li>▪ Zero tolerance for corruption (<a href="http://www.pemudah.gov.my/297">http://www.pemudah.gov.my/297</a>)</li> </ul>

Malaysia	
<p>and investment commitments</p>	<p>The government has recognized that it should build on these principles for the longer term. A paper prepared by the National Economic Advisory Council stated:</p> <p style="padding-left: 40px;">The Government needs to lay out a comprehensive regulatory reform program to build a seamless national economy and unleash productivity through a continuous program that ensures policy consistency, maintains regulatory certainty and clarity, targets lower transaction costs and fosters competition and innovation. An effective and coherent regulatory framework will facilitate and enable the efficient allocation of resources and ease Malaysia’s entry into and linkage with the global supply chain... the challenge is to incorporate [good regulatory principles in a more rigorous fashion in existing regulations or to extend them to new areas of regulation (SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy, Group A of the National Economic Advisory Council (NEAC))</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Regulatory reviews in Malaysia are intended to address emerging regulatory problems. The private sector has complained that Malaysia’s existing regulatory framework has over time become unnecessarily burdensome, complex, inconsistent, redundant or duplicative. This has resulted in a structure that is costly, and hinders and obstructs private sector participation in the economy. (SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy, Group A of the National Economic Advisory Council (NEAC))</p> <p>Regulatory reviews were initially focused mostly around 1) complaints from businesses and citizens and 2) the regulations and procedures included in the Doing Business agenda. PEMUDAH has organized a complaints process that drives reviews of specific regulatory issues. Its “Client Charter” works as follows (<a href="http://www.pemudah.gov.my/490">http://www.pemudah.gov.my/490</a>):</p>





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	<p>will continue indefinitely, explaining:</p> <p>The process of deregulation will continue. There can be no doubt that regulations are an essential part of the governance of society, of which the economy is a part. What is not required is over regulation although it may not be easy to decide when the Government is over regulating. Wisdom lies of course in the ability to distinguish between those laws and regulations which are productive of our societal objectives and those that are not; and it lies in making the right judgments with regard to the trade-offs. In this light and given the fact that there are clear areas of unproductive regulation which need to be phased out, you can expect the process of productive deregulation to continue.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>✓ Clear goals set</li> <li>✓ Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>There is no dedicated regulatory reform unit inside the government . The National Economic Advisory Council recommended in 2010 that, “To ensure continuous follow-up and effective implementation of the regulatory reform initiatives, a dedicated deregulation unit should be established and housed within the Ministry of Finance to ensure accountability and effective incentive to implement.” SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy, Group A of the National Economic Advisory Council (NEAC))</p> <p>PEMUDAH is intended as “a formal and permanent channel for the business community to have a say in the enhancement of public service delivery.” Reporting directly to the Prime Minister, the team comprises 23 individuals from the private and public sectors. It was recognized that a concerted cross-ministerial initiative was needed to effect greater improvement in the way government regulates businesses.</p> <p>This task force assumes advisory and advocacy roles as it cooperates with Ministries/Agencies, states and local governments in recommending, implementing and overseeing any reforms initiatives to enhance Malaysia’s business environment. Under PEMUDAH, various task forces and focus groups are also established to help identify areas of improvements and undertake reforms process more effectively. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011). Its mandate is to deliver the following:</p> <p>To review the status of the public services delivery system in terms of processes, procedures, legislation and human resource towards introducing improvements;</p> <ul style="list-style-type: none"> <li>▪ To benchmark best practices to improve the ease of doing business;</li> <li>▪ To enhance collaboration among public and private sector agencies to improve Malaysia’s competitiveness;</li> <li>▪ To monitor the implementation of policies, strategies and procedure that would improve the efficiency and effectiveness of the public and private sector delivery system; and</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ To take appropriate action to address issues in line with the National philosophy of Malaysia, People First, Performance Now. (see <a href="http://www.pemudah.gov.my/297">http://www.pemudah.gov.my/297</a>)</li> </ul>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Trade and competition principles are not explicitly integrated into regulatory reviews and analysis.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>Malaysia has not adopted a formal regulatory impact assessment program. It does encourage a structured decision-making process that contained some elements of the standard RIA approach, such as:</p> <ul style="list-style-type: none"> <li>• Adequately defining the problem.</li> <li>• Consultation (of all affected parties)</li> <li>• Alternatives considered? Best approach selected? (Good Regulatory Practice. Malaysia's Experience. WTO TBT Committee Workshop on Good Regulatory Practice, 2008)</li> </ul> <p>The National Economic Advisory Council has recommended that Malaysia adopt mandatory RIA: Each Ministry, department or agency sponsoring a new regulation should be responsible for issuing a RIA which will accompany the draft of this regulation. The RIA statement should demonstrate that the proposed regulation is preferred over other policy tools to achieve the objectives, describe the stakeholder consultations which have taken place and explain the strategy to ensure compliance and enforcement. To increase the accountability of the regulators, the RIA must be a public document which is open to scrutiny by politicians, watchdog groups, industry associations and members of the public. (SRI 1+ SRI 7: Re-energising the Private Sector to Drive Growth, Revising the Regulatory Framework for an Advanced Economy, Group A of the National Economic Advisory Council (NEAC))</p>

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	<p>Rather than RIA, the government uses a process of public discussion and debate, supported by research. Many ministries adopt an open policy and encourage feedback from the private sector or public with regards to problems faced on a daily basis. Issues raised by them are brought forth by members to be discussed in forums such as the PEMUDAH meeting in attendance of various ministries and agencies with the authority to make decisions pertaining to those issues. Subsequent to the discussion of the issues raised at length, the relevant Ministry or Agency will carefully undertake a study and evaluate the suggestions raised during the meeting to determine the cost and benefit of such a proposal. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>While RIA is not conducted, the government has encouraged reformers to consider other regulatory and non-regulatory designs that might achieve public purposes more efficiently. For example, the 9th Malaysia Plan 2006-2010 encouraged a range of other policy instruments:</p> <p style="padding-left: 40px;">Statutes and regulations will be reviewed to further simplify and eliminate cumbersome regulations and procedures. More self-regulation approaches will be considered to ensure faster approvals for business permits and licences while promoting greater transparency. Efforts will also be undertaken to empower professional bodies to monitor and certify compliance with administrative and statutory provisions. Similarly, more disclosure-based regulations will be adopted to promote transparency as well as to expedite approvals, permits and licenses for various commercial transactions. (Good Regulatory Practice - Malaysia's Experience. WTO TBT Committee Workshop on Good Regulatory Practice, 2008)</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically</li> </ul>	<p>Malaysia does not use a structured approach for RIA.</p>

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<p>compared for every option examined</p> <ul style="list-style-type: none"> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not explicitly included in the RIA, but might well be discussed with stakeholders.</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>Malaysia has not adopted a mandatory and standard approach to consultation across the government. The stakeholder consultation process is decided by the agencies responsible, and is not mandated by law. The government is committed to improve consultation. In 2008, the government committed to “further enhance the level of consultation with the private sector on new policy initiatives and legislation that impact their activities. In this regard, the Government will, wherever possible, publish and make available to the private sector proposed policy initiatives and draft legislation for comments and inputs. (Good Regulatory Practice: Malaysia’s Experience. WTO TBT Committee Workshop on Good Regulatory Practice, 2008). According to the government, engagement of the relevant stakeholders is necessary to garner the necessary support for the successful implementation of reforms.</p> <p>Most government agencies practice consultations with relevant stakeholders as and when necessary during the planning stage for important public policies. Formal dialogues are held with relevant associations to obtain feedback and proposals to undertake necessary improvements measures so as to ease raise the impediments faced by the business community. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is</li> </ul>	<p>Standardized consultation procedures and minimum consultation standards have not been adopted. The National Economic Advisory Council has recommended that “Public consultation should be made mandatory as part of the process for introducing new regulations.”</p>

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<p>at least 60 days</p> <ul style="list-style-type: none"> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Not at this time.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>The government of Malaysia is moving forward with a series of reforms that represent key principles of GRP recommended by APEC. Much of the energy of regulatory reform is focused on regulatory review of existing regulations, which is an important task that can produce significant benefits for the economy. The government has recognized that a future challenge is building a regulatory management system, which will require a longer process of creating Knowledge and skills within the regulatory agencies and processes to support the GRP quality principles.</p>

## Mexico

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<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>✓ A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Mexico has embedded the GRP strategy into its legal system with adoption of an important administrative procedure law over ten years ago, and creation of new institutions with mandates to promote good regulation. This legal framework is supplemented by political statements and refinements made by every Mexican President since the 1990s. The regulatory reform program is thoroughly integrated into the economic and competitiveness strategies of the country, and has taken on other dimensions such as transparency and quality of the public sector. Rather than a single strategy, Mexican regulatory reform is based on a series of good governance and good economic strategies.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>✓ A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>✓ Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>Mexico has included in its Regulatory Improvement Program a mechanism to describe future regulations. The Biennial Programs give a clear forward-looking approach to new regulations. The process works as follows: One or two months before the previous two-year programs are completely executed, COFEMER submits to every regulatory agency a manual for elaborating the new regulatory programs. This manual contains the new outlines that every program must include, to be published in the Official Gazette, such as: a list of the formalities that will be created, eliminated or streamlined, a list of high impact formalities to be streamlined, and a list of federal regulations that will be created, modified or cancelled (including laws, lower level rules, decrees, technical standards, etc.). Each regulatory agency prepares a first draft which is submitted to COFEMER, which then is posted for public comments on COFEMER's Web site (<a href="http://www.cofemer.gob.mx">www.cofemer.gob.mx</a>) for at least thirty days.</p> <p>After the period of public consultation, COFEMER sends to each ministry and decentralised agency its own comments to the programs as well as public comments received. Each regulatory agency then makes any corresponding changes to its program or explains the reason to reject them, and then publishes the final version in the Official Gazette within a month. Every six months each agency must submit to COFEMER a report on compliance with the program and possible modifications to the programs are assessed.</p> <p>The importance of the two-year regulatory programs lies in the fact that every regulatory agency institutes a discipline of periodical review and planning of the regulatory framework and its amendments. The regulatory programs help to achieve the central purpose of the federal regulatory improvement policy: to create and to modify regulations and formalities according to processes based on planning, transparency, analysis of potential</p>

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	<p>effects, and public consultancy, in order to obtain the highest social benefit. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform)</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>✓ Principles on consistency /coordination with other legal instruments</li> <li>✓ Principles on compliance with trade and investment commitments</li> </ul>	<p>Mexico has issued a series of principles guiding regulatory reform over the past 15 years, incorporating most of the GRP principles recommended by APEC. The most important instrument in creating the framework for regulatory reform was the Federal Administrative Procedures Law (<i>Ley Federal de Procedimiento Administrativo</i>, LFPA), which institutionalized a wide-ranging regulatory improvement program that extended regulatory policy.</p> <p>These principles are reiterated and further developed with each new administration. For example, in 2007, President Calderón issued the Presidential Regulatory Quality Order (RQO or <i>Acuerdo de Calidad Regulatoria</i>), aiming at:</p> <ul style="list-style-type: none"> <li>• guaranteeing that regulations do not affect citizens or productive activities; and</li> <li>• inhibiting overregulation that hinders investment, employment and, in general, competitiveness.</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>✓ Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Mexico's review of administrative procedures in the 1990s, using the guillotine approach, was one of the great regulatory reform successes of that decade. Mexico succeeded in eliminating almost half of all administrative procedures and simplifying almost all of those that remain. The regulatory reforms carried out in the 1990s were important part of the economic success of Mexico in the NAFTA era.</p> <p>Regulatory review continues to be an important part of the Mexican regulatory reform strategy. For example, the Federal Administrative Procedures Law requires each Federal Ministry and governmental agency to prepare and submit to COFEMER (the central regulatory reform agency), at least every two years, a biennial regulatory improvement program in order to: (i) assess and report on regulatory reform progress and, accordingly, (ii) plan in advance the new regulatory reform measures to be taken.</p> <p>Currently, the <i>Proceso Marco</i> process entails assessment of existing laws, regulations and policies in key sectors and areas, and the crafting of proposals to reduce the administrative burden to firms by improving the regulatory framework, fostering economic competition, and thereby enhancing productivity and economic activity.</p> <p>In order to separate political considerations from the technical analysis, the project includes a High Level Consultative Group (HLCG) and a Technical</p>



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	<p>Group.</p> <p>Proceso Marco plays a catalytic role in stimulating discussion on reform proposals and accelerating reform by all actors. In order to take bigger steps to improve the sectoral regulatory framework, coordination with the Ministry of the Economy and sectoral regulators has been critical. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>Experience from Mexico's last five years in regulatory reviews shows that joint efforts with relevant actors helps to foster competitiveness, as it is an efficient way of sharing ideas, conveying concerns and designing strategies to properly address those concerns. Regulatory reform in Mexico has developed important tools to make the participation of the public sector more efficient.</p> <p>It is also important that Proceso Marco guarantees the independence of experts group analysis by avoiding interference from interest groups, while providing the high level political commitment to carry out necessary actions.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Federal Regulatory Improvement Commission (<i>Comisión Federal de Mejora Regulatoria</i>, COFEMER) plays an oversight role to ensure regulatory quality and works as an “engine of reform” in the Executive branch. The Ministry of the Public Administration is responsible for regulatory improvement within the public sector as well as for coordinating the general modernisation process of the federal public administration.</p> <p>COFEMER, headed by a General Director directly appointed by the President, coordinates arrangements with Ministries and federal agencies, increasing responsibility and discipline in the regulatory process. It implements regulatory policies across levels of government through agreements with state governments. It has set up the Rapid Businesses Start-up System (<i>Sistema de Apertura Rápido de Empresas</i>, SARE), which allows firms to comply with federal, state and municipal regulations and start operations in fewer than three days, improving the climate for doing business and investing. The Commission has also improved the use of regulatory tools such as Regulatory Impact Assessment (RIA), and increased transparency in implementing of regulation. It has developed a Federal Registry of Formalities and Services (<i>Registro Federal de Trámites y Servicios</i>, RFTS) that contains, streamlines, updates and maintains publicly available all formalities and services of the federal administration.</p> <p>(OECD Reviews of Regulatory Reform: Mexico 2004, Progress in</p>

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	Implementing Regulatory Reform)
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>✓ Inclusion of trade impacts in RIA</li> <li>✓ Consultation by regulators with competition authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>The OECD reported in 2004 that unnecessary trade restrictiveness has been reduced through RIA and the revision process of the RFTS. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform). The Regulatory Improvement Program specifies that proposed regulation should not impose unnecessary barriers to market competition and trade and is enforced by the COFEMER. At the same time, unnecessary restrictiveness in the stock of existing regulation is reviewed through the Biennial Programs and the RFTS developed by COFEMER. At state and local level, SARE has served to partially improve the trade and investment friendliness of sub-federal regulation, seeking to eliminate unnecessary restrictiveness. Trade and competition principles are currently explicitly integrated into the <i>Proceso Marco</i>, which aims to set the basis for fair competition.</p> <p>Specialised agencies of the federal administration, such as the Vice-Ministry for International Trade Negotiations (SSNCI) and the Vice-Ministry of Industry and Commerce in the Ministry of Economy, have contributed to the design of the trade policy of the government taking into account the need to promote regulations that enhance domestic and international trade and investment. The formulation of domestic regulation and technical standards has significantly improved due to the extension of public consultations and more transparent processes. Some of the work done by COFEMER in this direction has accelerated the drafting, amendment and application of trade-related regulations and the simplification of administrative procedures and formalities. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform).</p> <p>The CFC is promoting competition principles across the whole economy. However, the OECD found that 2004 that the co-ordination between regulatory authorities and other types of agencies, such as the competition authority (<i>Comisión Federal de Competencia</i>, CFC) could be more developed than it has been in the past.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> </ul>	<p>RIA is mandatory in Mexico with developing new legal instruments, and is subject to a quality control procedure carried out by COFEMER.</p> <p>COFEMER has promoted the development and improvement of RIA. All ministries and decentralised organisms of the federal administration have to submit a RIA with every regulatory proposal that imposes compliance costs on private agents. COFEMER systematically reviews not only their content, but also the legal foundation that supports them; the justification provided</p>

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<p>✓ Baseline or future trends in the problem are identified</p>	<p>by the institution on the specific obligations imposed on private agents, the analysis of the potential effect of regulations and consideration of viable lower costs alternatives. COFEMER disseminates knowledge about RIAs among institutions through training courses and its electronic portal, which has proved to be a major success of the development of the whole process. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform)</p> <p>The OECD found in 2004 that the use of RIA had improved. Regulations were subject to quality criteria: tools and processes used in designing regulations are themselves subject to critical assessment.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The main purpose of the RIA is to offer a clear justification of the regulation proposed. In that sense, the RIA process establishes a set of standard criteria to determine if the regulation is clearly justified: an explanation of the situation and why the government needs to be involved; a demonstration of legal foundation; a justification of the specific obligations imposed on private agents; an analysis of the potential effects of the regulations; the identification of formalities created, modified or eliminated by the regulation; the analysis of no viable lower cost alternatives; and the assessment that no unnecessary obstacles to trade, competition or consumer protection will be created.</p> <p>Cost-benefit analysis is an important part of the questions presented in RIA. Benefits and costs are separated into quantifiable and non-quantifiable categories due to the lack of proper data. The OECD has noted that poor data quality for RIA has been a problem.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other</li> </ul>	<p>Most of these elements are part of a detailed manual that COFEMER distributes to institutions for the elaboration and submission of RIA. The manual is also available on COFEMER's Web site. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform)</p>

