

SOUTHERN AFRICA TRADE HUB



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Regulatory Impact Assessment in SADC: Improving Regional Regulatory Outcomes

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ACRONYMS

CBA	Cost benefit analysis
COFEMER	Federal Commission on Regulatory Improvement
DFID	Department for International Development, United Kingdom
EC	European Community
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IME	Institute for Market Economics
IP	Intellectual Property
NEDLAC	National Economic Development and Labor Council
OECD	Organization for Economic Co-operation and Development
PMRC	Prime Minister's Research Commission
RBP	Regulatory best practice
RIA	Regulatory impact assessment
RIS	Regulatory impact statement
RRC	Regulatory Reform Committee
SADC	Southern African Development Community
SME	Small and medium enterprises
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WTO	World Trade Organization

EXECUTIVE SUMMARY

Good regulatory outcomes require that attention be paid to the likely effects of regulatory change. In other words, government interventions must take cognizance of the facts on the ground. Without a focus on practical outcomes, regulation cannot be improved by the process of learning-by-doing and in addition risks being undermined by impractical or self-serving political policy shifts. In practice, however, a focus on facts can be very difficult to accomplish. Available data may be patchy or difficult to interpret and the political momentum which develops around a particular regulatory proposal may make it difficult to foster critical debate.

As part of a general move towards more evidence-based policy making, many governments have chosen to implement regulatory impact assessments (RIAs) as part and parcel of their political system. An RIA sets out findings about the likely impact of regulation in simple language, with which non-specialists (including political decision makers and members of the public) can meaningfully engage.

The process of conducting an RIA on a given regulatory proposal is designed to allow the critical analysis of all available, relevant data, whether quantitative or qualitative, to ensure that the chosen regulatory framework has as good a chance as possible of meeting its objectives and will not impose counter-balancing costs on other areas of society. RIAs therefore encourage regulatory bodies to think of the net costs and benefits of their proposals rather than focusing on a given narrow area of interest. Furthermore, an RIA requirement can be embedded in the process of formulating policy – in other words, governments can assure that regulation is consistently assessed, by adopting and implementing RIAs as an integral part of policy formation and review processes.

The process of conducting an RIA can be resource-intensive and countries introducing a formal RIA requirement typically struggle to produce analysis of sufficient quality at first. It is crucial for the success of such formal RIA requirements that the quality of analysis be contested, ideally by a formalized challenge function, embodied in an independent technocratic organ of the state. Alternatively, an RIA can be conducted by civil society and the quality of analysis is then typically contested in the public arena.

Ultimately, RIA analysis has the potential to be extremely politically contentious, as it may result in a requirement to change or abandon regulations into which substantial political and technocratic capital has been invested. Without the support of the political executive, ideally supported by a strong formal requirement to perform RIA (perhaps embodied in legislation), it will be difficult to consistently achieve better regulatory outcomes.

In both the developed and developing world, much experience has been accumulated on how to successfully introduce and run RIA processes. It is clear that the manner in which RIAs are introduced must take into account the peculiarities of domestic political systems and processes in order to be successful and thus a 'one-size-fits-all' approach will not work.

The introduction of RIA techniques into the process of policy formation has substantial potential to improve the quality of regulatory outcomes in Southern African Development Community (SADC). Although RIAs have the most impact when they are embedded in formal policy development procedures, they may also be used by civil society as an ad hoc means of engaging government on the quality of legislation – which can also be a means of publicizing the potential usefulness of RIAs.

The process of developing policy can be chaotic and difficult to manage. The practice of conducting RIAs ensures that analytical rigor has been used to evaluate policy development and that all relevant factors have been considered when assessing possible impacts. In this manner, it resembles business planning processes, where subsidiaries are required to prepare business plans which take into account the over-arching interests of their parent companies. The goals of governments are much more wide-ranging than those of business, and include equity and justice as well as growth and profit. As such, government policies should if anything receive more attention during their planning phases than those of business.

1. INTRODUCTION

Good regulatory outcomes require that attention be paid to the likely effects of regulatory change – in other words, government interventions must take cognizance of the facts on the ground. In practice, however, this can be very difficult to accomplish. Available data may be patchy or difficult to interpret, and the political momentum which develops around a particular regulatory proposal may make it difficult to foster critical debate.

As part of a general move towards more evidence-based policy making, many governments have chosen to implement regulatory impact assessments (RIAs) as part and parcel of their political system. The net outcome of an RIA is a regulatory impact statement (RIS) which should set out the findings of the analysis in simple language, and with which non-specialists (including political decision makers and members of the public) can meaningfully engage.

The process of conducting an RIA on a given regulatory proposal is designed to allow the critical analysis of all available, relevant data, whether quantitative or qualitative, to ensure that the chosen regulatory framework has as good a chance as possible of meeting its objectives and will not impose counter-balancing costs on other areas of society. RIAs therefore encourage regulatory bodies to think of the net costs and benefits of their proposals, rather than focusing simply on their own narrow area of interest. Furthermore, the requirement to conduct an RIA can be embedded in the process of formulating policy – in other words, governments can ensure that all important pieces of regulation are thoroughly assessed, by adopting and systematically implementing RIAs as an integral part of policy formation and review processes.

Although typically envisaged as integral to the policy formation process, RIAs can also be used as a more adversarial tool by members of civil society. In this version of an RIA, an institution external to the policy formation process undertakes impact assessment analysis, typically in order to demonstrate the undesirable consequences likely if the regulation is passed, in order to foster an engagement with policymakers on the need for better regulatory design. RIAs on existing regulation may also be undertaken to encourage government action.

Although RIAs originated as a policy tool in the developed world, the technique can also be a useful method of improving policy outcomes in the developing world. RIA uptake in the developing countries of Africa has to date lagged the rest of the developing world,¹ and much can be achieved by fostering use of this regulatory technique in the Southern African Development Community (SADC). This paper examines the rationale for the adoption of RIAs, the requirements of successful RIAs, and the experience of developing and transition economies in adopting it to date. The appropriateness of RIAs for the countries of the SADC region is then assessed.

