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Economic Cooperation

Advancing Free Trade
for Asia-Pacific Prosperity

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October 2014





**Asia-Pacific
Economic Cooperation**

2014 APEC ECONOMIC POLICY REPORT

Good Regulatory Practices

**APEC Economic Committee
October 2014**

NOTE:

The terms “national”, “nation” used in the text are for purposes of this report and do not imply the “political status” of any APEC member economy.

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35 Heng Mui Keng Terrace
Singapore 119616
Tel: (65) 68919 600
Fax: (65) 68919 690
Email: info@apec.org
Website: www.apec.org

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Preface

For almost 20 years, APEC has advocated for the development and implementation of Good Regulatory Practices (GRPs). Economies have enthusiastically supported these efforts because they recognize the important role GRPs play in promoting economic growth and enabling prosperity across the region. Such growth and prosperity can be realized because GRPs result in predictability, quality, and accountability in governance.

For this APEC Economic Policy Report (AEPR), each economy was asked to provide an Individual Economy Report (IER) describing key policy developments concerning the use of Good Regulatory Practices. The information sought in the IERs for this report built on prior work done by the Economic Committee in its Baseline Study of Good Regulatory Practices in APEC Member Economies.

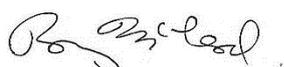
The IERs collected for this report yield a rich picture of the progress of GRPs within the APEC region. The hope is that member economies may use the information in this report, as well as the baseline information collected earlier, to more fully inform and guide their own regulatory activities.

Following the convention of previous years' AEPRs, the 2014 publication contains three chapters.

- The first chapter sets out three principles around good regulatory practices. These are:
 - transparency and public consultation,
 - internal coordination of rulemaking activity, and
 - regulatory impact assessment (RIA).
- The second chapter expands the three principles of good regulatory practices into elements which provide mechanisms on how to implement these principles.
- The third chapter summarizes and analyzes Individual Economy Reports (IERs) which indicate the achievements concerning the use of good regulatory practices (GRPs) in individual economies, the challenges that APEC economies currently face, and the priorities for future reforms.

This AEPR is the culmination of contributions from all member economies, the APEC Secretariat, and the EC Chair's Office. I would like to thank Japan in particular for coordinating the overall AEPR and for writing the third chapter, China for writing the second chapter, and the United States for writing the first chapter. In addition, I would like to extend thanks to all Member Economies for submitting Individual Economy Reports on Good Regulatory Practices.

Rory McLeod



Chair, APEC Economic Committee

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Chapter 1

Principles of Good Regulatory Practices

Introduction

For nearly two decades, APEC has been at the forefront of international efforts to develop, document, and implement principles and practices for regulatory environments that promote economic growth and enable prosperity across the region. Building high-quality regulatory environments in APEC economies is a key component of APEC's work to promote free and open trade and investment in the region. Key to this effort is the promotion of good regulatory practices (GRPs). GRPs such as transparency and public consultation, internal coordination, and regulatory impact assessment promote predictability, quality, and accountability in governance. GRPs and the benefits they produce have proven essential pillars to support robust macroeconomic performance, investment, and trade.

In 2011, APEC Leaders agreed to take steps to strengthen the implementation of GRPs across APEC economies. The APEC Sub-Committee on Standards and Conformance (SCSC)'s Progress Report on the 2011 Baseline Study on Good Regulatory Practices and subsequent 2013 update underscore both the importance that APEC has placed on promoting GRPs and the impressive progress that APEC has made to-date in reaching its GRP goals.

In this chapter, we revisit the importance of GRPs, principles of GRPs and overview the accomplishments and next steps for institutionalizing GRPs in APEC economies. GRPs enable economies to protect public health, welfare, safety, and the environment through a process that promotes economic growth, innovation, competitiveness, and job creation. By recognizing and utilizing these common principles, APEC economies can harmonize their regulatory environments and in turn open new economic markets.

1. The importance of good regulatory practices

Trade and investment

APEC has for years worked to raise awareness of the importance of good regulatory practice (GRP) for stable trade and investment. Regulation is an integral part of a well-functioning economy. But economies need not have line-by-line coherence in regulatory text to harmonize economic relationships; so long as economies practice common GRPs, partners can be confident that the quality and compatibility of regulation will exist to create deeper opportunities for trade and investment. Institutionalizing shared GRPs create market openness that can mitigate disputes in international trade discussions. Opaque, inconsistent regulatory environments will drive trading partners elsewhere. The transparency, accountability, and certainty provided by GRPs such a public consultation and regulatory impact assessment sends positive signals to the international community, inviting foreign investment and expanding trade opportunities.

Macroeconomic performance

Governments regulate to correct a market failure such as negative health, safety, or environmental externalities, or a need for greater disclosure of information. Accordingly, it is essential that such regulation is appropriately tailored in means and scope. GRPs such as regulatory impact assessment (RIA) ensure that regulators rigorously assess the costs, benefits, effects, and alternatives of a given regulatory proposal to help ensure sustained and improved economic performance post-regulation. GRPs such as transparency and public consultation are also essential to this end, providing not only transparency to effected stakeholders, but an opportunity for industry and consumers to have a voice the design of regulations. Without analysis or transparency, uncertainty will plague a marketplace, increasing investment risk and costs of doing business. Adherence to GRPs promotes effective and transparent regulation which in turn lowers transaction costs and strengthens markets in APEC economies.