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document	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>✓ Trade impacts are explicitly included in the RIA</li> <li>✓ Trade impacts are explicitly included in the consultations with stakeholders</li> <li>✓ Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>RIA has promoted the integration of trade impacts into regulatory decision-making, particularly by making impacts more transparent so that stakeholders can recognize potential problems.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>There is no legal obligation to undertake active public consultation for federal regulatory proposals, with the exception of technical standards. Nevertheless, COFEMER has filled this gap by including a section in the RIA questionnaire concerning public consultation. Institutional bodies are requested to specify if they established some type of public consultation and who was consulted about the proposals.</p> <p>Even if there is still a gap on general consultation requirements, all draft federal regulations are bound by the LFPA to be publicly available at least 30 working days before they are issued or sent to the President's legal counsel. The Transparency Law requires all draft federal regulations to be available for public comment at least 20 working days. This is an important step in opening up the decision-making process for regulations because it imposes minimum disciplines as to how long proposed regulations are available to the public. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as</li> </ul>	<p>The regulatory agencies can comply with the legal obligations by making regulatory proposals publicly available through COFEMER's Web site (<a href="http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2">http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2</a>). COFEMER certifies such compliance after the required 20 days period elapses. Thus, the LFPA and the Transparency Law require that proposals and their RIAs are published and made available to the public on the Internet, and that COFEMER takes all public comments received into consideration, but they do not require ministries to undertake active consultation processes, like fora, sending proposals to certain parties, etc.</p> <p>COFEMER has emphasized the importance of transparency and consultation not only during the revision of draft regulations through RIA, but also including public participation in comment procedures and providing clearer legal requirements for notice established by law. Transparency has contributed to high-quality regulation as more open negotiation mechanisms with stakeholders and more transparent consultations with public opinion</p>

<b>Mexico</b>	
<p>public meetings, if necessary to ensure that major stakeholders are included</p>	<p>have been developed. There has been an effort to integrate transparent elements during the preparation of RIA, such as dissemination of information, integration of interested parties in the whole process and revision of language drafting. (OECD Reviews of Regulatory Reform: Mexico 2004, Progress in Implementing Regulatory Reform)</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement for written feedback to stakeholders.</p>
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Mexico's 15 year process of building a regulatory quality system has integrated all of the key GRP principles recommended by APEC. Procedures for consultation, mandatory RIA, quality control and promotion by central agencies accountable to the highest level of government, integration of regulatory reform in trade and competition principles, and ongoing efforts to find better ways to review existing regulations are all hallmarks of a dynamic program. The continuing innovation in the Mexican regulatory reform program offers lessons to other countries seeking better ways to pursue regulatory quality.</p>

## New Zealand

New Zealand	
<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>New Zealand's regulatory quality management system has evolved over 20 years. The <b><i>Government Statement on Regulation: Better Regulation, Less Regulation</i></b> of 17 August 2009 lays out the current general strategy. Led by the Treasury, the program is now focusing on three areas:</p> <ul style="list-style-type: none"> <li>• independent assessment of the adequacy of economically significant regulatory proposals against the government expected standards for regulatory impact analysis and statements.</li> <li>• responsibility for advising on and coordinating a prioritised regulatory review work programme.</li> <li>• strategic oversight of the regulatory quality system. This includes redesigning and strengthening the regulatory quality management system to support the government's objective of less and better quality regulation. Treasury is undertaking this in collaboration with the Ministry of Economic Development.</li> </ul>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>✓ Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>As part of the <b><i>Better Regulation, Less Regulation</i></b> measures, Cabinet introduced a requirement for all Ministers to submit draft and then final regulatory plans to the Ministers of Finance and Regulatory Reform. Regulatory plans include all proposals to introduce, amend, repeal, or review regulation. Plans cover Acts of Parliament, as well as secondary and tertiary regulation.</p> <p>This does not currently result in a published overall plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>In 2009, the Government stated that its policy was to ensure that Cabinet's requirements for assuring regulatory quality are treated as an integral part of policy development, and built into the policy process from the beginning of the policy process.</p> <p>It laid out a set of quality standards for regulation. The Cabinet would not take a regulatory decision unless it had considered the evidence, advice and consultation feedback, and fully satisfied itself that:</p> <ul style="list-style-type: none"> <li>▪ the problem cannot be adequately addressed through private arrangements and a regulatory solution is required in the public interest;</li> <li>▪ all practical options for addressing the problem have been considered;</li> <li>▪ the benefits of the preferred option not only exceed the costs (taking</li> </ul>

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	<p>account of all relevant considerations) but will deliver the highest level of net benefit of the practical regulatory options available;</p> <ul style="list-style-type: none"> <li>▪ the proposed obligations or entitlements are clear, easily understood and conform as far as possible to established legislative principles and best practice formulations; and</li> <li>▪ implementation issues, costs and risks have been fully assessed and addressed. (Government Statement on Regulation: Better Regulation, Less Regulation 17 August 2009)</li> </ul> <p>More recently, the Treasury has used a set of Best Practice Regulatory Principles as a preliminary test of the state of a wide range of existing regulatory regimes. These are:</p> <ul style="list-style-type: none"> <li>• Economic objectives are given an appropriate weighting relative to other specified objectives</li> <li>• The burden of rules and their enforcement should have scope to adopt least cost and innovative approaches to meeting legal obligations – and the regulatory system should have the capacity to respond to changing circumstances</li> <li>• Regulated entities have certainty as to their legal obligations, and the regime provides predictability over time</li> <li>• Rules development, implementation, and enforcement should be transparent</li> <li>• The regulator has the people and systems necessary to operate an efficient and effective regulatory regime.</li> </ul> <p>The Treasury is assessing New Zealand’s regulatory regimes against the principles and is considering ways to incorporate the principles into its regulatory management tools.</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>The Treasury has responsibility for coordinating a prioritized regulatory review work program. The Regulatory Review Work Programme is on the website of the Treasury. The Government introduces an annual Regulatory Reform Bill to make it quicker and easier to remove or simplify unnecessary, ineffective or excessively costly requirements across a number of pieces of primary legislation.</p> <p>The Government has also directed agencies to put in place systems and processes for the ongoing scanning of existing legislation they are responsible for, with the intention of identifying regulation that is – or may be – unnecessary, ineffective, or excessively costly.</p> <p>Barriers to trade and investment are currently being actively considered. The</p>

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	<p>Ministry of Economic Development is conducting a review of regulatory barriers to export, focusing on specific issues.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Treasury is responsible for strategic co-ordination of the regulatory quality system. This includes redesigning and strengthening the regulatory quality management system to support the government’s objective of better quality and less regulation. That system encompasses not only requirements for regulatory impact analysis, but also requirements for scanning the existing stock of regulation, the preparation of regulatory plans, and the development of an ongoing regulatory review programme. These functions complement Treasury’s role as the government’s primary economic and fiscal advisor. In this role, the Treasury reports to both the Minister of Finance and the Minister for Regulatory Reform.</p> <p>The Regulatory Impact Analysis Team (RIAT) in the Treasury is responsible for ensuring compliance with the quality standards for Regulatory Impact Analysis (RIA). RIAT:</p> <ul style="list-style-type: none"> <li>• works alongside the authoring agency to assist in meeting the RIA requirements;</li> <li>• provides independent quality assurance of the Regulatory Impact Statement (RIS) for proposals with significant impacts or risks;</li> <li>• reports the results of its QA work, and commissions and publishes a regular independent review of the quality of RISs not significant enough to be assessed by RIAT.</li> </ul>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>✓ Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>✓ Inclusion of trade impacts in RIA</li> <li>✓ Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>In general, the New Zealand RIA regime does not favour particular types of impacts over others – it is the nature and magnitude of the impact that determines the weight placed on it in the RIA. All material impacts are required to be considered.</p> <p>Within this general requirement, the RIA Handbook (2009) provides specific examples of impacts that should be analysed in a RIS:</p> <ul style="list-style-type: none"> <li>▪ The impacts on New Zealand’s international capital flows or trade including the flows of goods, services, investment and ideas to and from New Zealand. The Ministry of Foreign Affairs and Trade (MFAT) is consulted when a regulatory proposal could affect New Zealand’s international obligations.</li> <li>▪ A RIS is required to consider whether regulatory options may “create or remove barriers for businesses to enter or exit an industry” or “impair...market competition.” The Ministry of Economic Development should be consulted on competition issues. If an option is likely to impair market competition, the government has stated that it will require a particularly strong case before such an option is</li> </ul>



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	<p>considered.</p> <p>Officials should also consider whether any regulatory options are likely to be consistent with New Zealand's commitment toward a single economic market with Australia, including Trans Tasman Mutual Recognition Act issues. The Ministry of Economic Development is consulted when a regulatory proposal could affect these commitments.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>✓ Baseline or future trends in the problem are identified</li> </ul>	<p>The government's RIA framework encourages an evidence-based approach to policy development which helps ensure that all practical options for addressing the problem have been considered. The RIA requirements apply to Acts of Parliament and most regulation-making functions that are delegated to Ministers.</p> <p>New Zealand has developed a RIA quality control system that is probably unique.</p> <p>The authoring agency must attach a disclosure statement to the front of the RIS that clearly indicates any key gaps, assumptions, dependencies, constraints, or uncertainties concerning the analysis undertaken, and identifies whether any policy option is likely to:</p> <ul style="list-style-type: none"> <li>• impose additional costs on businesses</li> <li>• impair property rights, market competition or incentives to invest or innovate</li> <li>• override fundamental common law principles.</li> </ul> <p>The regulation and disclosure statement is then independently assessed against a set of Quality Assurance principles through a suitable internal review process – or by the Treasury's RIAT if the impacts or risks of the policy analysis are considered to be significant.</p> <p>Not only is a quality assurance statement provided in the Cabinet paper, but the Minister is also required to certify in the Cabinet paper that the proposal is consistent with the quality principles in the Government Statement on Regulation.</p> <p>The New Zealand RIA Handbook explicitly requires problem definition and baseline analysis, but unlike RIA designs in other countries, the baseline assessment comes before the problem definition. The RIS must assess one or more policy options against the situation expected to occur in the absence of any further government action or decisions. This includes describing the status quo (including contextualising it into current and projected market conditions), and then assessing the nature and size of the problem in the</p>

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	<p>absence of further government intervention. This second step attempts to quantify the costs and benefits of current arrangements, considering the parties involved, the magnitude of outcomes, and the likelihood of these occurring.</p> <p>Critically, this second step requires the analyst to identify the root cause of the problem (not just the symptoms). These may include market failure, regulatory failure, unacceptable hazard or risks, and social goals or equity issues. Then the case for change is made by giving the reason why the problem will not be addressed within existing arrangements or by private arrangements, such as individual contracts, market forces etc.. If the problem relates to existing legislation or regulation, it should be made clear whether the problem is in relation to its design (and) or its implementation. (Regulatory Impact Analysis Handbook, 2009)</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The RIA Handbook (2009) is more ambitious than most RIA designs, because it requires the analyst to “Identify the full range of feasible options” including non-regulatory options. These options could include a number of alternatives along the regulatory spectrum, from non-regulatory measures to direct government regulation.</p> <p>The options are to be judged by the net benefit or cost of each option. The RIA must “analyse the costs, benefits and risks of each option.” The Handbook states that the net benefit (or cost) of each option should also be assessed.</p> <p>When presenting the options, the RIA must:</p> <ul style="list-style-type: none"> <li>• For each option, a summary of the main costs, benefits and risks and overall (net) impacts, in relation to the status quo. This should include aggregates (eg, economy-wide totals).</li> <li>• Key assumptions underlying estimates of net benefits. For example, the assumptions around expected compliance rates.</li> </ul>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> </ul>	<p>The RIA process is well structured, with a clear content, targeting of RIA resources at the most significant regulatory actions, and quality controls such as through the RIAT in the Treasury. The same RIA quality assurance methodology is used by both agencies and the Treasury when assessing RISs. The RIA requirements are summarized as follows:</p> <p>Steps:</p> <ol style="list-style-type: none"> <li>1. <b>Determine whether the RIA requirements could apply.</b> If potential regulatory implications, complete Preliminary Impact and Risk Assessment.</li> <li>2. <b>Prepare Preliminary Impact and Risk Assessment (PIRA).</b> Discuss PIRA</li> </ol>

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<ul style="list-style-type: none"> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>with Treasury policy team as early as possible, to confirm whether the RIA requirements apply and whether any resulting regulatory proposal is likely to have a significant impact or risk, which will determine whether the agency or RIAT will provide the QA assessment.</p> <p>3. <b>Undertake regulatory impact analysis.</b> Apply the RIA framework to the policy work right from the start of the policy development process</p> <p>4. <b>Prepare the Regulatory Impact Statement (RIS).</b> The RIS is to be prepared before the Cabinet paper. It provides a summary of the impact analysis for decision-makers and must include all the required information</p> <p>5. <b>Complete disclosure statement.</b> The person with responsibility for producing the RIS is required to complete and sign a disclosure statement, to be attached to the front of the RIS</p> <p>6. <b>Obtain independent quality assurance.</b> Independent quality assurance is to be provided either by RIAT or through a suitable internal review process. A quality assurance statement is to be provided in the Cabinet paper</p> <p>7. <b>Prepare Cabinet paper.</b> The Cabinet paper focuses on the Minister's proposal. It may refer to the RIS, which is appended to the Cabinet paper</p> <p>8. <b>Obtain Ministerial certification.</b> The Minister is required to certify in the Cabinet paper whether the proposal is consistent with the expectations in the Government Statement on Regulation</p> <p>9. <b>Publish the RIS.</b> All RISs must be published on the agency and Treasury websites. The URLs to published RISs must be included in the Explanatory Note to Bills, but with hard copies also provided to the House if a Bill is introduced under urgency</p> <p>10. <b>If RIA requirements not met.</b> All "significant" regulatory proposals that do not meet the RIA requirements will undergo a post-implementation review</p> <p>The content of the analysis is in line with good international practices. Impacts should be quantified, and expressed in dollar terms (monetised) to the extent practical.</p> <p>When quantification is not possible, costs and benefits should be described as best as possible, drawing on any available qualitative evidence. The net benefit (or cost) of each option should also be assessed.</p> <p>The Handbook contains a good general RIA requirement: "All assessments of costs and benefits whether quantitative or qualitative, should be based on evidence, with data sources and assumptions clearly identified. If, for example, qualitative benefits are considered to outweigh monetised costs, the basis for this judgement should be explained."</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>✓ Trade impacts are explicitly included in the RIA</li> <li>✓ Trade impacts are explicitly</li> </ul>	<p>The RIA Handbook requires that trade authorities be consulted when actions have potential trade impacts. The Ministry of Foreign Affairs and Trade (MFAT) is consulted when a regulatory proposal could affect New Zealand's international obligations. The Handbook identifies these</p>

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<p>included in the consultations with stakeholders</p> <p>✓ Trade officials have an opportunity to see the RIA and draft legal documents</p>	<p>obligations as including the Agreements of the World Trade Organisation (WTO), Closer Economic Relations (CER), free trade agreements, etc. Where a proposed regulation affects, or may affect traded goods and services, or foreign investment, the advice of the Ministry should be sought on whether the proposed regulation is consistent with these obligations.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>There is no general legal requirement for consultation in the regulatory process, but consultation is an explicit policy of the Government and one of the key QA criteria. The RIA Handbook (2009) states that undertaking consultation during the policy development process can result in better quality regulatory proposals that are more likely to achieve their objectives. Standards are set for good consultation practices:</p> <ul style="list-style-type: none"> <li>• Continuous</li> <li>• Timely</li> <li>• Targeted</li> <li>• Appropriate and accessible</li> <li>• Transparent</li> <li>• Clear</li> <li>• Co-ordinated</li> </ul> <p>To help ensure that the regulatory process is open and transparent, RISs prepared to support the consideration of regulatory proposals are published at the time the relevant bill is introduced to Parliament, or the regulation is gazetted, or at the time of Ministerial release. The RISs are expected to be published in three ways:</p> <ul style="list-style-type: none"> <li>• being lodged on the responsible department's website, and on the Treasury website;</li> <li>• including a link to the RIS in the press statement announcing any new policy for which a RIS is required;</li> <li>• a link in the Explanatory Note to bills when they are introduced to the Parliament. Bills are publicly available once introduced to Parliament.</li> </ul>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for</li> </ul>	<p>Chapter 4 of the Regulatory Impact Analysis Handbook sets out the requirements for efficient and effective consultation (summarized above). No minimum period is established for consultation, nor any standardized method. Flexibility in method is seen as important to accommodate different policy situations and stakeholders. Whatever method is used, the Handbook states that it is important to include suitable questions for stakeholders that will prompt respondents to confirm and challenge the analysis, provide feedback on the assumptions, estimated magnitude of impacts, and suggest</p>