¹ Kirkpatrick et al. 2004, 5-6

2. IMPROVING POLICY THROUGH RIAs

RIAs have been used by various governments to guide regulatory and legislative decisions since approximately 1980. The use of RIAs originated in the United States and the European Union, and was championed in the international arena in the 1990s by bodies such as the Organization for Economic Co-operation and Development (OECD), the World Trade Organization (WTO), and the European Commission (EC).² In a number of countries, the use of RIA is now well-established as a component of the regulatory process. For example, by 2006, United Kingdom regulators produced 200 RIAs annually, in 2005 the European Commission produced 100 RIAs, and of the 113,798 final rules adopted by the US federal government since 1981, 20,393 or 18% have been accompanied by RIAs.³

Regulation can be designed in a number of ways and the OECD identifies five principle ways to reach regulatory decisions, as follows:

“1. Expert – The decision is reached by a trusted expert, either a regulator or an outside expert, who uses professional judgment to decide what should be done.

2. Consensus – The decision is reached by a group of stakeholders who reach a common position that balances their interests.

3. Political – The decision is reached by political representatives based on partisan issues of importance to the political process.

4. Benchmarking – The decision is based on reliance on an outside model, such as international regulation.

5. Empirical – The decision is based on fact-finding and analysis that defines the parameters of action according to established criteria.”⁴

RIAs are essentially an extension of the final or empirical method of regulatory decision-making. The regulatory impact analysis itself is a process of collecting and evaluating available data on the likely impact of a regulatory decision, in order to ascertain whether it should be pursued. RIAs are thus a way of formalizing and embedding the need to look at the facts before making regulatory decisions – it is best viewed as an integral part of the policy making process, not as a separate “bolt-on” to the process.⁵

The successful introduction of RIAs relies on a number of factors, including the choice of where to introduce RIAs in the policy making process, and how to deal with issues of data

² Jacobs 2006, 5

³ Jacobs 2006, 5

⁴ OECD 1997, 14

⁵ Jacobs 2005, 17

quality and availability of skilled personnel to conduct RIA exercises. We now provide a brief review of the typical structure and contents of the RIA process, and then proceed to discuss the issues affecting the successful introduction of RIAs in more depth.

2.1. Structure and content of RIA

The contents of RIAs, and thus of RISs, will vary by country and in accordance with policy needs. In areas where data availability is poor, or where the regulation is likely to have a relatively small impact on policy indicators, existing procedures may be greatly simplified. However, all full RIAs should include a number of common elements. European Community guidance on impact assessment suggests that they should include answers to the following key analytical questions:⁶

What is the problem?	<ul style="list-style-type: none">• Regulatory change occurs because existing regulation is inadequate – in other words, because there is a problem. The nature of the problem and the parties it affects should be clearly identified.
What are the policy objectives?	<ul style="list-style-type: none">• Before the likely success of a proposal in meeting its objectives can be evaluated, there must be clarity on exactly what those objectives are. Ideally, objectives should be SMART (Specific, Measurable, Achievable, Realistic, Time-dependent)
What are the policy options?	<ul style="list-style-type: none">• There are often a number of ways to achieve a given regulatory objective, each with its own merits and drawbacks. The RIS should show that the various available options have been given consideration, and that the chosen path is thus deemed to be the most likely to succeed.
What are the likely economic, social and environmental impacts?	<ul style="list-style-type: none">• Impact assessment should clearly distinguish between direct and indirect impacts, provide both qualitative and quantitative analysis (and discuss why the choice has been made not to quantify qualitative indicators), identify which groups will feel the impact of costs and benefits, and disclose risks and uncertainties in estimates.
How do the options compare?	<ul style="list-style-type: none">• The various options chosen should be compared against the baseline scenario of doing nothing, in terms of their effectiveness and efficiency, and their coherence with wider policy objectives.
Arrangements for future monitoring and evaluation.	<ul style="list-style-type: none">• In order to facilitate ex post analysis of the success of the proposed regulatory change, indicators of success should be identified during the RIA, and an outline of future monitoring and evaluation efforts should be provided.

⁶ European Commission 2009

To illustrate these requirements, the current United Kingdom Impact Assessment template is attached. The template encourages as much uniformity as possible in the way that RIAs are conducted in order to support the use of best-practice analytical techniques. Clarity must be provided on the goals of the regulatory change, and the manner in which progress towards those goals will be measured and monitored. The impact of the proposed regulatory change on a number of key policy targets must be assessed. Quantified costs and benefits are to be reported in a standardized summary form, to allow the reader to rapidly assess conclusions and findings. The author is also encouraged to provide detail on the sources of costs and benefits, by reporting line items separately, and distinguishing between once-off and annual costs. Allowance is made for appending substantive analysis to the summary report. These requirements should be viewed as a best practice outline for RIAs. Countries in the early stages of adoption may struggle to meet all reporting requirements.

2.2. RIA and the policy process

By the time regulation is approved and implemented, it has typically gone through a long development process, involving a number of parties, such as line departments, sector regulators, civil society and the political executive. If an RIA is only conducted just prior to enacting a regulation, there may be substantial resistance to any negative findings, as substantial political and technocratic capital may already have been expended in developing the proposal. Moreover, if the RIA finds that the regulatory proposal is poorly developed, and imposes excessive or unnecessary costs while providing limited or uncertain benefits, this represents a substantial amount of lost effort on the part of the individuals who developed it – which is of particular concern in developing countries, where the state may be extremely resource-constrained.