Public Engagement

Essential to creating the trade, investment and economic value through regulation mentioned above is engagement of stakeholders and the general public throughout the lifecycle of a regulation. APEC recognizes GRPs such as transparency and public consultation as critical ways to normalize essential processes like opportunities such as petitioning, written and in-person comment, and open data tracking while leveraging advances in internet and communications technology. Not only do these practices present opportunities to receive critical information about the need for regulation or effects of regulatory proposals, but promote transparency and accountability, improve awareness and understanding of the policy area, and encourage public ownership and compliance. Strong synergy between economic and social needs is central to sustainable economic development. Through commitment to GRPs, APEC economies can achieve both economic and social growth.

2. Principles of good regulatory practices

Three key core principles of GRPs are at the heart of successful economic policy and are achievable by all economies: i) transparency and public consultation; ii) internal coordination of rulemaking activity; and iii) Regulatory Impact Assessment (RIA). APEC has been closely tracking these areas in the recent Progress Report on the 2011 Baseline Study on Good Regulatory Practices and subsequent 2013 update. Regardless of its current state of regulatory practice, each APEC economy can apply the guidance provided in these areas to make progress toward improving both the quality of its regulations and the process by which it arrives at these regulations.

i. Transparency and public consultation

Regulations, and governance in general, are considered transparent when extensive information on its activities, processes, and policies is publicly accessible.

Regulatory transparency produces the following benefits:

- *Accountability.* When the public knows what the government is doing, it can hold government accountable for its actions and decisions.
- *Engagement and buy-in.* It is essential that the public has access to the information needed to participate meaningfully in the decision-making process and encourage public ownership of regulations.

- *Efficiency.* Proactively making information publicly available requires that it be organized and clearly expressed. In addition, it enables feedback and input from those outside the government, which is a valuable part of the regulatory process.

One way in which the public can participate is through public consultation. Consultation occurs when regulators publish draft rules and invite input from stakeholders and the general public.

There are many reasons why this is considered an essential part of GRP, enabling benefits such as:

- *Enhanced information quality.* Public consultation enables input from the perspectives of those directly affected by the regulation. Public consultation brings in valuable external expertise that can help regulators identify potential unnecessary costs and inefficiencies, and suggestions for alternative actions.
- *Credibility.* Seeking the views of those likely to be affected strengthens the relationship between stakeholders and governments. Additionally the public consultation process helps regulators build a docket of records to balance competing interests and justify decision-making.
- *Success of implementation and compliance.* Public consultations are essential to identifying unintended effects and practical problems. In doing so, consultations encourages public ownership and eliminates surprises, leading to smoother implementation and compliance with the new regulation

Relatedly, APEC, the OECD and others have found that transparency is vital to well-functioning regulatory systems for a number of reasons. Transparency in regulatory practice helps economies avoid many challenges that can lead to regulatory failure, such as unnecessary costs and inefficiencies, poor design of regulations, and opportunities for corruption and abuse, among others. A lack of regulatory transparency and opportunities for participation increases the risks and costs of doing business and impedes trade and investment.

ii. Internal coordination of rulemaking activity

Internal coordination of rulemaking activity, particularly the ability to manage interagency review and coordinate with trade and competition officials, is an essential part of GRP. Successful internal coordination occurs both before an agency publishes a regulation for public comment—as described in the previous section, during the drafting of a final regulation, as well as after its adoption.

Internal coordination enables benefits such as:

- *Enhanced information quality.* By leveraging the knowledge of experts across the government, regulators can help each other refine data and analysis and plan for implementation.
- *Efficiency.* Interagency coordination is essential to planning interagency cooperation where applicable and preventing the implementation of duplicative or overlapping rules.
- *Intragovernmental trust.* Interagency coordination promotes awareness across the government enabling a system that sets expectations for regulators and enables interagency disputes to be adjudicated.

The APEC-OECD Integrated Checklist on Regulatory Reform provides guidance for APEC

economies on what constitutes effective internal coordination, including coordination between policy areas and/or sectors, between ministries at the domestic level, and between governments and international bodies (such as APEC). APEC's Second Senior Officials' Meeting (SOM2) proposal recommended 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:

- 1) Development of an economy-wide, cost-sensitive, and forward-looking regulatory agenda that is issued on an annual basis;
- 2) Establishment of overarching and publicly available principles to guide good regulatory governance; and
- 3) Systematic review of existing regulations to improve their effectiveness and address burdensome requirements contained within.