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<p>stakeholders</p> <ul style="list-style-type: none"> <li>✓ Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>additional options.</p> <p>The quality of consultation is checked by reviewers of the Regulatory Impact Statement (RIS). The Statement must:</p> <ul style="list-style-type: none"> <li>• Explain who has been consulted and what form the consultation took.</li> <li>• Outline key feedback received, with particular emphasis on any significant concerns that were raised about the preferred option, how the proposal has been altered to address these concerns (and if not, why not).</li> <li>• If there was no limited or no consultation undertaken, include the reasons why.</li> </ul> <p>Similarly, papers going to the Cabinet must, in the explanatory note, summarize the consultations that have taken place and the results of that consultation.</p> <p>Bills introduced to Parliament are referred to a Select Committee (unless urgency provisions apply). As part of Select Committee consideration of Bills, public comment on Bills is requested. The standard time for public consultation is one month.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>✓ Feedback is published on the Internet Web portal</li> </ul>	<p>Chapter 4 of the RIA Handbook states that it is important that the RIS does not just state what consultation has been undertaken, but also explains the nature of any issues raised or views expressed by stakeholders, and how these have been taken into account in the development of the final proposal.</p> <p>Feedback on the RIS from the consultation process is outlined in a section of the RIS, which is publicly available online once the RIS has been published.</p> <p>Select Committee reports on Bills typically summarize issues that have arisen through public consultation and what has been done to address them.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>New Zealand has adopted many of the GRP recommendations in the APEC-OECD Checklist. More than any other country, its quality control system for the efficiency and transparency of regulation, as evidenced by the documentation of the RIA and consultation processes, is highly developed. The program is dynamic, meeting new needs and conditions. New regulatory quality principles and procedures have been proposed that should further embed GRP into the regulatory regimes of the country.</p>

## Papua New Guinea

Papua New Guinea	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Papua New Guinea has pursued regulatory reform agenda through its economic and development policies (Medium Term Development) of the government and currently the PNG Vision 2050 and the Papua New Guinea Development Strategic Plan (PNG DSP) and Medium Term Development Plan (MTDP). These strategies and principles of competition and structural reform do represent key components of the GRP principles and recommended by APEC. In that sense, the national strategy for GRP is developing as part of other initiatives, rather than as an explicit policy.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The government does not publish an annual regulatory legislative plan, but it seems that this simple step might be well worth the investment. A 2005 report found that “The overwhelming concern for members of the business community is the lack of stability in policy and regulatory environment that means they are unable to plan or be certain about the future of their industries.” (Business Development In Papua New Guinea. Opportunities and Impediments to Private Sector Investment and Development In Papua New Guinea. Final Draft Study December 2005)</p> <p>The annual legislative regulatory plan greatly improves transparency and predictability for businesses, while allowing the public sector to plan ahead for consultation with stakeholders and for quality control of the most important legal initiatives.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>• Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The government has not adopted a set of principles for GRP. However, in the reforms of regulatory policies for the financial sector and State Owned Enterprises (SOEs) as part of the Government’s Structural Adjustment Program, a set of principles were adopted, several of which are directly relevant to GRP. These principles could well be more broadly applied across all regulatory regimes:</p> <ul style="list-style-type: none"> <li>• Promote competitive market conduct</li> <li>• Prevent misuse of monopoly power</li> <li>• Facilitate entry into markets</li> <li>• Promote efficiency</li> <li>• Ensure users benefit from competition</li> <li>• Opportunity to earn returns</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or</li> </ul>	<p>Regulatory reviews in Papua New Guinea have been driven by competition principles and institutions. The government has made progress in providing an enabling environment for competition by removing the impediments which affect fair competition in key service sectors. Some of these include removing monopoly powers, reducing burdensome regulation, tackling</p>

Papua New Guinea	
<p>based on complaints or other priority process</p> <ul style="list-style-type: none"> <li>• Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>difficult licensing and cumbersome administrative procedures including various other protective measures.</p> <p>The Independent Consumer and Competition Commission (ICCC) has carried out reviews into the regulatory contracts of the State-owned Enterprises to complement their transition to commercialization in a pro-competitive environment. This is in addition to the past reviews conducted by the Commission into the aviation, coastal shipping, tourism, telecommunications and General Insurance industries including the Wholesale and Retail trading sectors.</p> <p>Recent industry-specific reviews have been submitted to the Treasurer and the Department of Treasury will assess the recommendations of the reviews, and will be taking them into consideration in its continued efforts to enhance competition and drive productivity in these sectors. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>There is room for additional work in regulatory review. A 2005 report recommended</p> <p style="padding-left: 40px;">A thorough reassessment of the regulatory environment, business licensing laws and the structure of statutory bodies: the development of leaner, more responsive and less politically influenced bodies will immediately assist business development. Fewer bureaucratic regulations and procedures save public service funds, eliminate avenues for corruption and lower compliance costs for business. (Business Development in Papua New Guinea. Opportunities and Impediments to Private Sector Investment and Development In Papua New Guinea. Final Draft Study December 2005)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>• Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>Papua New Guinea does not have a body dedicated to regulatory reform or to GRP. Within Government, the key bodies responsible for driving forward reform of PNG's investment climate are the Treasury and the Department of Commerce and Industry. The Public Sector Reform Unit, which is directly under the Department of the Prime Minister, coordinates a number of critical reform activities also relevant to regulatory reform. The Department of Treasury monitors and evaluates critical reviews to improve service delivery in the districts and to address structural impediments to business.</p> <p>The government has noted that implementation of the reforms has been constrained to some extent due to the lack of capacity of implementing agencies; funding constraints and duplication of functions and resource leading to wastage, confusion and accountability issues.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p>	<p>Clear competition principles have been integrated into the sectoral regulatory reforms so far. Neither trade nor competition principles are</p>

Papua New Guinea	
<ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>integrated into an assessment of new legal instruments, or a RIA, since those practices are undeveloped.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>PNG does not require or use regulatory impact assessment in the development of new legal instruments.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>Not at this time.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> </ul>	<p>Not at this time.</p>



Papua New Guinea	
<ul style="list-style-type: none"> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not explicitly included in the assessment of new legal instruments.</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>PNG does not have a standardized or mandatory public consultation process in the development of new regulations. However, a 2008 IFC report found that “Public Private Dialogue structures are in place in PNG.” Public private dialogue is recognized in PNG as an important mechanism for driving forward private sector development policy reforms. (IFC (2010) Papua New Guinea. Gender and Investment Climate Reform Assessment, January)</p> <p>A PPD forum includes representatives of both the public and private sector. Dialogue between these bodies and the private sector is structured around the following forums and organizations. The National Working Group on Removing Impediments to Business and Investment (the Committee) is designed to foster public-private dialogue on policy matters and regulations that impact the business community.</p> <p>The committee was established in 2002 to formalize dialogue at the National Government level in PNG. The working group may be a suitable body for ongoing dialogue that can drive the regulatory reform agenda. (IFC (2010) Papua New Guinea. Gender and Investment Climate Reform Assessment, January)</p> <p>The government also works with other private sector partners:</p> <ul style="list-style-type: none"> <li>• The PNG Business Council is the apex organization for the private sector and Government. It is the prime body for the private sector to discuss</li> </ul>

Papua New Guinea	
	<p>policy issues with Government</p> <ul style="list-style-type: none"> <li>• The Consultative Implementation &amp; Monitoring Council (CIMC) is an independent NGO which aims to engage with Government on policy issues. It is an effective forum for facilitating dialogue and consultation between the Government, private sector, and civil society.</li> </ul>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>Standard procedures of public participation, as recommended by APEC, would be of substantial value to Papua New Guinea. By providing greater stakeholder involvement in the management of regulatory authorities, problems such as inefficient licensing procedures could be mitigated and more timely responses to bureaucratic problems would be anticipated. (Business Development in Papua New Guinea. Opportunities and Impediments to Private Sector Investment and Development In Papua New Guinea. Final Draft Study December 2005)</p> <p>The most cost-effective way to reduce risk and improve predictability is to be more transparent through earlier and more meaningful opportunities for public consultation.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement for written feedback to stakeholders.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>PNG is imposing large costs on its businesses and citizens through unpredictable, anti-market, and inefficient regulatory practices. Some principles of GRP are being implemented, such as consultation with respect to regulatory reviews and clear competition principles in sectoral regulatory reforms. These provide the foundation for further steps such as standardizing public consultation, publishing annual legislative plan, and slowly building up regulatory impact analysis skills.</p>

## Peru

Peru	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Peru's regulatory reform began as part of the institutional reforms in the early 1990s, and was largely competition and sector based, focused on setting up supervisory authorities for utilities. In the course of these reforms, a number of GRP relevant issues emerged, such as the need for more regulatory transparency and participation.</p> <p>Over the past two years, Peru has increasingly examined the need for a broader and government strategy to integrate good regulatory practices into the regulatory system. No national strategy on GRP has been adopted, although components of the practices recommended by APEC are integrated into administrative reform and regulatory simplification.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The government of Peru does not publish an annual legislative or regulatory plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>• Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency/coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The regulatory principles that have guided most reform efforts in Peru have not been explicitly stated at a national level, but have implicitly emerged in narrower and sectoral reforms:</p> <ul style="list-style-type: none"> <li>• Principles of free-market competition and free entry guided the development of the sectoral regulatory reforms and compliance with the free-trade agreements</li> <li>• the regulatory simplification activities have been guided by the "low-cost" principles that are the hallmark of the <i>Doing Business</i> agenda</li> <li>• general transparency principles have guided the development of the public consultation approaches.</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p>	<p>Peru does not have a regular program of regulatory review, but an extensive program of review and elimination of unneeded regulations has been carried</p>

Peru	
<ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>✓ Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>out, through several channels.</p> <p>Peru’s Congress, working with Executive branch efforts, has done extensive “debugging” of the existing regulatory framework, eliminating around 2,000 outdated or unnecessary regulations to improve transparency and predictability of the regulatory framework. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>Administrative simplification programs have also implemented at all levels of government. This was done through administrative regulations simplification, reorganization of internal processes of public institutions, and improving transparency of administrative procedures. An example is the enactment of the Legislative Decree N° 1029 – “Law that modifies the General Administrative Procedure”. The main objectives of this new norm are to simplify requirements, eliminate bureaucratic obstacles and speed up several procedures between the citizens and the State.</p> <p>Like several other APEC countries, many of Peru’s regulatory review activities have focused around the rules and procedures associated with the <i>Doing Business</i> agenda. The enactment and design methodologies for the costing of services, reorganization of functions are allowing these efforts will translate into improvements in the <i>Doing Business</i> indicators of the World Bank. (APEC, Part II: Economy and FOTC Responses to the LASIR Stock-take Survey, 2011)</p> <p>An important driver of regulatory review in Peru is the free trade agreements (FTA) signed by Peru. The FTAs guide a regulatory view based on market openness and trade principles. For example, Peru's government revised or enacted 86 laws to implement the Free Trade Agreement (FTA) with United States. The Technical Secretariat of CHACE was in charge of the National Council on Competitiveness (CNC) and has managed the process of coming into compliance with the FTA, with a focus on business competitiveness and competitiveness. The Minister of Foreign Trade and Tourism concluded that the first Peruvian trade agreement with the United States allowed the executive branch to move forward on improvement of the regulatory framework, institutional strengthening and administrative simplification, and modernization of the State.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> </ul>	<p>There is no dedicated body within the government in charge of promoting and overseeing a national strategy of regulatory reform. Some institutions at the center of government have important roles in leading reforms related to good regulation.</p> <p>The Inter-Ministerial Council for Implementation and Economic</p>

Peru	
<ul style="list-style-type: none"> <li>• Accountable to the top political levels of government</li> <li>• Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>Competitiveness (CIIACE) is a special commission to implement the Free Trade Agreements, and design, coordinate, draft and enact the necessary implementing regulations. This mechanism reduces the transaction cost of the policy and reform implementation, and contributes to the assessment of the impact of new regulations. The figure below shows the implementation mechanism for this broad regulatory review. CIIACE worked with the Ministry of Foreign Trade and Tourism (MINCETUR) and the National Competitiveness Council (PERU COMPITE or <i>Consejo Nacional de la Competitividad</i>) to lead the program of review.</p> <p>The lack of a clear management structure for regulatory quality has produced high regulatory costs. Cesar Cordova found in 2005 that Peru’s regulators had “few incentives to maintain and improve the quality of new rules throughout the 'regulatory cycle'. The Government has delegated the qualitative and quantitative control of Congress and ministries standards but lacks a system of filters, monitoring and incentives carried out by institutions with clear mandates and adequate resources.” (Cesar Cordova (2005) <i>Diagnóstico para el Diseño de un Esquema Institucional de Control de Calidad y Filtro de Regulaciones en el Estado Peruano</i>, 26 de diciembre de 2005)</p> <div style="text-align: center;"> <pre> graph LR     MINCETUR[MINCETUR] --&gt; Legal[Legal Implementation - MINCETUR]     MINCETUR --&gt; CNC[Encouragement of a Competitive Economy - CNC]     Legal --&gt; CIIACE((CIIACE))     CNC --&gt; CIIACE             </pre> </div> <p>Source: Mercedes Araoz, Minister of Foreign Trade and Tourism, Global Strategy for the Peruvian Economy, 2010.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by</li> </ul>	<p>Because of the special character of regulatory reform in Peru as part of free-trade agreements, trade and also competition issues are relatively well represented in Peruvian regulatory reviews. The framework for trade and competition oversight of regulatory activities is well developed. However, in 2010, Michael Porter recommended that the government further “Improve the efficiency and quality of trade enabling regulation and infrastructure.” (A Strategy for Sustaining Growth and Prosperity for Peru, Michael E. Porter, Harvard Business School, Urubamba, Peru, November 12, 2010)</p> <p>The National Institute for Defense of Competition and Protection of Intellectual Property (INDECOPI) is in charge of monitoring enacted</p>

Peru	
<p>regulators with competition authorities in drafting process</p> <p>✓ If central body, coordination of regulatory reviews with competition authorities</p> <ul style="list-style-type: none"> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>legislation to preserve free and fair competition conditions. The Technical and Commercial Regulations Commission (TCRC) can also initiate investigations on its own, (“ex officio”), against other public institutions that impose such restrictions, when the effects on the market are significant.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>Since 1993, Congress has required the government present a cost benefit analysis of bills that are presented. The requirement for Cost-Benefit Analysis (CBA) can only be waived for exceptional reasons (not explicit). This is an important advance, since this is an effort to accompany the bills with enough information on how the project seeks to achieve the objectives and to provide a minimum analysis of the costs.</p> <p>Under this approach, bills should contain a detailed statement of arguments sustaining the proposal, an analysis of the impact of the proposed rule on national legislation, a cost-benefit analysis of the prospective rule and a comment, when applicable, on its environmental effects. (IAP Peer Review – Peru 2003, APEC Secretariat)</p> <p>Unfortunately, there is no clear standard of analysis or any established model. Hence, each congressman or each analyst performs the analysis using a different approach. More problematic, there is no means of verifying the content and quality of the analysis. Thus, the CBAs are not carried out with a rigorous economic perspective, that is, considering opportunity costs, but rather are a simple accounting of the negative effects, without reflecting accurate costs. Often, the analysts simply assert that there are no associated costs of the proposal. (Cesar Cordova (2005) Diagnóstico para el Diseño de un Esquema Institucional de Control de Calidad y Filtro de Regulaciones en el Estado Peruano, 26 de diciembre de 2005)</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade</li> </ul>	<p>There are no specified standards for the content of the RIA.</p>

Peru	
restrictive or highest benefit-cost ratio	
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>In 2005, the General Secretariat of the Congress produced a RIA guide that contains standard formats to guide the work.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>There is no standard approach to integrating trade impacts or trade friendly alternatives into the RIA.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> </ul>	<p>Transparency measures are required for regulatory entities through enactment of Law No 27332 in July 2001, related to the framework for Public Services Regulators. Transparency measures include pre-publication of projects, laws, and decisions to be adopted (IAP Peer Review – Peru 2003, APEC Secretariat)</p> <p>The law requires publication of the draft law or resolution that will be enacted to receive suggestions from interested parties. In other cases, regulators may organize public hearings where interested parties may attend and give their</p>

Peru	
<ul style="list-style-type: none"> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>opinions regarding the law to be enacted.</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>Other than publication of the draft, there are no standardized methods or minimum quality standards for public consultation.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement to give written feedback to stakeholders.</p>



Peru	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>A recent review of Peru by Michael Porter found that “Sustained growth will depend on broad microeconomic and institutional improvement.” (A Strategy for Sustaining Growth and Prosperity for Peru, Michael E. Porter, Harvard Business School, Urubamba, Peru, November 12, 2010)</p> <p>Internationally, regulatory reform has become one of the core microeconomic policy tools. Peru’s start on regulatory reform has focused on competition and market principles, as well as the low-cost approach of the Doing Business agenda. A broader GRP approach using the tools of quality control, impact assessment, and standardized and mandatory public consultation methods can integrate the benefits of better regulation through the entire public administration, and move the country steadily forward.</p>