For both these reasons, it is preferable for RIA processes to begin quite early in the process of policy formation. A best-case scenario is a three-stage RIA screening: “an initial RIA that is prepared as soon as a policy idea is generated; a partial RIA produced as a consultation document, and a final RIA for decision.”⁷ To illustrate the way in which RIA may be included in the policy process, a proposal for the South African legislative process is included as Appendix 1. This process proposal introduces RIAs shortly after the need for regulatory change is identified and suggests that both a scoping and initial RIA should be undertaken before the drafting of a bill.⁸

Policy proposals that have been through this level of screening are less likely to fail at the final hurdle. The inclusion of RIAs during the process of generating policy ideas is particularly useful, as the RIA can then be fairly easily used to test and compare different regulatory options in order to ensure that the chosen policy option is in fact the best

⁷ Jacobs 2006, 27

⁸ It should be noted that although this level of thoroughness in RIA is preferred, much can still be accomplished to improve the quality of final legislation by conducting an RIA only at the stage when draft legislation has already been prepared.

available way of meeting the policy objective. Although all RIAs should include a comparison of regulatory alternatives, it is in practice often very difficult to meaningfully discuss regulatory alternatives when considerable effort has already been expended on choosing and fine-tuning one particular proposal.

In order to conduct this kind of three stage RIA, it is necessary for each institution which develops policy (in other words, government departments and regulators), to have the ability to conduct RIAs in-house (albeit with expert assistance from a central RIA body if necessary). In other words, substantial resources have to be made available to conduct RIAs, both in terms of personnel and labor costs. This can be supplemented by hiring consultants to perform independent RIAs, but this will tend to further increase the cost of RIAs if independent consultants are used extensively. Investment in training internal staff to conduct RIAs should therefore eventually pay for itself, both in terms of improved regulatory outcomes and in terms of reduced costs of analysis.

The costs of including RIAs in policy formation processes can clearly be substantial, unless attention is paid to ensuring that the effort expended on RIAs is proportional. Where regulation is likely to have a large impact on measures which society finds valuable (such as economic growth, or food security, for example), or will be very expensive to implement, RIA processes should be exhaustive and thorough. In contrast, regulatory proposals which are likely to be of minor impact may receive minimal impact assessment scrutiny.

In order to ensure that the effort expended on RIAs is proportional, some sort of screening mechanism should be put in place. It is preferable to have a firm set of guidelines on which regulations should be subjected to RIAs, to prevent arbitrary evasion or unnecessary expenditure. For example, South Korea requires RIAs to be conducted on only significant regulations, which are defined as meeting at least one of the following standards:

- A forecasted annual impact in excess of 10 billion won (approximately US\$9m)
- An expected impact on more than one million people
- The regulation will clearly restrict market competition
- The regulation comprises a clear departure from international standards⁹

The above process details the process of conducting an ex ante RIA on proposals in development. It is also possible to use RIA to conduct ex post assessments of existing regulations in order to facilitate improved regulatory outcomes. Ex post RIAs should only be conducted on regulations which already have a material impact on policy outcomes. It should be born in mind that an ex post RIA on an unsatisfactory regulation is in effect an initial RIA on a proposed regulatory change – in other words, analysis should be provided of regulatory alternatives, and a preferred regulatory alternative should be identified.

⁹ Rodrigo 2005, 21

2.3. Dealing with data issues

It is always more risky to take a regulatory decision from a position of uncertainty rather than from a position of perfect knowledge. However, in practice positions of perfect knowledge are probably never experienced, so decision makers always face some risk. The goal of an RIA is to improve the amount of knowledge and understanding available to decision makers as much as is (cost-effectively) possible, and thus mitigate the risk of regulatory failure - either in terms of failing to regulate activities that should be regulated, or in terms of designing regulations which do not meet their objectives.

The quality of the data available on a given regulatory issue plays a substantial role in how sophisticated RIA analysis can become, and in countries with a longer history of conducting RIA, increasing attention is being paid to ensuring data quality. In some cases, the structure of regulation may itself affect data quality. For example, an ex-ante RIA on a sector where operators must be licensed may recommend that licensing requirements be altered to enable better quality data to be collected, which will then allow ex post analysis of the effectiveness of regulatory change.

However, regardless of how high data quality is, there will always be gaps and uncertainty in analysis. Unless these gaps and uncertainties are acknowledged in the analysis, a sense of spurious accuracy is created, which may be just as damaging to regulatory outcomes as no data at all, and will ultimately decrease the credibility of the analysis. It is thus essential that the limitations of the data and its analysis be fully acknowledged in impact assessment work.

RIAs usually include some form of cost benefit analysis, where quantifiable costs and benefits are expressed in monetary terms in order to derive an estimate of the net value added or lost due to the regulatory proposal. While cost benefit analysis (CBA) relies strongly on quantifying all costs and benefits in monetary terms, international best practice is to rely on “soft” cost benefit analysis, where both quantitative and qualitative costs and benefits are evaluated and presented for analysis.¹⁰

2.4. Measurement criteria

RIA analysis examines the impact that regulatory proposals have on socially desirable goals. Exactly which goals should be measured and how trade-offs between different objectives should be evaluated, depends to some extent on the value system of the given society, as expressed in the policy positions and priorities of the elected government.

For example, a specific concern of regulatory impact analysis in much of the developed world is to ensure that the burden of regulation on business is not increased. In the United Kingdom, regulatory proposals have been required to adhere to the “one in, one out” principle – in other words, any proposed increase in the regulatory burden on firms should

¹⁰ Jacobs 2006, 34

be accompanied by an offsetting regulatory simplification proposal.¹¹ Other objectives that RIA analysts may be required to consider include the relative cost-effectiveness of proposals, or the impact on market competition or marginalized groups in society.

In countries where impact assessment is in its early phase of development, it often takes place in a fragmented manner – one department assesses the economic impact, another the environmental impact, and a third the social impact, with no one correctly placed to undertake proper analysis of the net impact and interactions between various policy considerations. An RIS should not amount to simply a summary of this fragmented approach – instead, an over-arching view of total impact should be provided.