By facilitating interagency input, awareness, and cooperation, regulators enhance the quality of the review, adoption, and implementation processes of specific regulations, while building a system of cooperation that will be of far better quality than if an agency were to act alone without internal coordination or consultation.

iii. Regulatory impact assessment (RIA)

To improve the quality and effectiveness of rules and minimize burden, proponents of GRP have frequently advocated greater use of a range of analytic tools during the rulemaking process, including cost-benefit analysis and cost-effectiveness analysis. A Regulatory Impact Assessment (RIA) is a process to be undertaken before a new regulation is introduced. This analysis includes an assessment and, to the extent feasible, a quantification of costs and benefits anticipated to result from the proposed regulation and its possible alternatives – including an absence of regulation. Regulatory bodies have a responsibility to use the best available techniques to anticipate present and future costs and benefits as accurately as possible to inform their regulatory decision-making.

By engaging in RIA for major regulations governments promote:

- *Comprehensive approach.* By establishing a systematic and consistent framework for assessing the potential impacts of government action, RIA tools ensure that better policy options are chosen. These impacts ensure health, safety, and environmental protection may be considered alongside economic and trade impacts to provide regulators with a holistic picture of the effects of potential regulatory alternatives.
- *Rigor of analysis.* RIA's most important contribution to the quality of regulatory decision-making is not always the precision of the data obtained, but rather the act of analyzing, understanding real-world impacts, and examining assumptions. Once the RIA is completed, governments can expect to have a better understanding of the relevant factors for a particular proposed regulation, including the relative costs and benefits of alternatives, and also potential challenges and solutions in the context of broader economic or social goals.
- *Accountability.* RIA provides governments a medium by which they can explain the approach of a proposed regulation to affected stakeholders and the general public and justify that approach with data. This serves an important democratic function – it is closely linked to the accountability and transparency discussed earlier in this chapter.

The methodology used to analyze the impact of proposed or existing regulation should be both flexible and relevant to the particular circumstances of the individual economy. According to the 2011 Baseline Study on Good Regulatory Practices and its subsequent 2013 update, routine practice of various forms of RIA is widespread in APEC. The U.S. Office of Information and Regulatory Affairs has published a Regulatory Impact Analysis primer (see reference section), but no single methodology is appropriate for all economies in all circumstances. As a general principle, RIA should require the use of cost-benefit analyses, but the form of analysis will depend on practical judgments about feasibility and cost.

3. Strengthening implementation of good regulatory practices in APEC

Accomplishments to date

APEC published its first regulatory reform guidelines in its 1999 APEC Principles to Enhance Competition and Regulatory Reform and has made substantial and measureable progress ever since. APEC continued its work on good regulatory practices with the 2005 APEC-OECD Integrated Checklist on Regulatory Reform. In 2008, the APEC Economic Committee produced a Good Practice Guide on Regulatory Reform. Its six chapters provide an overview of key aspects of regulatory frameworks, including: i) designing regulation-making and review systems and processes; ii) the role of regulatory institutions in best practice regulatory reform; iii) Regulation Impact Assessment; iv) consultation mechanisms; v) enforcement and administration of regulation; and vi) alternatives to regulation.

In 2011, APEC Leaders agreed to take steps to strengthen the implementation of GRPs across APEC economies with the APEC 2011 Leaders' Commitment on Good Regulatory Practices, in which it reiterated its commitment to GRP and to reducing the negative impact of regulatory divergences on trade and investment. The APEC leaders established a deadline of November 2013 to strengthen the implementation of Good Regulatory Practices across APEC economies through the following:

1. Develop, use, or strengthen processes, mechanisms, or bodies to enable a whole of government approach in the development of regulations, including coordination across regulatory, standards, and trade agencies.
2. Develop, use, or strengthen mechanisms for assessing the impact of regulations, which involves effective and consistent use of the tools and best practices for developing new regulations and reviewing existing regulations.
3. 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.¹

That same year, the APEC Sub-Committee on Standards and Conformance (SCSC)'s 2011 Baseline Study on Good Regulatory Practices took stock of APEC's progress in implementing GRPs. The baseline study concluded that there is laudable 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, made particularly substantial and rapid progress. Others focused on smaller reforms, such as targeted regulatory reviews in high-priority areas. The report also found progress in applying principles of transparency and regulatory review. The report concluded

¹ The full text can be found at http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm/2011_aelm_annexD.aspx

that APEC economies' use of these GRPs is widespread enough to provide a basis for collective action to further enshrine GRPs in individual APEC economies and meet APEC's shared goals and objectives.

Recent activities on good regulatory practices in APEC

The good news continued with the most recent survey of the use of selected GRPs, with the 2013 update to the 2011 Baseline Report finding that APEC economies continue to invest substantial political and financial resources in improving the quality of their domestic regulatory regimes. The report noted not only a continuation but an acceleration in the adoption and use of GRPs, resulting in meaningful positive outcomes from improvements in regulatory practices and their application.

Significantly more economies were observed to be implementing the selected GRPs since the 2011 report, and economies that had already adopted those GRPs have been investing substantial political and financial resources in strengthening and widening their application. For example, use of RIA has become the norm – the number of economies that use RIA in some form rose from 14 out of 21 economies in 2011 to 16 out of 21 in 2014. More economies have adopted policies to improve regulatory quality, and increasingly have the necessary institutions with the capacity to apply those policies.