## Philippines

Philippines	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>The government of the Philippines has not yet adopted a strategy to embed GRP principles in regulatory activities of the government. The government has recognized, however, that well-designed and appropriate regulation can promote competitive and well-functioning markets, as well as stronger, sustainable economic performance in the region. Various regulatory reforms are aimed at facilitating business, attracting more investments, sustaining growth and generating new jobs.</p> <p>The Medium Term Philippine Development Plan for 2004-2010 aims to improve the transparency, professionalism, and efficiency of sectoral regulatory systems through review and revision of the processes and procedures of some regulatory agencies. To this point, regulatory reform has been largely sectorally focused on telecommunications, power, banking, insurance, finance, shipping and aviation, among others.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>A plan published on the internet (website)</li> <li>Updated at least annually</li> <li>Covering all ministries/regulatory agencies</li> <li>Including only upcoming legislation</li> <li>Including also lower-level or subordinate regulations</li> <li>Containing information on potential costs of the regulation</li> </ul>	<p>The government does not publish a regulatory/legislative plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>Published by the center of government</li> <li>Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>Principles on consistency /coordination with other legal instruments</li> <li>Principles on compliance with trade and investment commitments</li> </ul>	<p>The Government has not published principles for good regulation applicable across the government. However, in effect, the government has adopted principles underlying its regulatory streamlining reforms. Streamlining regulation is based on the “lowest-cost” criterion, one of the most common regulatory quality standards used around the world, and the main principle behind the <i>Doing Business</i> indicators. If benefits are unchanged, reducing regulatory costs is indisputably a social benefit.</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>Annual program of reviews of regulations (not one time)</li> </ul>	<p>Regulatory reviews in the Philippines have focused on reducing “red tape” costs for businesses. The Medium Term Philippine Development Plan acknowledges that more governance reforms are needed to sustain economic growth and development. The Philippines’ relatively low rankings in</p>

Philippines	
<p>or ad hoc reviews), either based on rolling program or based on complaints or other priority process</p> <ul style="list-style-type: none"> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>competitiveness surveys in recent years spurred efforts to accelerate business reform, including the reduction of red tape in all government agencies.</p> <p>Regulatory reviews were launched government-wide. All departments, bureaus, offices and other agencies in the executive branch, as well as government-owned and controlled corporations were directed to simplify rules, regulations and procedures and reduce reporting requirements imposed on business and industry. Local government units were also encouraged to adopt similar streamlining practices. (Philippines: Developments in Regulatory Reform 2009 APEC Economic Policy)</p> <p>In 2007, the legislature enacted the Red Tape Regulatory Act, which requires all government agencies, including local government units, to streamline frontline services and devise a Citizens Charter with steps and procedures for persons availing themselves of those services and the guaranteed performance level expected for those services.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>No central body reviews the appropriateness and impact of existing or future regulations in government. Regulatory reviews are undertaken by agencies responsible for specific sectors. (Philippines: Developments in Regulatory Reform 2009 APEC Economic Policy). Several agencies do have a partial role in regulatory management.</p> <p>The National Economic and Development Authority (NEDA) is the government's main agency for coordinating social and economic planning and policy. The Board is chaired by the President and includes the Executive Secretaries of eight major departments, the Secretaries of 13 departments and the Deputy Governor of the Central Bank. It formulates the Medium Term Philippine Development Plan, which is subjected to multi-sectoral and regional consultations.</p> <p>NEDA has some oversight responsibilities. Government agencies are required to seek clearance from the NEDA before any new fees or increase in existing fees can be imposed, for example. NEDA also chairs a working group on regulatory review assessment, involving regulation impact analysis (RIA).</p> <p>The National Competitiveness Council (NCC), a public-private sector task force works with the government to encourage competitiveness and pursue legal, regulatory, institutional, procedural, and other appropriate reforms. The NCC is tasked with developing strategies for improving the competitiveness of the Philippine economy.</p>

Philippines	
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>Trade impacts are not explicitly assessed in the development of new regulations. A 2010 report noted that “Regulations are not always consistent with competition and competitiveness”, suggesting that there is not yet a standard process for checking competition impacts of regulations.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>RIA is not required in the Philippines and there are no published guidelines on RIA within the government. A 2010 study found that some RIA-like analysis had been done by several regulatory agencies, which have demonstrated capabilities to assess the economy-wide impact of regulations and policy changes and which have adopted transparent procedures and a public consultative process. These include NEDA and the Tariff Commission. (Kelly Bird, Herb Plunkett and Malcolm Bosworth (2010) Philippines: Options for Establishing an Office of Best Regulatory Practice, ADB, Manila)</p> <p>An action point in the National Competitiveness Agenda of 2007 proposed the institutionalization of RIA (<a href="http://www.competitive.org.ph/projects/134">http://www.competitive.org.ph/projects/134</a>). A study on the implementation of RIA was completed in 2010 (Kelly Bird, Herb Plunkett and Malcolm Bosworth (2010) Philippines: Options for Establishing an Office of Best Regulatory Practice, ADB, Manila). A draft action plan to adopt and institutionalize RIA was formulated following the study. (Philippines: Developments in Regulatory Reform 2009 APEC Economic Policy)</p> <p>The government has stated that a RIA system can help address some costly regulatory problems: “Overlap of regulatory functions between national government agencies, and a lack of systematic consideration of the regulatory impact of proposals are evident. Decentralisation of regulatory functions to local government units has resulted in proliferation of sub-national regulations. While all local governments share the same legal and institutional framework, they interpret and implement national regulations differently.” (Philippines: Developments in Regulatory Reform 2009 APEC Economic Policy).</p>

Philippines	
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>.Philippine regulators use analysis in an <i>ad hoc</i> way, and there is no standard approach to how the analysis is structured or quality criteria for its content. A 2004 review found uncertainty as to the extent to which both costs and benefits are evaluated during an RIA, implying a variation in practice across regulatory departments. More consistent was the finding that where RIAs are used for new regulations, public consultation does occur, with a main emphasis on the use of public notices and invitations to comment, followed by public meetings. Also, when RIAs are adopted they seem to take place at all stages of a proposed regulation, including at the outline stage, prior to detailed proposals being made and after detailed proposals are made. (Colin Kirkpatrick and David Parker (2004) Regulatory Impact Assessment and Regulatory Governance in Developing Countries, Public Admin. Dev. 24, 333–344)</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>No formal RIA is yet used in the Philippines.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not formally assessed the development of new regulations.</p>

Philippines	
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>While there is not a government-wide consultation mandate, agencies are required to develop regulations through a consultation process, often involving public hearings. In most cases, this ensures some transparency in the process of developing new regulations. The private sector and civil society have representation in certain government councils/committees. In only some cases however, are the views of participants in the consultation exercise made public, suggesting scope for improved regulatory transparency. (Colin Kirkpatrick and David Parker (2004) Regulatory Impact Assessment and Regulatory Governance in Developing Countries, Public Admin. Dev. 24, 333–344)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>The Philippines has not set minimum standards for the quality of consultation practices in regulatory development or review. The public hearings conducted by some regulatory agencies has been widely recognized as an effective consultation practice in the Philippines.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>There is no requirement for feedback to stakeholders after consultation is completed.</p>

Philippines	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>The Philippines has not yet adopted a government-wide regulatory quality approach based on the GRP recommended by APEC. The Government has explicitly recognized that additional deregulation and regulatory reform is necessary, not only to make the domestic economy more competitive and open to domestic and foreign firms, but also to increase the competitiveness of Philippine SMEs, that may face more difficulties in fulfilling regulatory requirements than a large domestic or foreign firm. The current efforts to implement a RIA program may be a good sign of progress if further implementation is carried out.</p>

## Republic of Korea

Republic of Korea	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>A series of policy statements over many years have driven the evolving and expanding regulatory reform strategy. Regulatory reform has been part of the Korean competitiveness agenda for well over 10 years. In that period, the government introduced a regulatory framework aimed at limiting the role in the economy of the business groups known as <i>chaebol</i> while supporting SMEs. Further broad-based regulatory reform founded on market principles was essential to create new foundations for long term growth. To further reduce government intervention in private sector decisions, new, pro-competitive regulatory regimes were required to efficiently protect consumer interests, the environment and competition. (OECD, 2007, Korea: Progress in Implementing Regulatory Reform) Most recently, President Lee Myung-bak has stated that he considers regulatory reform (structural reform) as key to improving national competitiveness, especially from the business point of view.</p> <p>Regulatory reform has also been used as part of a broader social change. In recent years strong political leadership, with the commitment to a “participatory society” and a shift to “user-oriented regulations” has promoted regulatory transparency.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>Not at this time.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>• Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other</li> </ul>	<p>In the 1994 the Basic Law on Administrative Regulations and Application, the Korean government has enunciated five principles for the national reform program:</p> <ul style="list-style-type: none"> <li>• Elimination, in principle, of all anti-competitive economic regulations.</li> <li>• Improvement in the efficiency of social regulation in areas such as environment, health and safety.</li> <li>• Shifting from ex ante control to ex post management.</li> </ul>



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<p>legal instruments</p> <p>✓ Principles on compliance with trade and investment commitments</p>	<ul style="list-style-type: none"> <li>• Regulation to be based on adequate legal authority.</li> <li>• Global standards to be benchmarked.</li> </ul> <p>These principles usefully address both economic regulations and social regulations, and distinguish how they are to be addressed. The policy direction is explicitly market-based.</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <p>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</p> <p>✓ Reviews identified publicly in advance</p> <p>✓ Based on standard method that includes cost and effectiveness information</p> <p>✓ Give explicit attention to barriers to international trade and investment.</p> <p>✓ Results published/consulted with stakeholders</p>	<p>The Republic of Korea carried out one of the most well-known regulatory reviews among APEC countries – its regulatory guillotine review of 1998 that reviewed 11,000 regulations and eliminated almost 50% of them in only 11 months. The mechanisms of that review, particularly the Regulatory Reform Commission and the regulatory reform Secretariat in the Prime Minister's office, were institutionalized to carry forward the process of regulatory review, both for new regulations, based on RIA, and for existing regulations. The Commission prepares annual regulatory reform plans and evaluates the progress of ministries in achieving reform. The RRC discloses the legislation under its review, the results and other regulatory process through its homepage (<a href="http://www.rrc.go.kr">http://www.rrc.go.kr</a>).</p> <p>The Business Difficulties Resolution Center (BDRC) was subsequently established as a one-stop shop ombudsman to resolve regulatory issues faced by businesses. It has played an important role by recommending changes that improve regulatory quality based on complaints it receives.</p> <p>Recently, in response to the economic crisis, Korea decided to expand the application of the Sunset (Review) Clause from newly enforced regulations to existing regulations, to launch a Temporary Regulatory Relief Mechanism and to adopt the Regulatory Information System.</p> <p>The Korean government decided that the Sunset Clause would be applied not only to newly enforced regulations, but also to existing ones. Within the sunset mechanism, regulations shall terminate their effect after a certain period of time (“Sunset Clause”) or be reviewed regularly on their sustainability (“Sunset Review Clause”) for the improved effectiveness of regulations. It is likely that this mechanism will enhance the transparency and effectiveness of regulations and reduce the effects of unnecessary burdensome ones.</p> <p>The recent global economic crisis provided a renewed impetus to implement reform activities within Korea. The Korean government made an active response to the economic crisis by introducing new types of regulatory reform such as the Temporary Regulatory Relief (TRR) and the Regulatory Reform for New Growth Engine Industries. With the leadership and the coordinated efforts of the government, Korea could take quick action and</p>

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	<p>help many companies and individuals, especially SMEs, in weathering through the economic crisis.</p> <p>Temporary Regulatory Relief (TRR) is a mechanism to waiver or to mitigate the implementation of burdensome regulations for a certain period of time. The TRR mechanism is expected to expedite business activities and increase private investments even in the current post-crisis era. Unlike the Sunset (Review) Clause, which takes time to show effects, the TRR will have an immediate effect on the regulatory reform. Also, Regulatory Reform for New Growth Engine Industries cleared various stumbling blocks that hindered the development of future growth industries such as new and renewable energy and green technology. (2011 APEC ECONOMIC POLICY REPORT – Korea)</p> <p>The OECD has suggested that regulatory review would be more effective if the Koreans used an analytical methodology for measuring administrative burdens that would help identify priorities for reform.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>• Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Regulatory Reform Committee, which has functioned since 1998, and the Regulatory Reform Task Force (since 2004), both under the direction of the Prime Minister, set regulation policy, review regulations, evaluate progress, and co-ordinate across relevant government ministries.</p> <p>Since its inception in 1997, the RRC has taken the lead in developing a systematic approach to regulatory quality within the Korean administration and the introduction of regulatory quality tools such as Regulatory Impact Analysis (RIA). RRC’s main responsibilities include setting the basic direction of regulation policy, reviewing new or amended regulations, implementing a comprehensive plan on regulatory improvement and evaluating progress made on regulatory reform.</p> <p>Since 2004 the task of the RRC has been complemented by the Regulatory Reform Task Force (RRTF), which is also under the direction of the Prime Minister. The regulatory reform task force is composed of private sector experts and government officials and, focuses on strategic tasks selected by businesses, reflecting the practical problems of the firms. The RRTF is responsible for coordinating regulatory reforms across relevant government ministries, promoting a whole-of-government perspective. (OECD Reviews of Regulatory Reform: Korea 2007 Progress in Implementing Regulatory Reform)</p> <p>The administration established an advisory institution, the ‘Presidential Council on National Competitiveness (PCNC)’, that serves as a driving force in carrying out government-wide regulatory reform activities, working with</p>

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	<p>the Regulatory Reform Council (RRC) is a control center for regulatory reform. With the help of these institutions, the coordination among different ministries and agencies has become much easier.</p> <p>Korea is almost unique among APEC (and even OECD) countries in adopting an IT management tool to assist the government in managing a whole-of-government regulatory quality program.</p> <p>The government reported in 2011 that more systematic support has been provided with the adoption of the Regulatory Information System in all parts of the regulatory process from the review and registration to the management of reform projects. This new system, the entire process of a regulatory review - from the initial review request by each ministry to the preparation of the review report for notification of results by the Regulatory Reform Council (RRC) - has been moved onto the internet. Since it is an integrated and comprehensive management of regulations, from their introduction to termination, it has definitely contributed to the enhancement of transparency and quality of regulatory information with increased user satisfaction, effective reviews on regulation, and the implementation of the regulatory reform projects. (2011 APEC ECONOMIC POLICY REPORT – Korea)</p> <div style="text-align: center;"> <pre> graph TD     President[President] --- RRC[Regulatory Reform Committee Prime Minister - Chairman from private sector (Co-chairmanship)]     RRC --- RRB[Regulatory Reform Bureau (Secretariat to RRC)]     RRB --- RTF[Regulatory Reform Task Force]     RRB --- BDR[Business Difficult Resolution Center]     RRC --- RRC_Min[Regulatory Reform Committee in Ministries]     RRC --- RRC_Local[Regulatory Reform Committee in Local Gov'ts]             </pre> </div> <p>Source: APEC, Korea's Response to the APEC-OECD Integrated Checklist on Regulatory Reform – Presentation, 2007</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory</li> </ul>	<p>Most of the regulatory reviews have included trade and investment perspectives, and explicit competition principles. The increasing activism of the Korea Fair Trade Commission (KFTC) in advocating within the government for a more market-based regulation has been very useful. However, the RIA has not proven to be an effective tool to ensure that new</p>

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<p>reviews with trade authorities</p> <ul style="list-style-type: none"> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>regulations are based on sound trade and competition principles.</p> <p>The OECD found in 2007 that, “Further improvements in transparency and decision making from the perspective of market openness will help ensure that regulations and guidelines are interpreted and implemented in a non-discriminatory manner. ... There is still scope for further strengthening efforts to avoid unnecessary trade restrictiveness and promote international standard harmonisation and conformity assessments.” (OECD, 2007, Korea: Progress in Implementing Regulatory Reform)</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>In 1994, the Basic Law on Administrative Regulations and Application implemented basic elements of a regulatory quality assurance system, including clarifying principles for regulation, and requiring Regulatory Impact Assessment, advance notice of proposed new regulation, and public consultation. A RIA manual published by the Regulatory Reform Council in 2005 lays out the standard content of the RIA.</p> <p>In May 2003, the Regulatory Research Center was established within the KIPA. Its general mission is to conduct research and develop policies on regulatory matters. It is available to conduct Regulatory Impact Analysis on new regulations on behalf of the initiating ministry.</p> <p>Article 7 of the BARR sets out the general RIA content: “need for regulation; regulatory costs &amp; benefits, regulatory elements restricting competition; the clarification of the wording of regulations; the feasible alternative measure; overlap between existing and new regulations; etc.. This is elaborated by the 2005 RIA Manual, which reinforces quantitative analysis, such as the cost-benefit analysis in RIA and a checklist. (APEC, Korea’s Response to the APEC-OECD Integrated Checklist on Regulatory Reform – Presentation, 2007)</p> <p>After review of RIA implementation in 2007, the OECD concluded that</p> <p style="padding-left: 40px;">The Korean Government has put in place a very effective formal mechanism to undertake high quality RIA, the challenge remains to ensure that there is sufficient capacity to support an effective RIA system. An assessment conducted by the Korean Institute for Public Administration revealed that there was often a lack of time, insufficient capacities in the agencies for undertaking the RIA, a lack of expertise due to job rotation, a lack of financial resources to undertake RIAs, as well as a perception problem among civil servants, who perceived RIA as a routinised formality. This issue may even be more acute at a lower level of government.</p> <p style="padding-left: 40px;">An effective regulatory impact analysis system calls for better training at national and local levels, and clear political support to promote a change in</p>

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	administrative culture, lest RIA become a routine formality rather than an instrument for policy decision-making. (OECD, 2007, Korea: Progress in Implementing Regulatory Reform)
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The Manual for Developing Regulatory Alternative reviews the choice of alternatives to regulation, the types and examples of regulatory alternatives. (APEC, Korea's Response to the APEC-OECD Integrated Checklist on Regulatory Reform – Presentation, 2007)</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>While more time may be needed before the use of RIA is implemented at all levels of the Korean Government, the recent publication of a Manual on Regulatory Impact Analysis by the RRC and the Korea Institute of Public Administration should facilitate a positive trend towards a more systematic use of RIA.</p> <p>In addition, the Manual for Developing Regulatory Alternatives, published by the Regulatory Reform Committee and distributed to all ministries in 2005, encourages ministries to consider alternatives to regulation, as well as overlaps with similar existing regulations. (APEC (2008) Good Practice Guide on Regulatory Reform. Submitted by: Economic Committee)</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA</li> </ul>	<p>Trade impacts are not explicitly included in the RIA content.</p>