It can be useful to include formal checklists of policy objectives in the RIA process, against which regulatory proposals must be evaluated – an example of such a checklist is shown on the third page of the RIA template. At the very least, items put on such a checklist are more likely to be thoroughly and consistently analyzed. However, an excessive focus on specific components of regulatory impact may obscure the wider picture, which should be to focus on the overall impact of a given regulation, and may result in RIAs which comprise merely a set of ticked boxes, rather than providing rich and coherent analysis of the overall impact of a regulatory proposal. Judicious use should therefore be made of such formal policy checklists.

2.5. Ensuring analytical quality

Assessing the impact of complex regulatory proposals can be quite difficult to do well. Conversely, there may be strong incentives to do it badly, either to protect initiatives into which substantial political and technocratic capital has already been sunk, or simply to make life easy by doing the minimum amount of work necessary. A crucial part of a formal RIA system is thus to ensure that there are mechanisms in place for ensuring the analytical quality of RIA reports.

Ideally, the task of monitoring the quality of RIA analysis should be undertaken by some form of independent challenge function – in other words, some kind of body or mechanism, either within or outside the government, with sufficient expertise to vet the quality of analysis, and the ability to do so without fear of reprisal. This challenge function can take a number of forms. For example, in a country with well-organized academic and civil society institutions, circulating the contents of an RIA for public comment may go a long way towards providing a review of its quality. In fact, where RIAs are undertaken by civil society organizations rather than governments, the government itself is likely to play an adequate role in challenging the quality of the analysis, particularly where it contradicts the state's own findings.

Formal government RIAs, in situations where civil society organizations are not well organized, are likely to receive public comment which is patchy and difficult to interpret. It

¹¹ Jacobs 2006, 20

is difficult to ensure that civil society is sufficiently alert to RIA processes, knowledgeable and ready to challenge poor quality RIAs, to provide an effective challenge function. Many countries therefore choose to institute a formal challenge function of some kind, and available evidence suggests that the best position for such a watchdog agency is typically at “the center of government where authorities for inter-ministerial oversight are already well established.”¹²

Wherever the RIA watchdog is based, it needs to have access to sufficient expertise to provide commentary on the quality of analysis, and must be assured of independence and provided with the political and public support needed to take on adversarial positions on what may sometimes be politically sensitive issues. Ultimately, it is unlikely that these conditions will be met unless a commitment to better regulation has been made at the highest level of government. The introduction of RIAs therefore often takes place during a wider process of regulatory reform within the country in question.

International experience suggests that problems with the quality of RIA analysis are frequent, particularly when attempting to roll out the use of the technique across all policy formation processes. In the pilot phases of RIA, RIA specialists are typically brought in to conduct analysis and the quality of output is thus often quite high. However, once non-specialists in line departments are brought in to conducting RIAs, quality can drop quite sharply, and substantial effort may be needed to cultivate the necessary skill set and culture of regulatory analysis to improve RIA quality in the long term.¹³

2.6. RIA in the developing world

RIAs have been implemented in a number of developing countries, either as a formal legal requirement of government policy formation processes or as a less formal mechanism used by civil society. Some of the earliest developing world adopters of formal RIA processes were Mexico and South Korea, possibly due to their status as members of the OECD. Substantial analysis is also available on the Vietnamese experience of formally implementing RIAs, and Bulgaria shows what can be done by non-governmental bodies using RIAs. Brief profiles of the experience of RIAs in each of these four countries are now provided to illustrate the likely pitfalls and obstacles within the implementation process.

Mexico

RIAs in Mexico should be seen in the context of a wider process of regulatory reform that has been underway since the late 1980s, which was prompted by excessive protectionism and a number of economic crises. Legislative amendments requiring RIAs were first made in 1996,¹⁴ and culminated in the establishment of the Federal Commission on Regulatory

¹² Jacobs 2006, 19

¹³ Jacobs 2006, 7

¹⁴ Lee 2002, 7-8

Improvement (COFEMER) in 2000, an autonomous RIA oversight body established via an amendment to the Federal Administrative Procedures Law.

COFEMER is an agency of the Ministry of the Economy, charged with coordinating and supervising the process of regulatory reform. Specifically, COFEMER is required to improve the cost-effectiveness of regulation and the transparency of the regulatory process.¹⁵ A key function of COFEMER is to challenge the quality of RIAs issued by regulatory agencies. Legislation requires federal ministries and agencies to submit draft regulatory proposals to COFEMER, so that COFEMER can publish a (non-binding) opinion on the proposed regulation. Without such an opinion from COFEMER, no regulation can be gazetted/enacted.

Regulatory proposals which impose compliance costs need to be accompanied by an RIA when submitted to COFEMER, whereas those without compliance costs do not. COFEMER may ask for clarifications and corrections before issuing its opinion. The draft regulation and RIA are made publicly available via the COFEMER website and public comment is solicited by COFEMER and forwarded to the relevant regulator, which must then respond.

One of the largest problems faced in initiating RIAs in Mexico was issues with the quality of data. In some cases, regulatory bodies were discouraged from conducting cost benefit analysis because it was felt that to do so would simply create incentives to further distort findings.¹⁶ However, RIAs have since become a valued component of Mexican policy formation processes. As of 2009, RIAs were performed on 386 of the 1,185 regulatory proposals drafted during the year – in other words excluding draft regulatory changes which had been screened as unlikely to have a material impact on persons or companies. RIA methodology has also been streamlined into high impact and moderate impact RIAs, in line with international best practice.¹⁷

South Korea

South Korea initiated a general program of regulatory reform in the 1990s. Part of this program was the introduction of RIAs, via the enactment of the Basic Act on Administrative Regulations in 1998. In terms of the act, the Regulatory Reform Committee (RRC) undertook a massive program of regulatory reform – from 1998 to 2002, the RRC reviewed 11,125 regulations, of which 5,958 were removed and 2,981 amended.¹⁸