As mentioned above, the use of RIAs and the formalization of procedures for conducting RIAs have become increasingly widespread in APEC economies. The 2011 report found moderate progress in this area, but by 2014 APEC economies were found to be performing quite strongly, having devoted substantial political and financial resources to institutionalizing this important principle. Even more impressive is the investment made by several economies in improving the quality of their RIAs. Continued widespread progress in this area continues to occur, firmly establishing RIAs within the mainstream of good policy-making and economic management.

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. Twelve economies adopted principles calling for various forms of regulatory transparency and consultation by 2011, and this had improved to 14 out of 21 economies by 2013.

Internal coordination has also shown improvement. Investment in regulatory review is high and seems to be increasing across the APEC region: all 21 APEC economies have some kind of review process by which they systematically review regulations for cost and effectiveness. Formulation of domestic regulatory reform strategies are on the rise. Capacity among APEC economies to manage a government-wide program of regulatory reform is improving as well.

Improving regulatory practices is an extremely broad goal, and improving them across 21 economies is even more so. With that in mind, the degree to which the APEC region has invested political and financial resources in strengthening GRPs and the results that they have achieved to date are quite remarkable. However, it cannot be said that the work to instill GRPs is complete or that progress has been extensive in all areas. There are some GRPs for which it has been more difficult to make headway, discussed in the next section. There are also many suggestions for ways to make additional progress.

4. Next steps in promoting the use of GRPs in APEC

At the 2013 APEC Economic Leaders' Meeting, in their statement regarding Advancing Regulatory Coherence and Cooperation,² the Leaders welcomed the progress made by economies towards implementing the 2011 APEC Leaders' commitment to strengthen the implementation of GRPs by ensuring internal coordination of rule-making, assessing the impact of regulations, and conducting public consultations on proposed regulations. There is growing demand in the APEC region for more concrete and operational solutions for challenges in instituting and applying GRPs. At this point in the development of GRPs across APEC, there is an opportunity to promote learning across the region, and to improve the design of robust and effective GRPs that are adaptable to each economy. To that end, there are a number of areas in which APEC economies may focus their continued efforts to improve regulatory practices.

Inclusion of trade and competition

One area in which APEC economies have an opportunity for improvement is in the integration of trade and competition principles into regulatory reviews and analysis. Few economies explicitly include those principles in the development or the review of their regulations. While it may be difficult to estimate a regulation's potential implications for trade, greater inclusion of Ministries of Trade, for example, in the regulatory policymaking process could greatly improve the inclusion of trade concerns.

Public consultation

There is also room for improvement in the area of public consultation. One suggestion is for APEC to establish minimum standards for public consultation. A regulatory agency should give the public a meaningful opportunity to comment on a proposed regulation within an established time period (in the United States, the comment period is generally at least 60 days³). Another consideration is a clear scope for consultation, including legislation. Timely online access, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded would be ideal. A wide range of methods of consultation are used in the APEC region. With additional attention to these issues, APEC could arrive at a set of standards for improved public consultation and participation in regulatory processes.

Web-based technologies

Throughout APEC economies, there has been widespread use of web-based technologies for GRPs. Online publication and collection of relevant information is used at all stages of regulatory policymaking: planning, consultation, regulatory impact assessments and review of existing regulations. Online access to regulatory information is rapidly increasing. There is an opportunity for APEC economies to explore further use of web-based technologies to provide greater transparency and public access and other means of streamlining and lowering the cost of good regulatory practices. For example, preparation and publication of an annual regulatory and legislative plan could be a worthwhile low-cost investment resulting in increased transparency of regulatory systems.

² The full text can be found at

http://www.apec.org/~media/Files/MinisterialStatements/Annual/2013/2013_AMM_JointMinisterialStatement.pdf

³ Executive Order 13563

Closer collaboration

Although internal coordination has shown improvement, there is much more work to be done. One factor to consider is sufficient advanced planning: it takes time for a multitude of agencies and ministries – some of whom may not routinely have the occasion to collaborate – to arrange to participate in the regulatory process of another agency. It may take time away from their usual agenda and require resources to be devoted to producing inputs for a regulatory input analysis, for example. Such coordination and collaboration takes time, and the farther in advance an agency can prepare, the better their ability to participate meaningfully.

Improved regulatory review mechanisms

Improved regulatory review processes in economies where regulatory environments are currently less trade and investment friendly, for example those with significant barriers to entry, an improved regulatory review process to examine and reform regulations inhibiting trade and investment could serve to improve economic performance. There is no one prescribed review mechanism that fits all economies and circumstances, but the learning and adaptation process is ongoing.

These are just a few of the ways in which APEC economies continue to learn and grow in their application of GRPs. Having set ambitious goals, they have by and large devoted equally significant resources and effort to improving regulatory practices. With this sustained level of commitment and continued engagement with one another through APEC, these 21 economies can continue to build on their successes and their momentum toward sound and harmonized regulatory practices.