Republic of Korea	
and draft legal documents	
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>The 1994 Basic Law on Administrative Regulations and Application required public consultation during regulatory development. The ministry must gather public opinions during the “20-day idea notice and comment” period and report the results of its review to those who provided inputs on the relevant regulatory proposals. Ministries must also publicly disclose the results of their RIA: Information on the necessity for and feasibility of regulations, regulatory costs and benefits, alternative means, budget and human resources must be open to public. (APEC, Korea’s Response to the APEC-OECD Integrated Checklist on Regulatory Reform – Presentation, 2007)</p> <p>The OECD noted in 2007 that improvements in the public notice and Regulatory Impact Assessment (RIA) mechanisms, and wider availability of current regulatory information have improved transparency and regulatory quality. (OECD Reviews of Regulatory Reform: Korea 2007 Progress in Implementing Regulatory Reform)</p> <p>Recent reform activities have tried to incorporate the actual needs of businesses. While diagnosing, identifying and designing the reform policies, the government has carried out public consultations that significantly contributed to increasing the suitability of the reform and the customized approach towards the reform. (2011 APEC Economic Policy Report – Korea)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>✓ Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if</li> </ul>	<p>Procedures for consultation are not standardized across the government. The OECD concluded in 2007 that, “The consultation process should also be made more uniform and effective.” And that “While the possibilities of consultation have greatly increased, there remains significant discretion about how the consultation process is undertaken. As a result, the quality of consultation processes varies widely across the agencies. The minimum period allowed for consultation, currently 20 days, may appear short from an OECD perspective. (OECD, 2007, Korea: Progress in Implementing Regulatory Reform)</p>

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<p>necessary to ensure that major stakeholders are included</p>	
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Regulators are required to give feedback.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>• Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>Over almost 20 years, the Republic of Korea has invested substantially in building a regulatory quality system. Its use of GRP recommended by APEC rival those of the top ranked OECD countries today. The key challenges continue to be mainstreaming standardized practices across the public sector for consultation, RIA and other quality tools. The current revitalization of innovative tools such as the IT management system and the Temporary Regulatory Relief (TRR) mechanism offer good lessons for other countries seeking new tools for regulatory reform.</p>

## Russian Federation

Russian Federation	
<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>The Russian Federation has not adopted a full GRP strategy, but specific aspects of GRP are emerging in the strategies for reducing regulatory costs and using tools such as regulatory impact assessment (RIA). In July 2001, the government began to implement a “Medium Term Program of Social and Economic Development for 2002-to-2004,” the document that underlay all its subsequent reform efforts. Until the launch of this program that placed regulation firmly in a competitive market context, the notion of regulatory reform in Russia was fragmented and undefined. (OECD Reviews of Regulatory Reform. Regulatory Reform in Russia: Enhancing Market Openness Through Regulatory Reform. 2005)</p> <p>Aspects of good regulatory practice are carried forward in the federal Strategy for Administrative Reform, adopted in 2005. The strategy aims to improve the quality of regulatory services to the public and reduce the scope of state regulation, using strategies such as the development of one-stop shops, reduction of the number of licensable entrepreneurial activities, and implementing IT in the provision of public services. (OECD Regulatory Management Indicators, Russia, 2011)</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <p>✓ A plan published on the internet (website)</p> <p>✓ Updated at least annually</p> <p>✓ Covering all ministries/regulatory agencies</p> <p>✓ Including only upcoming legislation</p> <ul style="list-style-type: none"> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>A list of upcoming primary laws is prepared and approved by the Federal Government every year. There is no information available for presidential decrees, which can have the same status as primary laws. No forward-planning list exists for subordinate regulations. The list for primary laws is available at the federal government’s official Internet portal <a href="http://www.government.ru">www.government.ru</a> and at <a href="http://www.consultant.ru">www.consultant.ru</a>. The list of primary laws to be prepared, modified, reformed or repealed in 2011 can be accessed at <a href="http://www.government.ru/gov/results/13791/">www.government.ru/gov/results/13791/</a>. (OECD Regulatory Management Indicators, Russia, 2011)</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <p>✓ Published by the center of government</p> <p>✓ Principles on transparency/consultation</p> <p>✓ Principles on efficiency/analysis</p> <p>✓ Principles on consistency</p>	<p>A complete set of GRP principles using the APEC framework has not been elaborated. Regulatory reform after the 2001 Medium-term Program was based on clear market principles. State intervention was to occur only in cases where market forces could not do the job. The role envisioned for government was to reduce barriers to growth and to create a favorable entrepreneurship and investment climate.</p> <p>After 2005, regulatory reform became part of administrative and public sector reform. The Ministry for Economic Development reports that the current concept of regulatory reform in the Russian Federation in 2006 - 2008 was</p>



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<p>/coordination with other legal instruments</p> <ul style="list-style-type: none"> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>developed and adopted in the 2005 administrative reform strategy. This concept of regulatory reform includes:</p> <ul style="list-style-type: none"> <li>• Performance: introduction of measures in implementing the activities of executive bodies according to the principles and procedures for management performance by the evaluation of results of their work;</li> <li>• Quality: Implementation of standards for government and municipal services;</li> <li>• Low-cost: development and implementation of administrative regulations and electronic administrative regulations;</li> <li>• Anti-corruption: creation and implementation of specific regulatory mechanisms in the areas vulnerable to corruption;</li> <li>• Regulatory review: completion of a review of redundant and overlapping functions of executive bodies and the elimination of inefficient government intervention in the economy;</li> <li>• Regulatory institutions :reform of the regulatory bodies, development of outsourcing of administrative and management processes;</li> <li>• Transparency and participation : ensuring the transparency and efficiency of interaction of bodies of executive power with civil society.</li> </ul> <p>(<a href="http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/admReform/">http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/admReform/</a>)</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>Regular <i>ex post</i> evaluation of existing regulation is not required in Russia. However, a number of different activities of regulatory review have been launched in the Federation both as part of market reforms and of administrative reforms.</p> <p>For example, the introduction of one-stop shops (OSS), an important regulatory simplification tool, was one of the three main goals of the administrative reform launched in 2006. Russia reports that OSS are mostly created at the regional level (at least 70 of the 83 regions have already introduced OSS or pilot projects) but they do not offer all services yet. The Federal Program for Competition Development, adopted in May 2009 also incorporate some regulatory reviews.</p> <p>The largest regulatory review program in the Federation is the Federal Strategy for Administrative Reform (2006-10), which aims to review and reduce the number of licenses and permits. This reform constitutes the main program to reduce administrative burdens. The burden reduction program is headed by the Ministry of Economic Development and includes both quantitative and qualitative targets.</p> <p>The strategy aims to enhance the quality of regulation, reduce the scope of</p>

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	<p>state regulation and increase the efficiency of the public administration. Targets are a satisfaction rate of 70% for the quality of services, the improvements of Russia's GRICS rate from an average of 48 (in 2004) to 70 and the reduction of burdens from 8.5% of total revenue (in 2004) to 3%. The latter target was based on a measurement undertaken by a private association of small and medium enterprises (SME) and the All-Russian Centre for Public Opinion Research. The burden measurement was undertaken in 80 regions and revealed that its costs represented approximately 8.5% of SME's revenues. The government has not undertaken its own burden measurement. (OECD Regulatory Management Indicators, RUSSIA, 2011)</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>• Accountable to the top political levels of government</li> <li>• Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Russian Federation has not yet developed a capacity to manage a government-wide program of regulatory reform at the center of the government . However, the Ministry for Economic Development (MED) is responsible for promoting and overseeing regulatory reform. MED also conducts regulatory impact analyses of other ministries' legislative proposals, as discussed below.</p> <p>MED is supported by the Governmental Commission for Administrative Reform, an advisory body aiming to improve the co-ordination of regulatory reform among all executive bodies. (OECD Regulatory Management Indicators, RUSSIA, 2011) This is particularly important given the integration of regulatory reform into the administrative reform strategy of the government since 2005.</p> <p>The Ministry of Justice checks the legal quality of draft regulation.</p> <p>The Governmental Commission for Administrative Reform is composed of public servants, mostly chief executives from executive bodies. Non-governmental actors may also be allowed to join the Commission.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with</li> </ul>	<p>The OECD found in 2005 that "Sustaining regulatory reform efforts will remain indispensable to ensure that domestic regulations and regulatory process support the country's openness and foster economic gains of its trade and investment liberalization." (OECD Reviews of Regulatory Reform (2005) Regulatory Reform in Russia. Enhancing Market Openness through Regulatory Reform)</p> <p>From the 2001 reforms, market competition principles were at the center of the regulatory reform program. From 2005, however, when regulatory reform was increasingly integrated administrative reform, it is unclear whether trade and competition principles continue to be explicitly integrated into the development and review of regulation. Consideration of trade issues seems to be inconsistent area for example, the OECD reports that the requirement to consider international standards applies only to primary laws, not to other forms of</p>

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competition authorities <ul style="list-style-type: none"> <li>• Inclusion of competition impacts in RIA</li> </ul>	regulation
<b>REGULATORY IMPACT ASSESSMENT</b>	
Does the RIA or other explanatory document define the problem to be solved?  <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>In March 2010, the Government Commission for Administrative Reform authorized the Ministry of Economic Development to develop a RIA methodology and a plan for its implementation. As a result, RIA was introduced by the Russian Federation Government Decree of May 15, 2010, No 336 "On amendments to some acts of the Government of the Russian Federation".</p> <p>The order stipulates that the MED review and comment on individual draft regulations within 30 days of receipt. As part of this procedure, the MED may choose to conduct a full RIA. Draft regulations must be submitted to the Ministry of Economic Development for its review of the RIA in the following cases:</p> <ul style="list-style-type: none"> <li>• draft regulations introduced by agencies;</li> <li>• draft federal laws, draft presidential decrees of the Russian Federation, draft resolutions of the Government of Russian Federation.</li> </ul> <p>(<a href="http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria">http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria</a>)</p> <p>There are important limits to the RIA program. Presidential decrees (which can have the same status as primary laws) are not subject to RIA, and not all draft regulations are submitted to the MED. If a draft regulation is initiated by an authorized body other than the ministries (by a Deputy in the State Duma, for example), it is not accompanied by a RIA. RIA is required only for those drafts regulating:</p> <ul style="list-style-type: none"> <li>• government controls;</li> <li>• establishment and enforcement of mandatory requirements for products and services as well as processes related, including their safety, and</li> <li>• conformity assessment.</li> </ul> <p>The OECD reported in 2011 that the MED has undertaken full RIAs for 50 draft regulations. 30 draft regulations have been rejected and sent back to the agencies for redrafting. The Russian RIA system therefore differs considerably from those of OECD countries where RIA is conducted by the ministries in charge of a proposal and at an earlier stage of the process. (OECD Regulatory Management Indicators, RUSSIA, 2011)</p> <p>The content of RIA contains some issues that are typical of good RIA, but seems to lack some important aspects such as identification and comparison of options. The Ministry of Economic Development reports that RIA in the Federation is aimed at determining the following:</p>

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	<ul style="list-style-type: none"> <li>• whether all the possible consequences and risks of the introduction of a regulation during the preparation of a draft legal act have been carefully studied;</li> <li>• whether positive effects of a regulation have been calculated and whether they are correlated with the costs of the budget, the subjects of business or other activities and consumers;</li> <li>• most importantly - whether there is a causal relationship between the introduction of a regulation and the solution to a problem (for which the resolution of the problem such a regulation has been proposed). (<a href="http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria">http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria</a>)</li> </ul>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The RIA content does not explicitly state that options shall be identified, assessed, and compared. This may be an area for future revision of the RIA content.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included</li> </ul>	<p>The Ministry of Economic Development reports that, as noted, the RIA should examine all the possible consequences and risks of legal proposal, which should include the major negative and positive impacts, that is, the costs and benefits. The OECD, however, reported in 2011 that most impacts are not explicitly included in the RIA, such as effects on competition, market openness, and small businesses.</p>

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in the analysis or other document	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade friendly alternatives and impacts are not explicitly included in the RIA.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>Russia has adopted formal and mandatory processes for consultation within government when preparing new primary laws and new subordinate regulations, and with the public on technical regulations.</p> <ul style="list-style-type: none"> <li>• The Federal Government Decree 260 of 2004 requires consultation with all affected government bodies when developing draft regulations.</li> <li>• The Law on Technical Regulation stipulates that the start of the drafting process for any technical regulation should be announced in the official press in printed as well as in electronic form.</li> <li>• Government Executive Order 1021-R (dated June, 10, 2011) provides mechanisms for the development of public consultation methods, including publishing of draft regulations on the central administrative reform web portal which provides an opportunity for comments from all interested parties.</li> </ul> <p>The bodies responsible for competition and trade are consulted in some cases. (OECD Regulatory Management Indicators, RUSSIA, 2011)</p> <p>The Ministry of Economic Development (MED) states that public consultations are regarded as an essential element of RIA procedures. Consultation involves getting feedback from the subjects of entrepreneurial activities or other activities on the proposed initiatives in order to determine more accurately the risks of negative effects of regulation, as well as the calculation of the "compliance costs", which additionally arise from these entities in connection with the introduction of the new regulation.</p> <p>The RIA-related consultations occur through one of two methods:</p> <ul style="list-style-type: none"> <li>• posting of information about the projects of normative legal acts on the MED website to enable any person interested to send suggestions on the issues raised.</li> </ul>

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	<ul style="list-style-type: none"> <li>• direct interaction with representatives of major organizations representing the business community, through the functioning of the permanent working groups. Regulations of public consultations are currently being developed by the Chamber of Commerce of the Russian Federation, Russian Union of Industrialists and Entrepreneurs and public organizations Opora Rossii and Delovaya Rossiya.</li> </ul> <p>The MED states that, in the near future, a mechanism for public consultation through the website will also be launched. (<a href="http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria">http://www.economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/ria</a>)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>✓ Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There is no standardized method for consultation across the government or any minimum quality standards. As noted, consultation is routinely undertaken through Advisory groups. Advisory boards including representatives of government agencies and of public associations and businesses are often used. Some of them are set up permanently, such as the Advisory Board of the Russian State Customs Committee or an advisory board on foreign investments in Russia. Consultations that are open to any member of the public occur more rarely and on an ad-hoc basis.</p> <p>The views of participants are not generally made public, nor is there a process to monitor the quality of the process.</p> <p>A minimum period for allowing consultation comments does not exist.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>Federal Law 59-Φ3 of 2006 stipulates that the government has to respond in writing to citizens' comments or questions. It therefore also requires the government to respond in writing to the authors of consultations comments</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to</p>	<p>The Russian Federation has naturally focused on those aspects of regulation that affect important public priorities, such as free market development and improvement of the public administration. Integration of regulatory reform</p>

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protect regulatory quality? ✓ Is the government moving in the right direction, regardless of its starting point?	into these policies has been useful in developing them of the concepts and principles of GRP as recommended by APEC. An explicit regulatory reform strategy that focuses on the quality of regulation might be useful approach to further developing the tools of good regulatory quality such as broader and more systematic public consultation and regulatory impact analysis integrated into the policy processes of the regulatory ministries.