Subsequent to this initial attempt to reduce the number of regulations, attention has shifted to attempting to improve the quality of existing regulations. Regulatory proposals which meet the screening criteria as discussed in Section 2.1 must be accompanied by an

¹⁵ Pérez 2009, slide 5

¹⁶ Kirkpatrick & Parker 2003, 10

¹⁷ <http://www.cofemer.gob.mx/contenido.aspx?contenido=91>

¹⁸ <http://rrc.go.kr>

RIA prepared by the regulatory body concerned. This RIA is then submitted to the RRC for comment and made publicly available. Unless a regulation goes through this process of review and is entered on the central regulatory database maintained by the RRC, it is neither valid nor enforceable.¹⁹ The RRC is co-chaired by the South Korean president and a civilian expert. At present, the RRC has 25 members, including 18 civilian experts and is supported by a secretariat unit in the Office for Government Policy Coordination, which has 32 staff members.²⁰

Regulatory reform in South Korea, including the introduction of RIAs, has not been without its issues. The reforms necessary to implement RIAs were pushed through in 1998 by a relatively narrow political support base during a period of economic crisis. As the crisis waned, support decreased which hampered the implementation of the reforms.²¹ A number of other factors also affected the success of RIA-led reform, including:

- Inadequate investment in expert personnel at the RRC.
- Coordination problems between government ministries.
- Slow progress in developing a culture of regulatory reform within government, and in integrating RIA processes into line ministries.
- Declining political support for the activities of the RRC reduced its ability to effectively provide a challenge function.
- The ability to sideline the RRC by going straight to the National Assembly: as the RRC was not given power to reject laws passed by the National Assembly, interest groups were able to circumvent the RIA process in some cases.²²

Ultimately, these shortcomings have impacted on the speed of development of the South Korean RIA process. However, despite these shortcomings RIA processes have still played a role in improving regulatory outcomes in Korea. The experience of the RIA undertaken on the Act of Mobility Improvement for the Transportation Disadvantaged in Korea is illustrative. An RIA was conducted on this Act in 2004, subsequent to which the law was enacted in 2005.²³

At the time that the Ministry of Construction and Transportation submitted the RIA to the RRC, it estimated that the costs of the regulatory proposal would amount to US\$3.54bn, while the benefits would be US\$6.6bn, resulting in an extremely advantageous benefit-cost ratio of 1.89.²⁴ The RIA therefore recommended that the Act be passed. The RRC however pointed out a lack of clarity in the RIA, particularly as regards the cost benefit

¹⁹ Kim et al. 2008, 14

²⁰ <http://rrc.go.kr>

²¹ Kim et al. 2008, 26

²² Kim et al. 2008, 25-26

²³ Mo 2010, 4

²⁴ Mo 2010, 8-9

analysis, and sent it back to the Ministry for revision. The revision produced a recalculation of benefits of US\$5.3bn and costs of US\$5.1bn²⁵ - in other words, still sufficiently positive to recommend passing the Act, but a substantial change in value estimates.

During the process of revising the RIA, clarity was gained on a number of the cost implications of the Act which had not been fully explored previously. For example, the original RIA did not include estimates of the costs imposed on local authorities required to make changes to pedestrian areas. This process illustrates some of the practical issues faced by RIAs, as well as the advances in the quality of regulatory decision-making that should be associated with RIAs. Although the initial analysis was of poor quality, the requirement to conduct an RIA and then challenge its quality provided an opportunity for more in-depth research, which clarified the implications of the proposed regulation, would have exposed any major problems, and ensured that the implications of implementation were thought through in advance.

Vietnam

The introduction of RIAs in Vietnam is an interesting example of donor-led reform. In this case, the donor leading the process was the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), which spent time over a number of years in introducing the concept of RIAs to Vietnamese policymakers and was successful in 2008 in institutionalizing the requirement for RIAs in the enactment of amendments to the Law on the Making of Legal Normative Documents (Law on Law-Making).

Vietnam historically struggled to foster private sector economic growth and formal small business development, partly due to its legacy of communist economic policies and an unfriendly legal environment. Regulatory reform focused on promoting enterprise development has been underway since the mid 1980s, and has some notable successes. For example, after the introduction of the Enterprise Law in 2000, the number of registered private businesses increased from around 33,000 to more than 170,000 over the next five years.²⁶ However, the regulatory burden on firms is still regarded as excessive. GTZ's small and medium enterprise (SME) development program therefore viewed the improvement of the processes surrounding the formation of regulation as a key program objective.

The process of introducing awareness of RIAs in Vietnam involved a number of activities by GTZ in conjunction with the United States Agency for International Development (USAID), the United Nations Development Program (UNDP) and the Prime Minister's Research Commission (PMRC). For example, in 2004 a series of workshops on RIAs were held for key national stakeholders, subsequent to which GTZ was involved in conducting pilot RIAs on the drafting of the Enterprise Law and the Investment Law in

²⁵ Mo 2010, 14

²⁶ Binh 2005, 69

2005.²⁷ A guideline for conducting RIAs in Vietnam was then developed in 2006, and effort also went into capacity building in the Vietnamese state through workshops and training courses.

The initial government champion of RIAs has been the PMRC, which, with donor support, drafted the RIS on the 2005 reforms for submission to the Prime Minister. However, RIAs have also found wide support in the Ministry of Justice, which has developed in-house RIA capacity. RIAs allowed wide consultations on the impact of the proposed legislation, which increased the transparency of the legislative process.

As per the enactment of the Law on the Making of Legal Normative Documents in 2008, RIAs must now be conducted during the process of drafting laws and regulations and draft laws must be accompanied by an RIA before they will be considered by the National Assembly. This requirement is still in the early stages of implementation, and limited local expertise in RIAs is likely to ensure that progress in implementation will be slow.