Further reading

APEC 1999 Leaders' Declaration - APEC Principles to Enhance Competition and Regulatory Reform (The Auckland Challenge – Attachment) (September 13, 1999) http://www.apec.org/Meeting-Papers/Leaders-Declarations/1999/1999_aelm/attachment_apec.aspx

APEC 2011 Leaders' Declaration Annex D - Strengthening Implementation of Good Regulatory Practices (November 13, 2011) http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm/2011_aelm_annexD.aspx

APEC Sub-Committee on Standards and Conformance (SCSC) - Good Regulatory Practices in APEC Member Economies - Baseline Study (November 2011) http://publications.apec.org/publication-detail.php?pub_id=1323

APEC Sub-Committee on Standards and Conformance (SCSC) - Progress Report on 2011 Baseline Study on Good Regulatory Practices (February 2014) http://publications.apec.org/publication-detail.php?pub_id=1507

APEC Economic Committee - Good Practice Guide on Regulatory Reform (August 2008) http://publications.apec.org/publication-detail.php?pub_id=1061

APEC-OECD Integrated Checklist on Regulatory Reform (2005) <http://www.oecd.org/regreform/34989455.pdf>

United States Executive Order 13563 - Improving Regulation and Regulatory Review (January 18, 2011) <http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order>

United States Executive Order 13609 – Promoting International Regulatory Cooperation (May 1, 2012) <http://www.whitehouse.gov/the-press-office/2012/05/01/executive-order-promoting-international-regulatory-cooperation>

United States Executive Order 12866 – Regulatory Planning and Review (September 30, 1993) <http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf>

United States Office of Information and Regulatory Affairs - Regulatory Impact Analysis: A Primer (August 15, 2011) http://www.whitehouse.gov/sites/default/files/omb/inforeg/regpol/circular-a-4_regulatory-impact-analysis-a-primer.pdf

United States Office of Management and Budget - Economic Analysis of Federal Regulations Under Executive Order 12866 (January 11, 1996) http://www.whitehouse.gov/omb/inforeg_riaguide

APEC - Joint Ministerial Statement, 2013 APEC Ministerial Meeting (October 5, 2013) http://www.apec.org/~media/Files/MinisterialStatements/Annual/2013/2013_AMM_JointMinisterialStatement.pdf

Chapter 2

Key Elements of Good Regulatory Practices

Introduction

Governments need to ensure that the regulations and instruments they use to achieve public objectives are effective and efficient. High quality regulation helps in strengthening the governance framework, in terms of accountability, transparency, effectiveness, efficiency responsiveness, forward vision and rule of law.

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.⁴ The 2008 APEC Good Practice Guide on Regulatory Reform is intended to help APEC economies to develop good regulatory systems which produce good regulatory outcomes. The 2011 Good Regulatory Practices in APEC Member Economies- Baseline Study reviewed the application of selected GRPs across the 21 APEC members.

Based on the broad agreement reached on these guidelines, checklist and baseline, this chapter revisits the key elements of good regulatory practices and a series of correlation between these key elements which only together can play the best role. Among others things, five key elements will be discussed:

- *Institutional design of rulemaking activity*, including legal and regulatory framework, regulatory approach and methods, implementation and enforcement, effectiveness of management of regulatory reform.
- *Transparency and Public consultation mechanism*, including institutional framework, mechanism and use of technology, effectiveness in ensuring wide accessibility and high quality consultation.
- *Regulatory impact assessment (RIA)*, including objective and principles, design of assessment framework, effectiveness of regulatory impact assessment.
- *International regulatory cooperation (IRC)*, including significance, objectives and forms of IRC.
- *Extended policy options of GRPs*, including single on-line locations for regulatory information, prospective regulatory planning, retrospective reviews of existing regulations.

1. Institutional design of rulemaking activity

Well-designed regulatory rulemaking activity should be capable of building political consensus and support for regulatory reform. Regulatory reform maximizes the efficiency, effectiveness, transparency and accountability of regulation, by creating a framework through which the potential or actual impact of regulation can systematically be identified, measured and considered by regulatory policy makers.

⁴Over the past decade, APEC has collaborated with the OECD on regulatory reform and good regulatory practices. This chapter draws heavily on the OECD's extensive body of work in these areas.

The goal of this framework is to ensure that regulation is introduced only where there is a need for government action and where the superiority of the preferred option has been demonstrated transparently.

i. Regulatory Institution

The range of bodies engaged in regulatory reform activities is again diverse. They include cabinet offices, trade bodies, general economic policy coordinators and domestic development planning agencies, public service delivery and reform units, ministries of industry or commerce, units to facilitate business services, law reform committees, and special task forces.

Regulatory institutions must be designed in the context of the political, economic and social environment in which they are to operate. They may take a variety of forms and each economy may have a number of institutions with each performing a niche role.

The key institution is the regulatory oversight body, often located at the centre of the government administration, with a broad mandate to build consensus on regulatory policy, assist regulators in implementation, undertake quality control and report on overall performance in achieving regulatory policy objectives. The central oversight body will play several key roles:

- The **advisory role** involves providing advice and support to regulators to assist them in complying with government policies aimed at regulatory quality assurance. This can involve the publication and dissemination of written guidance and training on topics such as regulatory impact assessment.
- The **coordinator role** involves coordinating different regulatory rule-making and activity. In an overall framework, to ensure no conflict to each other, the oversight body provides advice to regulators in the context of their development of particular regulations.
- The **gatekeeper role** involves challenging and controlling the quality of draft regulations. This function focuses on the ability of the oversight body to question the technical quality of RIA and the underlying regulatory proposals, and is likely to be based on compliance with a 'checklist'.
- The **advocacy role** involves the promotion of long-term regulatory reform policy goals, including policy change, the development of new and improved tools and institutional change.