## Singapore

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<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>Singapore established the Rules Review Panel (RRP) in 2002 to oversee the rules review process within the public sector, to ensure that rules and regulations remain relevant. The focus was to get government agencies to take stock of existing rules and critically evaluate the ones which can be simplified or removed. In 2005, the RRP was reconstituted as the Smart Regulation Committee (SRC), and over the years, its work has moved beyond regulatory review, to include broader efforts that promote “best practices” in regulation-making across all government agencies.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>• Updated at least annually</li> <li>• Covering all ministries/regulatory agencies</li> <li>• Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The Singapore government does not publish an annual regulatory/ legislative plan.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>✓ Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>Regulations are developed on the basis that they:</p> <ul style="list-style-type: none"> <li>• Do not cost more than they have to.</li> <li>• Are balanced and imposed only after listening to stakeholders.</li> <li>• Foster self-regulation and market discipline as far as possible.</li> <li>• Contain or prevent risks through risk management approaches.</li> <li>• Bring together departments and agencies to work as one Government and stem from a stakeholder-centric perspective.</li> </ul>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and</li> </ul>	<p>The Smart Regulation Committee (SRC) emphasizes the need for rules and regulations to be constantly reviewed, such that their continued relevance can be assessed.</p> <p>The first cycle of regulatory review was carried out by the SRC’s predecessor, the Rules Review Panel (RRP) set up in 2002 to oversee the rules review process within the public sector. The RRP stipulated that all existing rules enforced by public sector agencies had to be reviewed every three to five years. With a mandate to establish effective and responsive</p>



Singapore	
<p>effectiveness information</p> <p>✓ Give explicit attention to barriers to international trade and investment.</p> <p>✓ Results published/consulted with stakeholders</p>	<p>regulatory regimes throughout the public service, the RRP adopted a proactive approach to the reviewing of rules by examining the rationale behind their existence. A total of 19,400 rules were reviewed between 2002 and 2007.</p> <p>A second round of assessment is currently underway. In addition, agencies are encouraged to also review their rules every three to five years to see if it is possible to introduce pro-enterprise changes. Consequently, rules found to be obsolete may be removed.</p> <p>In addition, Singapore has another programme for regulatory review, the Pro-Enterprise Panel (PEP) which aims to cut business red-tape as a way to reduce certain processes or regulations that impede business. The PEP was established in August 2000 to actively solicit feedback on rules and regulations that hinder businesses and stifle entrepreneurship. It is part of the Public Service 21 movement to ensure that government rules and regulations remain relevant and supportive of a pro-business environment.</p> <p>The Pro-Enterprise Panel is chaired by the Head of Civil Service and comprises of mainly business leaders from the private sector. The Panel is supported by the Speed Team for ENTERprises (STENT) network. This network comprises some 100 activists for rules review within the Public Service. They are the Permanent Secretaries and Deputy Secretaries of ministries, CEOs of statutory boards and Heads of major departments.</p> <p>Acting on feedback from the public, the PEP engages ministries and government agencies to review rules and regulations that could potentially hinder businesses and stifle entrepreneurship. Suggestions received from the public are reviewed with the intention of simplifying and eliminating rules. In a fast and ever-changing environment, PEP aims to create a more conducive climate for businesses to thrive and fulfill their potential. Since August 2000, the PE has reviewed more than 1,800 suggestions from businesses, of which about half were accepted for implementation. Agencies, in turn, have acquired a better understanding of businesses' needs. (see website at <a href="http://app.mti.gov.sg/default.asp?id=71">http://app.mti.gov.sg/default.asp?id=71</a>)</p> <p>PEP's approach has led to the removal of many unnecessary regulations, contributing to Singapore's reputation as the easiest place to do business, as ranked by the World Bank from 2006 to 2010. However, the Singapore government believes that efforts should not stop. The PEP is increasingly focusing its efforts on cross-agency issues and ensuring that a lead-agency approach (where one agency takes the lead to coordinate efforts to solve business red-tapes caused by inter-related, cross-agency regulations) takes root. It has also started seconding officers from "lower ranking" agencies in</p>

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	<p>the Pro-Enterprise Ranking survey to be actively involved in the PEP, so that these officers can promote a pro-enterprise mindset when they return to their agencies. (Singapore: Developments in Regulatory Reform 2011 APEC Economic Policy Report)</p> <p>The PEP Survey, administered by the PEP Secretariat, helps raise the bar across the board for regulatory agencies in a peer-pressure competitive exercise, to spur each other to make continuous improvements. The overall performance index has improved from 64.7 in 2004 to 74.81 in 2011. The results are publicly announced, and to encourage participating regulatory agencies, the top-ranked and most-improved agencies are recognized with awards.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives <ul style="list-style-type: none"> <li>• Clear goals set</li> </ul> </li> <li>✓ Schedules and deadlines set for results</li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>The Smart Regulation Committee (SRC) replaced the Rules Review Panel (RRP) in 2005. It is chaired by a Permanent Secretary from the Ministry of Trade and Industry and its members are senior civil servants from various ministries and statutory boards.</p> <p>Its primary function is to develop a regulatory regime that is friendly to business and investment by reducing the cost and burden of regulation on stakeholders (i.e. citizens and businesses) while safeguarding and maximizing public interest, and creating a competitive and innovative business environment. It promotes a more consultative regulatory style and works closely with the private sector, such as the Action Community for Entrepreneurship (ACE) movement. This improves the quality of government regulations and removes outdated or unnecessary regulations. (Singapore: Developments in Regulatory Reform 2011 APEC Economic Policy Report)</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>✓ Consultation by regulators with competition authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>There is no explicit requirement to include trade issues in regulatory reviews, but inter-agency coordination is meant to take into account of the views of trade authorities in Singapore.</p> <p>The Competition Commission of Singapore (CCS) issued guidelines on “Competition Impact Assessment for government Agencies” in October 2008 to help government agencies focus on important competition issues when formulating their policies. These guidelines provide advice for businesses and contribute to a fairer and more competitive business climate for enterprises. (available at <a href="http://app.ccs.gov.sg/Legislation.aspx">http://app.ccs.gov.sg/Legislation.aspx</a>). The guidelines explain (CCS Guidelines on Competition Impact Assessment for Government Agencies, 2008):</p> <p style="padding-left: 40px;">Regulations and policies that take into consideration their impact on competition can increase productivity and result in healthy competitive markets that will benefit the economy as a whole. Hence it is important that</p>

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	<p>policy-makers conduct a Competition Impact Assessment as part of an overall assessment of policy options and as early as possible in the policy development process. Having considered the potential impact on competition, policy-makers government agencies are then able to weigh that against other policy goals in the formulation of a policy.</p> <p>Competition Impact Assessment refers generally to a process of evaluating government policy options or existing policies to identify aspects that may unduly restrict competition and to identify alternatives that may achieve the desired policy goal that is less restrictive of competition.</p>
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p><i>Ex ante</i> RIA, which is used in the development phase of new regulations, is encouraged, but not mandatory in Singapore. There is no formal Regulatory Impact Analysis framework. For significant projects, a cost-benefit analysis, an evaluation of stakeholder impact and thorough public consultation are carried out. For other projects, Singapore relies on public consultation to identify the right options, and to reduce the risk of mistakes in regulatory design. The government believes that this approach allows the Singapore government to balance efforts to ensure that regulations are the “best-alternative-available” but to act in a timely manner. The relatively small size of the Singapore economy, with the Government’s strong connections with stakeholders, allow agencies to receive and evaluate feedback from stakeholders, thus paving the way for a quick assessment of policy impacts in areas that require further review and ex poste reform. (Singapore: Developments in Regulatory Reform at <a href="http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=238">http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=238</a>) The emphasis on quick corrective action when problems emerge is meant to reduce the cost of regulations, and the need for investment in “preventive” or ex ante RIA.</p> <p>However, for major projects, a cost-benefit analysis, an evaluation of stakeholder impact and thorough public consultation are carried out.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>RIA is not mandatory in Singapore. However, the SRC guidelines recommending better regulatory designs and extensive public consultation are meant to generate the information needed to make the right regulatory decisions.</p> <p>Government agencies are encouraged to take into account the potential impact on competition in the policy-formulation process. The non-mandatory competition impact analysis recommends that, “As a first step, government agencies are encouraged to identify options that can achieve the policy goals. Some of these options will be less restrictive on competition compared to others. It is important that the government agencies are aware of the impact of each of the policy options on competition as it makes its</p>

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	choices.” (CCS Guidelines on Competition Impact Assessment for Government Agencies, 2008)
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>RIA is not mandatory in Singapore. However, where significant projects are concerned, agencies should undertake a cost-benefit analysis, an assessment of stakeholder impact, and public consultation.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>✓ Trade impacts are explicitly included in the consultations with stakeholders</li> <li>✓ Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>The SRC principles are intended to generate a “whole of government” approach in which regulators bring together departments and agencies to work as one Government. Where applicable, trade officials will be involved in the broad approach of encouraging consultation across the government.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>• Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>• The RIA is included with the</li> </ul>	<p>Singapore has in place general guidelines for public consultation. These are however not specific for the development of new laws and regulations, nor are they established by law.</p> <p>The Singapore government recognises the value of public consultation, and tools used by agencies to conduct pre-policy consultation exercises include: focus groups, surveys, feedback forums, stakeholder engagements, townhalls and e-consultation via a central web portal. For key legislative amendments, agencies also conduct a two-stage public consultation process, i.e. an initial round of general feedback from the public is followed by a</p>

Singapore	
<p>legal document</p> <p>✓ Publication is done on a central web portal rather than on individual ministry websites</p>	<p>draft bill put up for public consultation. This helps bring the focus to areas of priorities and meeting the needs of businesses and key stakeholders. As the various industries grow and become more complicated, it is imperative that regulators collaborate with private sector specialists and professionals to draw up effective and beneficial regulations. Engaging stakeholders also helps ensure that regulation is effective in helping its intended beneficiaries and encourage deeper engagement with the business community.</p> <p>(Singapore: Developments in Regulatory Reform 2011 APEC Economic Policy Report)</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>✓ Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>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. Public can give their feedback on policy formulations through various means, including letters, emails and online submissions. Hence, although there are no formal requirements as set out in this document, there is a strong public sector culture of engaging the public through public consultation and face-to-face dialogues with key stakeholders to understand different perspectives.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>• Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>✓ Feedback is published on the Internet Web portal</li> </ul>	<p>Closing the loop with stakeholders is often done in the consultation process, though it is not mandated by law. Depending on the scope of public consultation, stakeholders might be informed of how their feedback have been incorporated into policy formulation via a Press Release, Press Briefing or through the online publication of a consolidated summary of feedback received and the government's specific responses on either/both the agency's feedback portal and e-consultation portal.</p>
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to</p>	<p>While Singapore does not use all of the GRP tools recommended by APEC, in particular RIA, Singapore has for many years invested in improving the</p>

Singapore	
protect regulatory quality? ✓ Is the government moving in the right direction, regardless of its starting point?	quality of its regulations through what it sees as equally effective alternative approaches. Considerable effort has been put into reducing the cost for business in terms of “red tape” aspects of regulation, and good regulatory principles for the design and scope of regulation that has been applied government-wide. Institutions are in place to promote a continued and dynamic process of regulatory reform. Emphasis on transparency and consultation is a key quality control mechanism that provides the government with information needed to improve regulatory quality.

## Thailand

Thailand	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>• A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Thailand does not have an explicit strategy for integrating GRP principles into its regulatory system. Under its 10<sup>th</sup> National Economic and Social Development Plan for 2007-11, Thailand aimed for balance and sustainability in all areas of national development. Its guiding principle was that of the "Sufficiency Economy" based on the idea of building economic resilience to internal and outside shocks, keeping investment and household debt within sustainable levels, and ensuring growth with stability. The 11<sup>th</sup> National Plan is now being developed, and is likely to contain some references to the need for better regulation to approve the business environment. If this is developed further, this could be the foundation for a fully-fledged "better regulation" strategy in future.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The Office of the Council of State and the Secretariat of the Prime Minister jointly prepare and submit each year the "Legislative Plan" in response to the State Administration Plan to the Cabinet for approval. According to the Royal Decree on Rules and Procedure for Good Governance, the Legislative Plan is composed of names and principles of the bills that are required for the achievement of the government policies, names of responsible agencies and priority of each bill. This initiative was endorsed by the 2007 Constitution. The Legislative Plan is intended to permit the government to prioritize legislation to ensure that they meet the needs of the country. (<i>Criteria for Prioritizing the Bills: Thailand's Perspective</i> by Pakorn Nilprapunt (2011))</p> <p>The legislative plan does not, however, include lower level regulations.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>• Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The Thai government has not published a set of good regulatory principles applicable across the government, but it has adopted good governance principles that have direct relevance to regulatory activities. The tools for applying these principles to regulatory activities have not yet been put in place.</p> <p>The good governance principles were specified in the State Administrative Act and were further reinforced in the Royal Decree on Criteria and Procedures for Good Governance. The Royal Decree sets out principles in nine areas:</p> <ol style="list-style-type: none"> <li>(1) the concept of good governance,</li> <li>(2) responsive Public Administration,</li> <li>(3) result-based management,</li> <li>(4) effectiveness and value for money administration,</li> <li>(5) lessening unnecessary steps of work,</li> </ol>

Thailand	
	<p>(6) mission review,  (7) convenient and favorable public services,  (8) performance evaluation, and  (9) miscellaneous section (2011 APEC Economic Policy Report)</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>✓ Reviews identified publicly in advance</li> <li>• Based on standard method that includes cost and effectiveness information</li> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>• Results published/consulted with stakeholders</li> </ul>	<p>The governance principles cited above have been used as the basis for reviewing and reforming government programs, including regulatory programs. For example, the Thai government has reported that, in order to ensure the public service quality for business operations, all government agencies have launched efforts to shorten service delivery time, streamline processes, reduce burden costs, and enhance the business climate. ( 2011 APEC Economic Policy Report)</p> <p>Since 2005, the Thai government has required all government agencies to review the existing laws and regulations under their responsibility and produce and submit an annual development plan. Under the plan, each agency must clearly state which laws or regulations under its administration that it intends to remove or modify. This annual development plan is one of the key performance indicators of each agency.  (<a href="http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=240">http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=240</a>)</p> <p>Ad hoc regulatory reviews are also common. The National Law Reform Committee was appointed in July 2004 to oversee the reform of the legal and judicial regime under the National Laws Development Plan 2005-2008; 377 laws identified by line ministries as redundant, outdated, or in need of replacement were to be reviewed.</p> <p>The Board of Investment (BOI) has launched some targeted regulatory reviews relevant to specific investments in specific sectors. For example, the BOI repealed the land ownership requirement for theme park businesses.</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>On a day-to-day basis, the Office of the Council of State is responsible for reviewing submissions to the cabinet for new legislation. RIA is mandatory, and the Office has issued a RIA manual. The Office seems to be well-placed to organize, promote, and oversee a quality program of RIA in Thailand.</p> <p>As noted above, the National Law Reform Committee was appointed in July 2004 to oversee the reform of the legal and judicial regime under the National Laws Development Plan, and has overseen some targeted regulatory reviews. The LRC under the Office of the Council of State is now the principal agency responsible for regulatory reform. The LRC's work in regulatory reform is primarily focused on research in various sectors of legislation with the aim of improving the quality of the legislation.  (<a href="http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=240">http://www.apecsme.org/index.php?file=article&amp;cmd=show&amp;artid=240</a> )</p> <p>The Committee has also advocated for the adoption of a sunseting approach</p>



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	<p>in Thailand, but it is unclear to what extent this has actually been implemented.</p> <p>The National Economic and Social Development Board (NESDB), created in 1972, under the <a href="#">Prime Minister's Office</a>, is the key agency on planning and formulation of development strategies based on balanced and <a href="#">sustainable development</a>, <a href="#">public participation</a>, and flexibility meeting the changing environment and needs of the <a href="#">Thai people</a>. Several of its key functions are relevant to the regulatory reform agenda, such as</p> <ul style="list-style-type: none"> <li>• Formulation of the National Economic and Social Development Plan and translation into action within a 5-year timeframe.</li> <li>• Creation of the National Agenda for Enhancing Thailand's Competitiveness</li> <li>• Formulate strategies for key government policies and major development projects</li> </ul>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>• Inclusion of competition impacts in RIA</li> </ul>	<p>There is not an explicit test against trade and competition principles while developing new regulations. Trade officials have expressed concern about the “alleged complexity of the system of laws and regulations” with trade impacts. (Trade Policy Review Report by the Secretariat Thailand, WT/TPR/S/191, 2007)</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>• Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>In 1988, the Thai government issued the Rule of the Office of the Prime Minister on Matters to be considered by the Council of Ministers, which requires government agencies to conduct social and economic impact assessment as well as public consultation on all regulatory proposals. (Thailand: Developments in Regulatory Reform 2009 APEC Economic Policy) The Law Reform Committee successfully promoted a requirement that “All government agencies must conduct necessity assessment for all legislation, administered by the Cabinet Secretariat Office and the Office of Council of State.”</p> <p>RIA was elaborated in 2004. According to a 2011 article (<i>Criteria for Prioritizing the Bills: Thailand's Perspective</i> by Pakorn Nilprapunt (2011), Law Councilor, Office of the Council of State, at <a href="http://www.lawreform.go.th">www.lawreform.go.th</a>),</p>

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	<p>development of new legislation begins with consideration of options, a decision that a legal measure is needed, consultation with stakeholders, and then development of a RIA, “generally known as “Checklist”.</p> <p>RIA was approved by the Cabinet on November 23, 2004, as a mandatory requirement for all agencies who submit a proposal for legislation to the Cabinet for consideration. In 2005, the RIA was annexed as a part of the Regulation on Rules and Procedure for Submission of the Matter to the Cabinet which was issued under the Royal Decree on Submission of the Matter to the Cabinet and the Rules and Procedure for Cabinet’s Meeting of 2005. The Office of the Council of State has issued a Regulatory Impact Analysis Manual, now in its 13th edition. The objective of the RIA “is not for deregulation, but better regulation. It was made along the same line with the RIA of OECD.” (<i>Criteria for Prioritizing the Bills: Thailand’s Perspective</i> by Pakorn Nilrapunt (2011), Law Councilor, Office of the Council of State, at <a href="http://www.lawreform.go.th">www.lawreform.go.th</a>)</p> <p>In the RIA, the responsible agency must clarify the following</p> <p>What are the objectives and goals of the mission?</p> <ol style="list-style-type: none"> <li>(1) Who should be responsible for the mission?</li> <li>(2) Is legislation required for the achievement of the mission?</li> <li>(3) Does the proposed legislation duplicate others?</li> <li>(4) What are burdens on individuals caused by the proposed legislation and is that legislation value for money?</li> <li>(5) Are responsible agencies ready for the enforcement of the proposed legislation?</li> <li>(6) Which agency should be responsible for the proposed legislation</li> <li>(7) What are working process and audit method?</li> <li>(8) Is there a guideline for the enactment of subordinate legislation?</li> <li>(9) Is there public consultation on the proposed legislation and what are the results and responses?</li> </ol> <p>Oddly, the important steps of defining the problem and assessing the baseline are not included in the RIA manual, and there is no explicit requirement to assess options.</p> <p>In 2008, an expert noted that “Legislations have been enacted without adequate research.” (Thailand Experiences on Legal Reform, Chintapun Dansubutra, Law Reform Division, Office of the Council of State, 2008)</p> <p>Some parts of the Thai of government are examining the use of RIA. The Energy Regulatory Commission has been examining the possible use of RIA</p>