However, even fairly simple RIA processes conducted to date have added to the quality of Vietnamese regulatory outcomes. For example, in 2005 Vietnam conducted an RIA pilot on the Unified Enterprise Law and Common Investment Law.²⁸ The pilot was a fairly limited exercise that only examined one component of the proposed legal changes, but nevertheless helped to deepen the quality of the policy formation process. The pilot exercise ensured that the amendments were in line with Vietnam's WTO commitments; identified which parts of the amendments were considered to be most crucial by the business community; and confirmed strong support for the proposals from business people.

Bulgaria

In Bulgaria, the impetus for conducting RIAs came from the Bulgarian Institute for Market Economics (IME), which is a non-profit, non-governmental economic think tank.²⁹ The IME began to interact with the Bulgarian parliament on the issue of RIA in 1998,³⁰ and has to date conducted a number of RIAs on pieces of Bulgarian legislation as an independent institution. It has relied on the interest of the press and business associations in the findings of RIA analysis in order to attract the attention of political decision-makers.³¹

A number of attempts have also been made to institutionalize RIA within the Bulgarian government, but to date this has not taken place. For example, research has been

²⁷ Binh & Becker 2009, 21

²⁸ VIM 2005

²⁹ The IME website states that, over the last four years the organization has been funded as follows: 10% private donations, 60% revenue from services rendered and the remainder via institutional (ear-marked) grants. (<http://ime.bg/en/articles/background/>)

³⁰ Stanchev 2003, 13

³¹ Stanchev 2003, 13

conducted on the potential for the establishment of a Better Regulation Unit within the Bulgarian government which would house RIA functions along the lines of the regulatory reform unit in the United Kingdom.³² One of the issues raised when considering such an institution however has been whether government administration is ready to perform RIA functions.³³

Since 2008, the activities of the IME in the RIA space have been strengthened by USAID and German Marshall Fund funding. The project aims to provide analysis of the impact of new Bulgarian legislation with the quality of RIAs monitored by IME experts until such time as a unit for regulatory reform is established within the Bulgarian state.³⁴ The results of RIA analysis conducted by the IME and by this USAID-funded project are made available online to provide the basis of public discussion of the desirability of legislation. The IME describes the contribution of its RIA analysis to the policy formation as the “creation of competition for informed comments on draft regulations, which is gradually converted into a competition for better quality regulation.”³⁵

Learning from international experience

As the brief case studies presented show, it is possible to use RIAs to improve the quality of policy outcomes in a developing world context. RIAs can be used either as a formal component of the government’s policy formation processes, or by civil society as a means of facilitating dialogue on legislative design. Formalization of RIAs is likely to take a fair amount of time and resources, with teething problems that may include shortages of necessary skills, fluctuating political support, inadequate data and the resistance of existing bureaucratic culture to the change. RIAs can also be used by civil society and business representatives to engage with the state on an ad hoc basis, which is relatively easier to implement.

In three of the countries examined, RIAs have been made into a formal component of policy formation process via the imposition of a legal requirement for RIAs. However, this is by no means a universal method for introducing RIA into the policy formation process. A 2004 review of OECD RIA practice, for example, found that of the 21 countries examined, only three based their RIA requirement on a law (of the rest, one based RIA on a presidential order, five based it on a prime ministerial decree or guidelines of the prime minister, and the remainder on a cabinet directive, cabinet decision, government resolution, policy directive or similar).³⁶ However, the OECD also noted that “the higher the legal basis [of the RIA requirement], the more powerful is its implementation,” with a requirement in enacted law considered to be the highest legal basis. Arguably, it becomes

³² Angelov et al 2003

³³ Stanchev 2003, 14

³⁴ <http://ria-studies.net/bg>

³⁵ Stanchev 2003, 12

³⁶ OECD 2004, 3-4

more important to have such a solid legal basis for the RIA requirement in situations where other enabling factors, such as a bureaucratic culture already accustomed to evidence-based policymaking techniques, are not found.

Where RIAs are conducted by civil society representatives, the impetus for change comes from public pressure rather than a formal legal requirement. The existence of a free and vibrant press is thus important for the success of RIAs conducted by civil society and to some extent replaces the need for an independent challenge function.

There is considerable variety in the manner in which RIAs have been adopted in different countries, for example in the location and powers of the challenge function, and the manner in which regulation is screened before RIA. There is thus no “one-size-fits-all” model that can be adopted across countries and care must be taken to tailor RIA systems to meet the needs of the country concerned.

That being said, differences in the way that RIAs are structured must take cognizance of the underlying analytical needs of successful impact assessments, as outlined above. In other words, although there may be substantial differences in the way the RIA challenge function is structured, there must nevertheless be some sort of RIA challenge function in place. Finally, international experience suggests that the early stages of formally introducing RIAs into government processes are likely to be dogged by substantial teething problems including poor analytical quality and inadequate data. The process of formally introducing RIA is therefore likely to be gradual in nature and early problems should not be interpreted as failure.

3. IMPACT ASSESSMENT IN SADC

The SADC region faces a number of regulatory challenges. As a developing region, it is important to pursue business-friendly policies, while at the same time providing protection for marginalized communities, and possibly also mitigating against potentially socially disruptive increases in income inequality. The simultaneous achievement of these objectives will require skill in regulatory design which can be facilitated by the adoption of regulatory improvement techniques such as RIAs.

The introduction of RIAs should take into account the problems likely to be faced in many SADC states. For example, governments may struggle to source the necessary technocratic skills to run RIA programs. Data availability in the region is also poor and will tend to limit the possible extent of RIA analysis. In many countries in the region, it may be more appropriate to introduce RIA as a tool used by civil society to engage with the state. Where formal adoption of RIAs into government processes is undertaken, it will need to be conducted on a gradual basis, with adaptations made for local conditions. We now explore the South African RIA experience - the only country in the region to take steps to implement RIAs to date.