In addition to central oversight bodies, various other institutions, including the executive and legislative rulemaking bodies, local governments, regulators and advisory bodies form part of the institutional arrangements for regulation. These institutions may play an important role in promoting and implementing regulatory reform policies, processes and systems.

- The **executive body** is a key source of regulation in two ways: in terms of proposing new laws to parliament, and in terms of establishing secondary rules to give effect to primary legislation.
- The **legislative body** has formal responsibility for reviewing and enacting primary legislation, which is why it is important they are integrated into the regulatory framework. The legislative's ability to scrutinize legislation should be aligned with the regulatory quality procedures adopted in the executive — they should be mutually reinforcing.
- **Local governments** also represent an increasingly important element of the regulatory framework, both in unitary states, including historically strong ones and in

federal states with increasing awareness of the importance of the federal/state interaction.

- **Independent regulators** are public bodies charged with regulating specific aspects of an industry. The role of independent regulators tends to be concerned with enforcing rules and dispensing penalties for non-compliance, or authorizing the issue of licenses and permits. Independent regulators contribute to improving regulatory quality, transparency, stability and expertise.
- **Independent, external advisory bodies** may be established on an ad hoc basis to respond to specific regulatory issues, or alternately, may have an ongoing role in identifying priorities and proposing reforms. These bodies may include external committees, advisory bodies, think tanks or research bodies made up of a majority of non-governmental representatives such as academia and business organizations.

ii. Internal Coordination

Many aspects of internal coordination are in the 2005 APEC-OECD Integrated Checklist on Regulatory Reform, including coordination between policy areas such as sector regulation and trade policy, between institutions at the central government level, between central governments and international economic co-ordination organizations, and between central and sub-central government.

Cross departmental co-ordination at the national level. Regulatory policy is in essence a horizontal cross-departmental policy. It requires substantial coordination mechanisms to ensure policy coherence. For that, oversight bodies have relied on formal as well as informal co-ordination mechanisms inside the administrations. Two elements are essential for co-ordination the setting up of focal points within national governments and appropriate contact points in the various ministries to resolve these tensions and ensure coherence for efficient policy implementation, as well as the definition of rules to define the relations with regulators and the nature of oversight.

Co-ordination mechanisms within and across jurisdictions. Beyond national administrations, regulatory oversight bodies are also engaged in cross-jurisdictional co-operation, either with sub-national levels of government, or with their peers in other countries.

Co-ordination mechanisms with other levels of government. Given the multi-level reality of a regulatory environment, economy needs to develop explicit policy tools and approaches to address multi-level governance issues. Oversight bodies should develop co-ordination mechanisms with sub-national levels of governments and issues of wider international co-operation.

iii. Regulatory approach and methods

The traditional way of regulation is the “Command and Control” regulation. These kinds of regulation specify, usually in detail, the regulatory requirements and a set of penalties for noncompliance. They are generally oriented toward input and behavioral requirements rather than toward outcome. These kinds of regulation are more suitable for economies in the early stage of development where the self-discipline of regulatees has not yet established.

In more developed economies, to ensure effectiveness and efficiency, a range of options other than "command and control" regulation need to be considered. These alternative approaches include a number of features, such as:

- More flexible, less prescriptive forms of regulation, such as performance-based regulation.

- Co-regulation and self-regulation, involving the industry, profession or regulated entities.
- Incentives and market based instruments, including taxes and subsidies, tradable permits and other market oriented approaches. These are often found in the environmental area.
- Information approaches, with education and persuasion.

Box 1. The main types and contents of "alternatives to regulation"

Alternative policy instruments include instruments such as performance based regulation, process regulation, waiver or variance provisions, co-regulation, self-regulation, contractual arrangements, voluntary commitments, tradable permits, taxes and subsidies, insurance schemes, information campaigns.

- **Performance based regulation:** Regulations that specifies objectives or "output standards" and that leaves the means of compliance to be determined by the regulated entity.
- **Process regulation:** Regulations that require that individual enterprises set up and document systemic processes to identify and control certain risks or hazards within their own activities. Such processes are based on Quality Assurance Principles.
- **Co-regulation:** A system of shared regulatory responsibilities in which an industry association or professional group will assume some regulatory functions, such as surveillance and enforcement or setting of regulatory standards.
- **Voluntary commitments:** Commitments by firms to reach certain targets or behave in certain ways not mandated by legislation. May be agreed to in exchange for certain other government benefits (e.g. reduced frequency of regulatory inspections).