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	<p>for the last year, and might move to adopt it in future.</p> <p>There is movement toward more evidence-based policy-making that might support future RIA. Requirements for impact assessments are still in the development phases in Thailand. Thailand's Health Impact Assessment was adopted in 2002 as an additional requirement to the environmental impact assessment, and then endorsed in the Thai Constitution 2007, Section 67 Paragraph 2. Implementation of the HIA has been difficult. In 2009, it was noted that investors "continue to have no clear direction on how to comply with a Health Impact Assessment for which implementing regulations have yet to be written." (Journal of the American Chamber of Commerce in Thailand, Vol 6, 2009). In April 2010, <i>Thailand's Rules and Procedures for the Health Impact Assessment of Public Policies</i> were issued by the Health Impact Assessment Coordinating Unit of the National Health Commission Office. This document lays out some good principles for evidence-based policy, such as the use of "best relevant evidence and information". The content of the HIA is basically what a component of what is usually included in RIA, but the HIA does not require any assessment of costs, options, or economic effects. The scope of HIA is not yet settled – in 2010 the number of industries that are required to do HIA's was reduced.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined (at least 3)</li> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The RIA Manual does not specify how many or which options are to be considered or how they are to be compared.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> </ul>	<p>Not at this time.</p>

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<ul style="list-style-type: none"> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not explicitly included either in the development of new regulations or in consultation with stakeholders.</p>
PUBLIC CONSULTATION MECHANISMS	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>• Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>• Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>Public participation in administrative procedures is protected at the highest levels of Thai law. The 2007 Constitution (Part 10) requires that a person shall have the right to express opinions on administrative activities that are important to him or her. The mandatory RIA process set up under Cabinet procedures requires that each RIA answer the question, “Is there public consultation on the proposed legislation and what are the results and responses?”</p> <p>However, in the regulatory process, these rights have not been specified in the detail needed to ensure early and meaningful opportunity to comment on new regulations. There is not a general consultation strategy for new regulations or regulations under review. The 2007 Trade Policy Review by the WTO found that “Reportedly, prescribed comment periods for new legislation and regulations are sometimes not honoured.”</p> <p>Opening up the bureaucratic process has been a priority over the past few years to provide opportunities for public participation. Citizen engagement is seen as an appropriate and necessary part of policy implementation in the democratic system. Public administrators should be held ethically responsible for encouraging the participation of the citizenry in the process of planning and providing public goods and services. Therefore, people are able to monitor and evaluate public performance in order to increase transparency. Concurrently, the Thai government seeks better incorporation</p>

Thailand	
	<p>of citizens into participatory governance through a mechanism called “people’s audit,” (<a href="http://portal.in.th/peopleaudit/pages/6598/">http://portal.in.th/peopleaudit/pages/6598/</a>) but this concept has not yet affected regulatory development.</p> <p>The National Economic and Social Advisory Council is an organization advising on economic and social problems. The Secretariat reports directly to the Office of the Prime Minister. However, the Council does not participate directly in the development of new regulations.</p>
<p>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</p> <ul style="list-style-type: none"> <li>• The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>There are no standardized requirements for consultation.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>The RIA requires that the responsible agency report on the results of consultation.</p>

Thailand	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Thailand has, over the last several years, moved to improve the transparency and efficiency of the regulatory system. Commitments to transparency and public participation in the policy process are important, but are not yet reflected in specific procedures in the development of new regulations. RIA has been adopted for several years, with a published RIA guide and oversight by the central Cabinet Office, both good practices. Thailand should move now toward mainstreaming and systematizing the use of these important GRPs in the national regulatory system.</p>

## United States

United States	
<p>Is there a strategy for GRP adopted at the center of government?</p> <ul style="list-style-type: none"> <li>✓ A public document laying out regulatory reform strategy (Name of document)</li> </ul>	<p>Over 35 years, the United States has seen the development of two regulatory reform trends: deregulation of economic controls, and establishment of quality standards and processes for new regulations and federal paperwork. These have been guided by a series of Presidential executive orders that have progressively laid the framework for the integration of GRPs into US regulatory activities.</p> <p>The regulatory reform strategy was most recently updated in President Obama's Executive Order of 18 January 2011, <i>Improving Regulation and Regulatory Review</i>, which requires Federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness.</p>
<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>✓ A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>✓ Including also lower-level or subordinate regulations</li> <li>✓ Containing information on potential costs of the regulation</li> </ul>	<p>The United States has had for many years an extensive planning system for regulations under development. <i>The Unified Agenda of Federal Regulatory and Deregulatory Actions</i> is published twice a year on the Internet. It provides information in a common format to help the public identify which new regulations will affect them. All entries include information about the regulation's priority, its effects on SMEs and other levels of government, an abstract, and a timetable for action.</p> <p>The forward planning process has been a core element of the regulatory quality control system. The planning process was intended to improve interagency co-ordination, establish the president's regulatory priorities, increase the accountability of agency heads for the regulatory actions of their agencies, and improve public and Congressional understanding of the president's regulatory objectives. (President Ronald Reagan (1985), Executive Order No. 12498, "Regulatory Planning Process," January 4). According to OMB, regulatory planning also put into place a more rigorous and careful priority-setting process.</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>✓ Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance</li> </ul>	<p>Since 1983, the 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 September 30, 1993) are, to the extent permitted by law, each agency must, among other things:</p> <ul style="list-style-type: none"> <li>▪ 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);</li> </ul>

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<p>with trade and investment commitments</p>	<ul style="list-style-type: none"> <li>▪ 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;</li> <li>▪ 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);</li> <li>▪ to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and</li> <li>▪ 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</li> </ul> <p>President Obama’s January 2011 order outlines several additional guiding principles:</p> <p style="padding-left: 40px;">Cost-effective and Cost-Justified: Consistent with law, Agencies must consider costs and benefits and choose the least burdensome path.</p> <p style="padding-left: 40px;">Transparent: The regulatory process must be transparent and include public participation, with an opportunity for the public to comment.</p> <p style="padding-left: 40px;">Coordinated and Simplified: Agencies must attempt to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.</p> <p style="padding-left: 40px;">Flexible: Agencies must consider approaches that maintain freedom of choice and flexibility, including disclosure of relevant information to the public.</p> <p style="padding-left: 40px;">Science-driven: Regulations must be guided by objective scientific evidence.</p> <p style="padding-left: 40px;">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, January 18, 2011, Improving Regulation and Regulatory Review - Executive Order)</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>• Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>• Based on standard method</li> </ul>	<p>Like most APEC countries, the United States has used several mechanisms of regulatory review of existing regulations in recent years. The United States has no regular program of regulatory review, but rather relies on ad hoc review efforts every few years.</p> <p>The most recent Presidential executive order on regulatory reform of January 2011 orders a government-wide review of regulations already on the books to “remove outdated regulations that stifle job creation and make our</p>



United States	
<p>that includes cost and effectiveness information</p> <ul style="list-style-type: none"> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>economy less competitive.” The order states that “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, January 18, 2011). However, like previous reviews, this review is a self-review by the regulatory agencies themselves, rather than an independent review.</p> <p>By contrast, regular, independent review is carried out for a category of regulations. Red tape or paperwork requirements expire every three years (that is, they have a 3 year sunset), as mandated by the Paperwork Reduction Act. They can be maintained only if , review is required every three years by OMB’s OIRA</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>✓ Central body or authority tasked with oversight of regulatory quality across the government</li> <li>✓ Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives <ul style="list-style-type: none"> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> </ul> </li> <li>✓ Includes monitoring of results and regular performance reporting</li> </ul>	<p>The current reform policy establishes clear political accountability at the highest political levels. The framework reform policies are established directly by the President on the basis of his executive authority. The Office of Management and Budget, a Cabinet level agency, contains the Office of Information and Regulatory Affairs (OIRA), whose head is appointed by the president and confirmed by the Senate. OIRA is charged with carrying out the regulatory quality and reform policies of the government.</p> <p>The OMB has had a strong coordination, reviewing, and reporting role on regulatory reform since the earliest days of the regulatory reform policy. Located at the centre of government, OMB is responsible for many central management tasks of government that have been very helpful to regulatory reform. These include preparation of the President’s budget, legislative review, information policy, financial management, and procurement policy. The current staff of OMB in the responsible Office of Information and Regulatory Affairs (OIRA) number around 45. 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.</p> <p>The Office of Information and Regulatory Affairs (OIRA) reviews the most important regulations two times: (1) at the proposed stage before they are published for comment in the Federal Register (the national gazette); and (2) at the final stage before publication as a finished rule. OIRA's role is to review the regulations and the impact analyses in order to identify decisions and policies that are not consistent with the president's policies, principles, and priorities; to co-ordinate among agencies; to discuss any inconsistencies with the regulators, and to suggest alternatives that would be consistent.</p> <p>In addition, OIRA has legal authority under the Paperwork Reduction Act to review and nullify any “information collection” requirement imposed on</p>

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	<p>citizens, businesses, or state and local governments.</p> <p>OMB reports annually to the US Congress on the progress made in implementing its regulatory reform program, most notably by presenting agencies' estimates of the costs and benefits of regulations. The most recent report, 2010 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 October 1, 1999, to September 30, 2009, produced annual social benefits of \$128 billion to \$616 billion, while imposing annual costs from \$43 billion to \$55 billion. While the total impact of federal regulations was produced net social benefits, some regulations had costs higher than benefits.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>✓ If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>✓ Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> <li>✓ Inclusion of competition impacts in RIA</li> </ul>	<p>Trade and competition impacts are not explicitly included in the regulatory analysis. When reviewing draft regulations with potential impacts on competition or international trade and investment, OIRA involves the relevant competition and trade agencies in its centralize review process.</p>
REGULATORY IMPACT ASSESSMENT	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>✓ Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>✓ Baseline or future trends in the problem are identified</li> </ul>	<p>The United States has one of the longest-standing RIA systems in the world, dating from the middle 1970s. Political commitment to RIA has come from the highest political level in the United States. The obligation to carry out RIA has, since its inception in 1981, been through executive orders. Moreover, each president since 1981 has issued his own revision of RIA.</p> <p>The scope of RIA is not comprehensive. RIA and OMB review are required for most subordinate regulations developed by the regulatory agencies, but important regulatory fields are exempt from RIA and OMB review, including the financial regulatory regime, telecommunications, energy, and consumer products. In addition, RIA is not usually done for proposed legislation, which is at variance with international practice. Because the President cannot order the Congress to use RIA, Congress can only decide itself to use RIA. The Congress has agreed to use RIA methods on legislation, but in practice rarely does so.</p>

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	<p>The RIA process is highly structured. The RIA begins with the problem definition, which, uniquely to the United States, focuses on identifying market failures. The RIA guidance document states:</p> <p style="padding-left: 40px;">Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem. Thus, you should try to explain whether the action is intended to address a significant market failure or to meet some other compelling public need such as improving governmental processes or promoting intangible values such as distributional fairness or privacy. If the regulation is designed to correct a significant market failure, you should describe the failure both qualitatively and (where feasible) quantitatively. You should show that a government intervention is likely to do more good than harm. For other interventions, you should also provide a demonstration of compelling social purpose and the likelihood of effective action. Although intangible rationales do not need to be quantified, the analysis should present and evaluate the strengths and limitations of the relevant arguments for these intangible values. (OMB, Circular A-4 of September 17, 2003, Regulatory Analysis)</p> <p>Regulators must also identify the baseline scenario: “Identify a baseline. Benefits and costs are defined in comparison with a clearly stated alternative. This normally will be a “no action” baseline: what the world will be like if the proposed rule is not adopted.”</p> <p>In addition to these executive order requirements, the 1995 Unfunded Mandates Reform Act requires executive branch agencies to “assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector...” unless prohibited by law.</p>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>✓ Specifies minimum number of options to be examined (at least 3)</li> <li>✓ At least one option to be non-regulatory</li> <li>✓ Standard format stated for comparing options based on systematic assessment of impacts</li> <li>✓ Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	<p>The Jan 2011 Executive Order requires regulators to “identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.”</p> <p>Regulators are required to “Identify and assess alternatives to direct regulation, including economic incentives and information, and use performance standards to the extent possible if regulation is chosen.” The kinds of alternatives that should be considered are listed in the RIA guidance:</p> <ul style="list-style-type: none"> <li>• Different Choices Defined by Statute</li> <li>• Different Compliance Dates</li> <li>• Different Enforcement Methods</li> <li>• Different Degrees of Stringency</li> <li>• Different Requirements for Different Sized Firms</li> <li>• Different Requirements for Different Geographic Regions</li> </ul>

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	<ul style="list-style-type: none"> <li>• Performance Standards Rather than Design Standards</li> <li>• Market-Oriented Approaches Rather than Direct Controls</li> <li>• Informational Measures Rather than Regulation</li> </ul> <p>The options should be ranked using both benefit-cost analysis (BCA) and cost-effectiveness analysis (CEA), which “provide a systematic framework for identifying and evaluating the likely outcomes of alternative regulatory choices”.</p>
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>✓ RIA handbook or guide published</li> <li>✓ Structured analysis with identification of potential negative and positive impacts</li> <li>✓ Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>✓ Direct costs are stated in monetary terms</li> <li>✓ Indirect costs such as effects on trade or competition are described qualitatively</li> <li>✓ Impacts of benefits and costs are systematically compared for every option examined</li> <li>✓ A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>OMB has published detailed guidance on conducting RIA, which aims to “standardize the way benefits and costs of Federal regulatory actions are measured and reported.” (OMB, Circular A-4 of September 17, 2003, Regulatory Analysis) The document sets out the objectives of as well as methodological guidance on issues such as discount rates and valuation of human life.</p> <p>The preferred method is BCA, using quantification to the extent possible. The US RIA guidance explains that, in the BCA, both benefits and costs are expressed in monetary units, which allows the analyst to evaluate different regulatory options with a variety of attributes using a common measure. The size of net benefits, the absolute difference between the projected benefits and costs, indicates whether one policy is more efficient than another. Even when a benefit or cost cannot be expressed in monetary units, the analyst should still try to measure it in terms of its physical units. If it is not possible to measure the physical units, the analyst should describe the benefit or cost qualitatively.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>✓ Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>✓ Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>The RIA guidance issued by OMB states that “[c]oncerns that new U.S. rules could act as non-tariff barriers to imported goods should be evaluated carefully.” In addition, OMB has well established relationships with the Office of the US Trade Representative, the Commerce Department, and the State Department, in which trade officials can be brought into regulatory reviews on an as-needed basis.</p>
<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents</li> </ul>	<p>With some exceptions, the 1946 Administrative Procedure Act (APA) established a legal right for citizens to participate in rulemaking activities of the federal government on the principle of open access to all. The APA sets out specific requirements for administrative procedures to be followed in</p>

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<p>regardless of their level (draft laws and subordinate rules)</p> <ul style="list-style-type: none"> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>✓ The RIA is included with the legal document</li> <li>✓ Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>promulgating subordinate regulation. The key mechanism through which participation occurs is known as “notice and comment,” and it is available to members of the public both inside and outside of the U.S.</p> <p>The Act requires that an agency publish a proposed rule in the Federal Register. Except for some widely used exceptions, the public must be given at least 30 days to comment in writing and the agency must consider any comments received. The comments themselves are made public via the establishment of a legal rulemaking “record”, which contains all factual material received and potentially relied upon in the regulatory decision. This information is now available on comprehensive electronic regulatory dockets at Regulations.gov. The goal is to give members of the public improved access to information on which agencies rely in making decisions relevant to rulemaking.</p> <p>When an agency publishes a final rule, it must explain the factual and logical basis for its decision, how it reached its conclusion, and how it dealt with the public comments received. Where important new material is received, there may be a need for more than one round of comments. Written comments may be supplemented by a public hearing.</p>
<p>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</p> <ul style="list-style-type: none"> <li>✓ The comment period is at least 60 days</li> <li>✓ A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>✓ Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>✓ Web portal allows for online comments to be submitted</li> <li>• Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>The RIA is frequently used as the consultation document. The RIA guidance states that “As you design, execute, and write your regulatory analysis, you should seek out the opinions of those who will be affected by the regulation as well as the views of those individuals and organizations who may not be affected but have special knowledge or insight into the regulatory issues. Consultation can be useful in ensuring that your analysis addresses all of the relevant issues and that you have access to all pertinent data. Early consultation can be especially helpful.”</p> <p>Consultation methods have been updated with the use of the Internet. <i>www.Regulations.gov</i>: Since 2003, Regulations.gov has enabled millions of citizens to search, view and comment on federal regulations.</p> <p>The Jan 2011 Executive Order updates and summarizes public consultation requirements for regulation:</p> <p style="padding-left: 40px;">Regulations shall be adopted through a process that involves public participation. ... regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.</p> <ul style="list-style-type: none"> <li>▪ To promote that open exchange, each agency... shall endeavor to provide the public with an opportunity to participate in the regulatory process. ... each agency shall afford the public a meaningful</li> </ul>