3.1. RIA in South Africa

RIAs in South Africa are still at a fairly early stage of development. Guidelines have yet to be agreed upon, and no decision has yet been made about whether to formalize the requirement for RIAs in legislation. However, several pilot RIA exercises have already been conducted, and the experience of these pilots is illustrative of the potential benefits and difficulties for other countries on the path to RIA.

Some demand for RIAs from civil society was evident early in the process, with Business Leadership South Africa, for example, commissioning research on RIA as early as August 2003.³⁷ National Treasury commissioned research on the potential for RIAs in South Africa in 2004, which was favorably received. Then-president Thabo Mbeki declared a commitment to introducing RIAs in his State of the Nation address in early 2006, and Cabinet formally approved the proposed introduction of RIAs in early 2007.³⁸ Since then, RIAs have been run on a pilot basis, with technical support for line ministries provided by a central RIA unit based in the Cabinet office in the Presidency which is itself provided with technical support from National Treasury.³⁹

The 2004/05 RIA research produced draft RIA guidelines and an RIA template for South Africa and some suggestions as to the desirable structure of a South African RIA unit.⁴⁰ Specifically, the research suggested that a choice needed to be made as to how strongly a central RIA unit would guide line departments as to when RIAs should be conducted (in other words, whether or not the process of screening regulations for RIAs should be centralized or not), and whether or not to pre-emptively invest in RIA capacity in a central RIA unit, or impose a requirement on line departments to conduct RIAs, and wait for their ability to do so to grow over time.⁴¹

The research also suggested that the current process of regulatory design could fairly easily be amended to include RIAs. Legislative proposals put to Cabinet must already be accompanied by a memorandum, which includes some of the data requirements of RIAs. This memorandum could thus be accompanied by an RIA – either as per ad hoc requests by Cabinet or per formal legislative requirements.

A number of pilot RIA exercises have been undertaken since the political commitment to RIAs was made. Although the pilot period has exceeded the planned two years, key informants suggest that the process is still underway and that proposals are currently before Cabinet for development of the next phase of the RIA system. Significantly, the last

³⁷ <http://www.businessleadership.org.za/documents/DesigningARegulatoryImpactAssessmentForSa.pdf>

³⁸ SBP Consortium 2007, 11

³⁹ SBP Consortium 2007, 12

⁴⁰ The summary report on findings can be accessed at http://www.sbp.org.za/uploads/media/RIA_SBP_project_for_SA_presidency_Treasury_Summary.pdf

⁴¹ SBP Consortium 2005, 21

two pilot RIAs were conducted by explicit request of Cabinet which may confirm continuing political interest in RIA. Furthermore, a number of additional RIAs at line ministries are in progress.

Where pilot RIAs have been undertaken, it is as yet too early to tell whether they have made a contribution to the quality of the regulatory process. This is illustrated by the two RIAs that have to date been requested by Cabinet, on the Intellectual Property (IP) Laws Amendment Bill and the Labor Bill respectively.⁴² Both RIAs were conducted on fully developed bills (rather than during the early stages of policy development), with limited involvement by the government departments which drafted the bills concerned. RIA was thus used more as a means of checking departmental performance than as an integral part of departmental regulatory processes, which probably increased the amount of conflict associated with the impact analysis and dissemination of research outputs (and of the two RIAs, only the Labor Bill RIA has in fact been made publicly available).

Nevertheless, both RIAs uncovered significant problems with the bills in question, and are likely to have some impact on their content going forward, although progress has been rocky. For example, despite the receipt of an RIA recommending major changes to the IP Laws Amendment Bill in 2009, in May 2010, the revised Bill was considered to be “virtually the same as the original version published for comment in 2008.”⁴³ However, subsequent to 2010 parliamentary hearings, the chair of the parliamentary committee tasked with reviewing the Bill has stated that “the bill requires far-reaching and serious amendment”.⁴⁴ Whether such amendment will occur and be in line with RIA recommendations remains to be seen.

The Labor Bills are still under debate at NEDLAC (the National Economic Development and Labor Council). It is anticipated that these discussions will only be concluded in August 2011.⁴⁵ Early indications are however that major revisions are likely. For example, the first draft of the legislation proposed an outright ban on labor brokers, which the RIA found to be likely to decrease employment levels as well as violating the Constitution on two grounds. Current discussions emphasize the need for government to put aside more money to monitor labor brokers suggesting that an outright ban is now off the table.⁴⁶

At present, RIA exercises in South Africa are predominantly carried out by consultants, suggesting that development of in-house RIA capacity in line ministries has some way to

⁴² In full, the regulatory impact assessment was conducted on selected provisions of the following bills: Labor Relations Amendment Bill, 2010; Basic Conditions of Employment Amendment Bill, 2010; Employment Equity Amendment Bill, 2010; Employment Services Bill, 2010.

⁴³ http://www.aca2k.org/index.php?option=com_idoblog&task=viewpost&id=275&Itemid=73&lang=en

⁴⁴ *Experts will contribute to intellectual property bill*. Business Day, 18 November 2011, available at <http://www.businessday.co.za/articles/Content.aspx?id=127075>

⁴⁵ <http://www.iol.co.za/business/business-news/r60mln-to-monitor-labour-brokers-1.1101998>

⁴⁶ <http://www.iol.co.za/business/business-news/r60mln-to-monitor-labour-brokers-1.1101998>

go. The central RIA unit is positioned between Treasury and the Presidency and to date has played a limited role in challenging the quality of RIA reports. In any case, as RIAs have mostly to date been conducted by external consultants rather than line ministries, some of the challenge function has tended to devolve to the authors of RIA themselves or to the public as recipients of RIA research. Whether or not this is an effective means of ensuring regulatory quality is yet to be seen. It is clear that the role of the public in reviewing RIA results can be substantially curtailed when RIA reports remain confidential as has occurred with the IP Laws Amendment Bill.