Source: APEC Economic Committee - Good Practice Guide on Regulatory Reform, 2008.

iv. Implementation and enforcement

High quality regulation management systems not only involve tools and processes for designing and developing regulations, but also include the compliance and implementation dimensions. This involves the consideration of enforcement mechanisms and incentives for compliance. Regulators should assess the incentives and institutions through which the regulation will take effect, and should design responsive implementation strategies that make the best use of them. Furthermore, the enforcement activities should draw on international experience to evaluate the merits of different organizational approaches to address common public policy goals.

A well-formulated enforcement strategy is one that provides correct incentives for regulated subjects as well as appropriate guidelines for enforcement staff, and minimises both the monitoring effort and the costs for the regulated subjects and the public sector. To achieve this, any strategy needs to rely on a clear and sound vision of what the drivers of compliance are – both in terms of the effect of activities of the regulatory bodies, but also in terms of characteristics of the regulated businesses and of external factors (in particular market characteristics).

Increased attention is being given to the efficiency of the enforcement phase in the regulatory governance cycle and promoting proportionality in enforcement (proportionality being here understood both as allocation of resources proportional to the level of risk, and to enforcement actions proportional to the seriousness of the violation). Governments increasingly understand that this can help reduce burdens on business and citizens and release public resources for more productive tasks – while in fact improving the desired outcomes. Achieving efficiency improvements can follow from a review of the overall policies, the institutional framework and the tools used by regulatory agencies. It corresponds to a greater reliance on risk analysis and on a more targeted approach to the use of inspection and enforcement resources.

More focus should be given to consistently improve the way regulatory enforcement and inspections are organised and delivered. There is thus considerable potential for reducing regulatory costs on businesses and citizens through improving the efficiency and effectiveness of inspection services. APEC economies need to launch reform programmes designed to ensure that inspection services are delivered efficiently and effectively, having regard to the costs for government in the delivery of inspection services and tailoring the organisation of inspection services to utilise changes in technology and social organisation to better attain regulatory objectives.

v. Effectiveness of management of regulatory reform

Regulatory reform refers to changes that improve regulatory quality to enhance the economic performance, cost-effectiveness, or legal quality of regulations and related government formalities. Reform can mean revision of a single regulation, the scrapping and rebuilding of an entire regulatory regime and its institutions, or improvement of processes for regulatory rulemaking activity.

The quality control of the flow and stock of regulations is important because it allows governments to eliminate barriers or restrictions to trade, innovation, investment and economic efficiency.

Rigorous evaluation of systems and processes can identify the aspects of the regulation-making systems and processes that need to be amended. The effectiveness of automatic review mechanisms is enhanced where the central oversight body has a role in monitoring the operation of review clauses and compliance with the requirements. Mechanisms should be introduced to ensure that the regulation remains relevant and effective over time. These should encompass removing regulation made redundant by changing conditions, or amending regulation to reflect new circumstances.

Developing a sound understanding of the effectiveness of management of regulatory reform through rigorous evaluation can assist policy-makers in making the case for continuing to devote resources and effort to these ends and provide the basis for further entrenching regulatory policy within the core of government.

The OECD recommends that there should be a correlation between the kinds of tests employed and the sophistication/experience of the regulatory framework in the economy. Relatively simple compliance tests should be favored in the early stages of implementation of a regulatory system. Performance tests should increasingly be favored as expertise in the application of the tests is developed and where there is a greater concern with the quality of their application. Outcome tests should be used to test whether a fully functioning regulatory system is in fact having the predicted effects in increasing regulatory quality.

The OECD Principles for Regulatory Quality and Performance could be used in APEC economies to assess progress in implementing regulatory reform. These principles call for strengthening regulatory management not only by staffing regulatory units adequately but also through conducting regular training.

Box 2. The Guiding Principles for Regulatory Quality and Performance

- Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.
- Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment.
- Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non discriminatory.
- Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy.
- Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them
- except where clear evidence demonstrates that they are the best way to serve broad public interests.
- Eliminate unnecessary regulatory barriers to trade and investment through continued liberalization and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness.
- Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.

Source: OECD Taking Stock of Regulatory Reform, 2005.

2. Transparency and public consultation mechanism

Transparency is one of the central pillars of effective regulation, supporting accountability, sustaining confidence in the legal environment, making regulations more accessible, less influenced by special interests, and therefore more open to competition, trade and investment. It involves a range of actions, including standardized procedures for making and changing regulations, consultation with stakeholders, effective communication and publication of regulations and plain language drafting, codification, controls on administrative discretion, and effective appeals processes. It can involve a mix of formal and informal processes. Techniques such as common commencement dates can make it easier for business to digest regulatory requirements. The contribution of e-Government to improve transparency, consultation and communication is of growing importance.

Public consultation is one of the key regulatory tools employed to improve transparency, efficiency and effectiveness of regulation besides other tools. As the OECD-APEC Integrated Checklist on Regulatory Reform highlights, regulations should be developed in an open and transparent fashion, with appropriate and well publicized procedures for effective and timely inputs from interested national and foreign parties, such as affected business, trade unions, wider interest groups such as consumer or environmental organizations, or other levels of government. Consultation improves the quality of rules and programs and also improves compliance and reduces enforcement costs for both governments and citizens subject to rules.