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	<p>opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.</p> <ul style="list-style-type: none"> <li>▪ To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.</li> <li>▪ Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.</li> </ul>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how the government responded to the comments is a mandatory part of consultation</li> <li>• Feedback is published on the Internet Web portal</li> </ul>	<p>The Administrative Procedure Act requires that, when an agency publishes a final rule, it must explain the factual and logical basis for its decision, how it reached its conclusion, and how it dealt with the public comments received.</p>
CONCLUSIONS	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <ul style="list-style-type: none"> <li>✓ Is the government moving in the right direction, regardless of its starting point?</li> </ul>	<p>The United States has developed, over four decades, a regulatory quality system that integrates many of the GRP recommended by APEC. Consultation and RIA processes are mandatory, and highly structured, with extensive quality control and oversight to ensure quality. Whole-of-government management of regulation is firmly in place at the center of government. The gaps in the US system – particularly the failure to apply RIA to regulations of independent regulators and to primary legislation, as well as inadequate external review of agencies’ estimates of regulatory costs and benefits reported to Congress – are harder for the US to fill than for most countries due to the Constitutional context of the country. The US system is dynamic and evolving, with new quality standards set by each new President, and offers many lessons for other countries.</p>

## Viet Nam

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<p>Is there a strategy for GRP adopted at the center of government?</p> <p>✓ A public document laying out regulatory reform strategy (Name of document)</p>	<p>Vietnam's entry into the WTO and its transition to a market-led growth strategy in the past ten years has increased attention by the government to the quality of regulation. Vietnam currently has no integrated plan for regulatory reform, instead relying on a series of separate changes to the regulatory framework through various reforms. Despite this, underlying principles of good regulation behind various reforms and donor recommendations are converging toward the GRP principles recommended by APEC. Regulatory reform is following three main channels in Vietnam:</p> <p>First, the revised <i>Law on the Promulgation of Legal Normative Documents</i> (Law on Laws) in 2009 created a new quality standard for legal norms in Vietnam. The new law required, for the first time, public consultation on all new legal norms, and regulatory impact analysis of legal norms. These reforms are being championed by the Ministry of Justice.</p> <p>Second, administrative simplification has received much attention and significant resources since 2007, principally through the Prime Minister's Master Plan to Simplify Administrative Procedures in the fields of the State Governance ("Project 30") and other initiatives. Project 30 was a massive simplification reform, based on the principles of the guillotine strategy, that reviewed almost 5,500 separate procedures over two years. It eliminated almost 8% and simplified over 70%, which are estimated to produce cost savings to businesses of \$1.45 billion/year. The administrative simplification program was institutionalized in 2010 with the <i>Decree On the controlling of administrative procedures</i>, which created a new <i>Administrative Procedures Control Agency</i> and required RIA for new administrative procedures.</p> <p>Third, a new regulatory reform program was launched in 2011 to promote a modern regulatory management system in Vietnam by providing the National Assembly and government agencies with the resources they need to improve the quality of policies and legal documents. The Program for Enhancing Regulatory Quality (PERQ) features a combined outreach strategy of facilitation, training events, workshops, and a people-to-people ambassador scheme. PERQ is administered by the Central Institute for Economic Management (CIEM) in the Ministry of Planning and Investment. It will help decision makers eliminate regulations that impose unnecessary costs on the community, impede innovation, and stifle competitiveness.</p>

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<b>INTERNAL COORDINATION OF RULEMAKING ACTIVITY</b>	
<p>Does the government publish at least annually a regulatory/legislative plan?</p> <ul style="list-style-type: none"> <li>• A plan published on the internet (website)</li> <li>✓ Updated at least annually</li> <li>✓ Covering all ministries/regulatory agencies</li> <li>✓ Including only upcoming legislation</li> <li>• Including also lower-level or subordinate regulations</li> <li>• Containing information on potential costs of the regulation</li> </ul>	<p>The 2009 Law on Laws requires an annual Legislative Program to be developed by the government for new or revised legislation. Proposals submitted for inclusion in the Legislative Program “must specify the necessity of the issuance of the document; subjects and scope of application of the document; the main points of view and contents of the document; the expected human resources and conditions to secure the drafting of the document; the preliminary report on impact assessment of the document to be issued.” The Government considers and approves the proposed Legislative Program after consultation with representatives of agencies/organizations. (Law on Laws, 2009)</p>
<p>Has the government published a set of good regulatory principles applicable across the government?</p> <ul style="list-style-type: none"> <li>✓ Published by the center of government</li> <li>✓ Principles on transparency/consultation</li> <li>✓ Principles on efficiency/analysis</li> <li>✓ Principles on consistency /coordination with other legal instruments</li> <li>• Principles on compliance with trade and investment commitments</li> </ul>	<p>The 2010 Decree On the controlling of administrative procedures sets out a series of principles for the design and review of new administrative procedures (which are the main regulatory instruments in Vietnam):</p> <ul style="list-style-type: none"> <li>• Simplicity, easy understanding and easy implementation.</li> <li>• In line with the State administration management targets.</li> <li>• Ensuring equality of administrative procedure complying subjects.</li> <li>• Time and cost saving for individuals, organizations and State administrative agencies.</li> </ul> <p>Ensuring constitutionality, legitimacy, consistency, uniformity and efficiency of regulation of administrative procedures; administrative procedure must be regulated by authorized State agencies on the basis of ensuring the inter-departmentalism between related administrative procedures, clear, transparent and reasonable decentralization and assignment; legal normative document projects/drafts containing regulation of administrative procedures must be completed by authorized agencies</p>
<p>Does the government systematically review regulations for cost and effectiveness?</p> <ul style="list-style-type: none"> <li>✓ Annual program of reviews of regulations (not one time or ad hoc reviews), either based on rolling program or based on complaints or other priority process</li> <li>• Reviews identified publicly in advance</li> <li>✓ Based on standard method that includes cost and</li> </ul>	<p>Vietnam adopted a systematic review program in 2007 that was institutionalized in 2010. Prime Minister Dung approved Project 30 in January 2007. Drawing from international experience on best methods and institutional reforms, particularly the inventory-review-eliminate regulatory guillotine approach, reformers developed a public-private process to implement Project 30. (Updated from Matthew G. Schwarz (2011) Project 30: A Revolution in Vietnamese Governance? The Brookings Institution at <a href="http://www.brookings.edu/papers/2010/09_vietnam_schwarz.aspx">http://www.brookings.edu/papers/2010/09_vietnam_schwarz.aspx</a>)</p> <p>Inventory: During the first phase (which took place between January 2008</p>



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<p>effectiveness information</p> <ul style="list-style-type: none"> <li>• Give explicit attention to barriers to international trade and investment.</li> <li>✓ Results published/consulted with stakeholders</li> </ul>	<p>and June 2009) hundreds of civil servants representing every level of the government created the first ever comprehensive inventory of administrative procedures, which was made into a searchable electronic database and posted to the government website. Almost 6,000 administrative procedures were added to the database, which allows users to locate every administrative procedure and download printable versions of every administrative form.</p> <p>Review : During the second phase (which took place between June 2009 and May 2010) a “Special Task Force” consisting of government officials and chaired by Dr. Phan, engaged government officials, citizens, non-governmental organizations and business associations in a sweeping review of the entire administrative procedure database. The Prime Minister and Minister of the Office of Government emphasized that the review would only be successful if the business community and civil society helped the Special Task Force identify problematic administrative procedures. To this end, the government created dossiers designed to enable business associations, citizens, and individual enterprises to (a) identify problematic administrative procedures; (b) explain why those procedures were unnecessary, unreasonable, overly expensive, or inconsistent with existing regulations, and; (c) recommend solutions – typically, abolishment or revision – which would make the process simpler and more efficient.</p> <p>AmCham, the European Chamber of Commerce (EuroCham), the Korea Trade Investment Promotion Agency (KOTRA), the International Finance Corporation (IFC), and thirteen domestic Vietnamese business associations participated in the review process, gathering and synthesizing perspectives on the business environment, developing recommendations to simplify troublesome administrative procedures, and discussing solutions with their government counterparts. They divided themselves into eleven working groups (one for each sector of the domestic economy), and organized weekly meetings to develop satisfactory solutions to the administrative challenges companies in their sector faced. Based on these discussions and its own independent analysis, the Special Task Force created a package of administrative reforms which it presented to Prime Minister Dung for his approval.</p> <p>Implementation: Implementation of the final phase of Project 30 began in early June 2010, when Prime Minister Dung approved a pilot package consisting of 258 administrative reforms. 5,500 additional administrative procedures came under review after the initial pilot package was implemented. By the end of the project, 9% of the 5,500 administrative procedures had been eliminated, and 77% simplified, with total cost savings</p>

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	<p>to businesses in Vietnam of \$1.45 billion/year.</p> <p>Continuous reviews of administrative procedures were adopted in 2010 with the <i>Decree On the controlling of administrative procedures</i>, which requires reviews of existing administrative procedures by Ministries, Ministerial-level agencies, and People’s Committees of provinces and cities. The reviews are to include public participation: “Those directly affected by administrative procedures shall be mobilized to engage in the review and evaluation activities.” The criteria for reviews include those listed above, and also necessity, and consistency with “State management targets and the economic, social and technological changes and other objective conditions.” Independent reviews are done by a new central body called the <i>Administrative Procedures Control Agency</i> (see below).</p>
<p>Does the government have a capacity to manage a government-wide program of regulatory reform?</p> <ul style="list-style-type: none"> <li>• Central body or authority tasked with oversight of regulatory quality across the government</li> <li>• Accountable to the top political levels of government</li> <li>✓ Explicit cross-government mandate to promote, organize, and oversee regulatory reform initiatives</li> <li>• Clear goals set</li> <li>• Schedules and deadlines set for results</li> <li>• Includes monitoring of results and regular performance reporting</li> </ul>	<p>Project 30 set a new standard for central management of government wide regulatory reform projects in Vietnam. The reform was managed by a coordinating body at the center of government called the Special Task Force (STF). Under the supervision of the Minister of the Office of Government, the STF had enough power to deal with and directly instruct other ministries, agencies and provinces. This was also underlined by high professional skills and active day-to-day communications with involved institutions. (OECD (2010) <i>Administrative Simplification in Vietnam. Supporting the Competitiveness of the Vietnamese Economy</i>)</p> <p>In 2010, the <i>Decree On the controlling of administrative procedures</i> created a new <i>Administrative Procedures Control Agency</i> under the direct management of the Office of the Government and responsible for assisting the Government in organizing the implementation of controlling administrative procedures and managing the national database of administrative procedures on a nationwide scale.</p>
<p>Are trade and competition principles integrated into regulatory reviews and analysis?</p> <ul style="list-style-type: none"> <li>• Consultation by regulators with trade authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with trade authorities</li> <li>• Inclusion of trade impacts in RIA</li> <li>• Consultation by regulators with competition authorities in drafting process</li> <li>• If central body, coordination of regulatory reviews with competition authorities</li> </ul>	<p>Trade and competition principles are not yet well integrated into regulatory reviews and analysis. This is intended to be done through gradual application of RIA and better consultation techniques, but implementation has been slow.</p>

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<ul style="list-style-type: none"> <li>• Inclusion of competition impacts in RIA</li> </ul>	
<b>REGULATORY IMPACT ASSESSMENT</b>	
<p>Does the RIA or other explanatory document define the problem to be solved?</p> <ul style="list-style-type: none"> <li>✓ Specific section on problem definition</li> <li>• Standard format for problem definition, including identification of the underlying causes of the problem</li> <li>• Baseline or future trends in the problem are identified</li> </ul>	<p>The 2009 Law on Laws required, for the first time, that RIA be done on most new legal norms. The RIA is done at two stages: in the annual legislative plan and during the drafting process. The Law states that</p> <p>Proposals for law and ordinance development for a legislature must clearly state the necessity to issue the document; major policies of the document; forecast of documents; estimated socio-economic impacts of the major contents and policies of the document, the time for issuance of such document, and time for issuance of the document; Proposals for annual law and ordinance development must be submitted together with the Preliminary Report on Assessment of legal-economic-social Impacts of the document....</p> <p>During the drafting phase, the RIA requirements are more extensive.</p> <p>In preparing draft laws/ordinances, the agency taking lead in the drafting process shall have the following duties:</p> <ol style="list-style-type: none"> <li>1. summing up the situation of implementation of laws, assessing current legal normative documents which are relevant to the draft; surveying and assessing the actual social relationships relating to the subject matter of the draft ;</li> <li>2. organizing researches on the information and materials relating the draft and international treaties to which Vietnam is a member;</li> <li>3. summing up and researching, explaining the response to opinions; publishing the explanatory document on absorbance of opinions and the adjusted draft on the website of the Government or of the agency/organization taking lead in the drafting process;</li> <li>4. Organizing the collection of opinions on the draft laws/ordinances;</li> <li>5. Studying and absorbing the appraisal opinion, comments of the Government on the drafts, and preparing the explanatory document on studying and absorbing opinions as attached to the draft submission dossier;</li> <li>6. preparing the statement, explanatory statement regarding the draft laws/ordinances; the impact assessment reports of the document and the documents relating to the draft; publishing the submission statement and the explanation report on the draft law/ordinance on the website of the Government or of the agency/organization taking lead in the drafting process; report on the assessment of the document's impacts</li> </ol>
<p>Does the impact analysis or other justification include options for solving the problem?</p> <ul style="list-style-type: none"> <li>• Specifies minimum number of options to be examined</li> </ul>	<p>The Ministry of Justice has not issued any standard format for RIA required by the Law on Laws.</p>

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<p>(at least 3)</p> <ul style="list-style-type: none"> <li>• At least one option to be non-regulatory</li> <li>• Standard format stated for comparing options based on systematic assessment of impacts</li> <li>• Clear principles for deciding which option is best, such as lowest-cost or least trade restrictive or highest benefit-cost ratio</li> </ul>	
<p>Does the impact assessment include a reasonable selection of potential major impacts, both negative and positive?</p> <ul style="list-style-type: none"> <li>• RIA handbook or guide published</li> <li>• Structured analysis with identification of potential negative and positive impacts</li> <li>• Benefits are precisely stated in quantitative terms with a measurement of impacts that can be measured</li> <li>• Direct costs are stated in monetary terms</li> <li>• Indirect costs such as effects on trade or competition are described qualitatively</li> <li>• Impacts of benefits and costs are systematically compared for every option examined</li> <li>• A reasoned explanation for why an option is recommended is included in the analysis or other document</li> </ul>	<p>The Ministry of Justice has not issued any standard format for RIA required by the Law on Laws.</p>
<p>How are [trade friendly] alternatives to regulation assessed?</p> <ul style="list-style-type: none"> <li>• Trade impacts are explicitly included in the RIA</li> <li>• Trade impacts are explicitly included in the consultations with stakeholders</li> <li>• Trade officials have an opportunity to see the RIA and draft legal documents</li> </ul>	<p>Trade impacts are not specifically included in the RIA.</p>

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<b>PUBLIC CONSULTATION MECHANISMS</b>	
<p>Are draft legal documents and RIAs published for comment before adoption?</p> <ul style="list-style-type: none"> <li>✓ Publication is required for all draft legal documents regardless of their level (draft laws and subordinate rules)</li> <li>✓ Consultation requirement is legal requirement established by law or high level decree/order</li> <li>✓ Published on the Internet</li> <li>• The RIA is included with the legal document</li> <li>• Publication is done on a central web portal rather than on individual ministry websites</li> </ul>	<p>The Law on the Promulgation of Legal Normative Documents requires that all legal documents and agreements under the drafting process be published online for comments for 60 days, and published in the Official Gazette before implementation.</p> <p>The US State Department report in 2011, however, that “there are reports of regulations sometimes being issued without public notification or with little advance warning or opportunity for comment by affected parties.” (<a href="http://www.state.gov/e/eeb/rls/othr/ics/2011/157384.htm">http://www.state.gov/e/eeb/rls/othr/ics/2011/157384.htm</a>)</p> <p>Innovative consultation techniques were used in the Project 30 simplification project, All the project forms used to collect feedback were under the scrutiny of the public through the Project 30 website and any citizen and business could comment on administrative procedures in the database.</p>
<p>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</p> <ul style="list-style-type: none"> <li>✓ The comment period is at least 60 days</li> <li>• A consultation document describes the reason for the consultation, and identifies the key questions for stakeholders</li> <li>• Consultation includes a request for comments on all the options considered, not just on a legal document</li> <li>• Web portal allows for online comments to be submitted</li> <li>✓ Publication is accompanied by other consultation opportunities, such as public meetings, if necessary to ensure that major stakeholders are included</li> </ul>	<p>The Law on Laws requires a 60-day consultation period. Other than the law, the government has not issued standard consultation methods.</p>
<p>Is feedback given to stakeholders after consultation is completed?</p> <ul style="list-style-type: none"> <li>✓ Written feedback on how government responded to the comments is a mandatory part of consultation</li> <li>✓ Feedback is published on</li> </ul>	<p>The Law on Laws states that “Where a comment is not accepted, the agency taking lead in the drafting process must clearly explain the reasons for refusal. The explanation and summing up document on opinion gathering and absorption must be included in the dossier for submission of draft laws/ordinances and posted on the websites of the Government and the drafting agencies/organizations.”</p>

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the Internet Web portal	
<b>CONCLUSIONS</b>	
<p>What areas of these GRP are strongest and weakest in this country? What lessons can be learned about other ways to protect regulatory quality?</p> <p>✓ Is the government moving in the right direction, regardless of its starting point?</p>	<p>Vietnam's government has moved rapidly to adopt several GRPs recommended by APEC, in particular systematic regulatory reviews, adoption of good regulatory principles, regulatory impact analysis, and public consultation. Implementation is now underway, and requires some years of extensive investment before the full gains can be realized.</p>