3.2. RIAs in SADC

An improvement in the quality of regulations in the SADC region is economically and socially desirable, particularly in areas such as trade in services where the quality of regulatory design plays a large role in sector outcomes. Including RIA systems as a formal requirement of government policy formation processes is able to deliver an improvement in regulatory design, by fundamentally altering the way in which policy is developed. However, not all countries in the SADC region are likely to be equally receptive to such formal RIA systems, and even in countries which are receptive, the process of embedding a formal RIA requirement will be a multi-year initiative.

From the international analysis, a number of trends can be detected regarding which countries are most likely to be receptive to RIAs. For example, some analysts suggest that RIAs seem to be more likely to flourish in common law systems.⁴⁷ However, possibly the most important precondition for the successful introduction of a formal RIA requirement into government systems is either a history of “coherent, evidence based and participatory policy process;”⁴⁸ or the existence of a program of regulatory reform.

Publicly disseminated RIAs can also be used by civil society as a means of engaging government on specific regulatory issues. This approach is more likely to quickly yield results on pressing current problems, but may be perceived as adversarial by government representatives. Crucially, it relies on the existence of a free and vibrant press able to sustain public dialogue on regulatory impact. In the long term, the best outcome for regulatory change as a whole is to embed RIAs within existing government systems, but civil society can be used as a means of catalyzing interest in RIAs.

In the southern African region, impetus for the introduction of RIAs can potentially be fostered by donors and multilateral organizations such as SADC. Programs are needed to raise awareness of and interest in RIAs among both government and civil society representatives. It may also be appropriate to run pilot RIA exercises if an appropriate regulatory issue is identified.

⁴⁷ Jacobs 2005, 17

⁴⁸ Welch & Waddington 2005, 20

This was the approach followed by donors in both Uganda (which is still in the process of formalizing RIAs), and in the Vietnamese case study discussed above. In Uganda, a United Kingdom Department for International Development (DFID) funded RIA program began by conducting “a series of sensitization workshops to familiarize officials, Parliamentarians and business representative organizations with the concept of RBP [regulatory best practice] and its benefits; these workshops introduced RIA as a tool.”⁴⁹ A similar process is being followed in Tanzania.

In order to become a formal and thoroughly implemented part of government process, RIAs will need to have the support of the political leadership of the country concerned. An RIA champion within government will be needed to lead the process of publicizing RIA within the wider bureaucracy, support pilot projects, and house the creation of a node of RIAs expertise which can eventually give birth to a technical support and/or challenge function for government-wide RIAs. Exactly where this champion should be located in government will depend in large part on the nature of the government system of the country concerned but a position close to the political executive will be needed.

The final step of introducing RIAs is to choose which method to use to formalize the requirement to conduct RIAs in policy formation processes. International experience suggests that it may take a number of years to reach this stage of development. The question of how best to formalize RIA will also depend to a large extent on the political realities of the country concerned.

⁴⁹ Welch & Waddington 2005, 21

4. CONCLUSIONS

The introduction of RIA techniques into the process of policy formation has substantial potential to improve the quality of regulatory outcomes in SADC. Although RIAs have the most impact when they are embedded in formal policy development procedures, they may also be used by civil society as an ad hoc means of engaging government on the quality of legislation – which can also be a means of publicizing the potential usefulness of RIA.

The process of developing policy can be chaotic and difficult to manage. The process of conducting RIAs ensures that analytical rigor has been used to evaluate policy development, and that all relevant factors have been considered when assessing possible impact. In this manner, it resembles business planning processes, where subsidiaries are required to prepare business plans which take into account the over-arching interests of their parent companies. The goals of governments are much more wide-ranging than those of business, and include equity and justice as well as growth and profit. As such, government policies should, if anything, receive more attention during their planning phases than those of business.

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Appendix 1: Impact Assessment Template, United Kingdom

The following six page form is provided by the United Kingdom’s Department of Business Innovation and Skills, as a template for impact assessment designed to “ensure every proposal is presented in a consistent way and to facilitate scrutiny of the analysis and proposals.” The document is available for download at <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/10-1268-impact-assessment->

Title: Lead department or agency: Other departments or agencies:	Impact Assessment (IA)
	IA No:
	Date: 01/01/2010
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries:

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?
Maximum of 8 lines

What are the policy objectives and the intended effects?
Maximum of 8 lines

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Maximum of 10 lines

Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: Month/Year What is the basis for this review? Please select. If applicable, set sunset clause date: Month/Year	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes/No

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY:

Date:

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate					
Description and scale of key monetised costs by 'main affected groups' Maximum of 5 lines					
Other key non-monetised costs by 'main affected groups' Maximum of 5 lines					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate					
Description and scale of key monetised benefits by 'main affected groups' Maximum of 5 lines					
Other key non-monetised benefits by 'main affected groups' Maximum of 5 lines					
Key assumptions/sensitivities/risks Maximum of 8 lines					Discount rate (%)
Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as	
Costs:	Benefits:	Net:	Yes/No	IN/OUT	

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Options				
From what date will the policy be implemented?	01/01/2010				
Which organisation(s) will enforce the policy?					
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?	Yes/No				
Does implementation go beyond minimum EU requirements?	Yes/No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	Yes/No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	Yes/No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes/No	
Small firms Small Firms Impact Test guidance	Yes/No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	Yes/No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	Yes/No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	Yes/No	
Human rights Human Rights Impact Test guidance	Yes/No	
Justice system Justice Impact Test guidance	Yes/No	
Rural proofing Rural Proofing Impact Test guidance	Yes/No	
Sustainable development Sustainable Development Impact Test guidance	Yes/No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	
2	
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]
Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

Add annexes here.

Appendix 1: Suggested Stages of Law-Making Process For Primary Legislation

The following proposal for the insertion of RIA into the process of making primary legislation in South Africa is an excerpt from SBP Consortium 2005, 28-29.