In short, consultation can help policy officials make better informed policy decisions and effectively increase trust and engagement with stakeholders, since it:

- promotes transparency and accountability;
- improves awareness and understanding of the policy area;
- encourages public ownership of the policy;
- provide context to a policy proposal along with the advantages of reviewing ex ante the regulatory assumptions, bringing new ideas to address the problem, thus providing a broader view than policy teams might otherwise be able to provide;
- encourages planning, since there are early inputs from stakeholders as well as careful consideration of all policy options; and
- highlights potential problems early on the process, so there is an opportunity to correct.

i. Institutional framework

Public consultation is a key mechanism to ensure the transparency of a regulatory policy. There are two important institutional aspects to regulatory transparency: consultation and participation.

Consultation

Consultation involves actively soliciting the opinions, information, and ideas of interested and affected groups in society. It is a two-way flow of information, which may occur at any stage of regulatory development, from problem identification to evaluation of existing regulation. It may be a one-stage process or, as it is increasingly the case, a continuing dialogue. Consultation is increasingly concerned with the objective of gathering data and diverse views to facilitate the development of higher quality regulation.

Participation

Participation refers to the active involvement of interest groups in the formulation of regulatory objectives, policies and approaches, or in providing feedback on the text of regulatory proposals. Participation can facilitate implementation and improve compliance, consensus, and political support. Governments are likely to offer stakeholders a role in regulatory development, implementation and/or enforcement in circumstances in which they wish to increase the sense of “ownership” of, or commitment to, the regulations beyond what is likely to be achieved via a purely consultative approach.

Box 3. The Common Principles on Consultation

Although consultation practices vary from economy to economy, there are **common principles** that international literature recommends observing when conducting consultations.

- *Participation.* Ensure wide participation throughout the policy chain, consulting as widely as possible on major policy initiatives.
- *Openness and accountability.* Consultation processes must be transparent, both to those who are directly involved and to the general public. In particular, it must be clear what issues are being developed, which mechanisms are being used to consult, who is being consulted and the rationale for this, and which factors have influenced decisions in the policy formulation.
- *Timeliness and continuity.* Consultation should be a continuous process that starts as early as possible in the policy development process. Interested parties should be

involved in the development of a policy at a stage where they can still have an impact on the formulation and design of the policy.

- *Coherence and flexibility.* There should be consistency and transparency in how government bodies and agencies operate their consultation processes. It is recommended that the effectiveness of departments' consultations be monitored, including through the use of a designated consultation coordinator wherever possible. Consistency should be balanced with the need for consultation to be designed to suit the circumstances of the particular proposal under consideration. Furthermore, public consultation for some proposals may be inappropriate, so governments should remain able to undertake other alternatives or initiatives that best deal with the purpose of the policy proposal.
- *Content.* All information and communications relating to consultation should be clear and concise, and should include all necessary information including information about the proposals, who may be affected, what questions are being asked and the deadline for responses.
- *Targeting.* Governments should ensure that all relevant parties have an opportunity to express their opinions. To ensure adequate coverage, it is recommended that consultation include: (i) those affected by the policy such as businesses, consumers, unions, environmental groups and other interested groups; (ii) those who will be involved in the implementation of the policy such as federal, state or municipal governments; and (iii) bodies that have a direct interest in the policy such as government departments, agencies, statutory authorities or boards.
- *Accessibility.* Governments should ensure that consultation documents are widely available and that their communication channels are adapted to meet the needs of all target audiences. It is widely recommended that the internet be used.
- *Timeframe.* There should be wide consultation undertaken throughout the process, allowing stakeholders sufficient time to provide a meaningful response.
- *Acknowledgement and feedback.* Contributions should be acknowledged and the outcome of the consultations should be made public, particularly indicating how the consultation process influenced the policy.
- *Evaluation and review.* Regulators should evaluate consultation processes and continue to examine ways of improving their effectiveness.

Source: APEC Economic Committee - Good Practice Guide on Regulatory Reform, 2008.

ii. Mechanism and use of technology

Dialogue between governments and interested parties can take many forms, and methods for consultation and dialogue are usually adapted for different policy fields. Generally, governments carry out consultation through online or written communications, advisory committees, expert groups, workshops and fora, ad hoc meetings and open hearings. However, consultation is frequently a combination of different tools and methods which are used depending on the phase of preparation of the policy proposal.

Consultation increases the level of transparency and it may help to improve regulatory quality by:

- bringing into the discussion the expertise, perspectives, and ideas for alternative actions of those directly affected;
- helping regulators to balance opposing interests;

- identifying unintended effects and practical problems;
- using pre-notification it is possible to foresee more easily the consequences of some planned policies, becoming one of the most productive ways to identify administrative burdens;
- providing a quality check on the administration's assessment of costs and benefits; and
- identifying interactions between regulations from various parts of government.

The OECD has identified five basic tools to perform public consultation. The tools are used depending on the subjects being consulted, the degree of formality of the process, and the available means and technology to carry out the consultation.

- *Informal consultation:* Informal consultation includes all forms of discretionary, ad hoc, and unstandardized contacts between regulators and interest groups. It can be carried out through telephone calls, informal meetings and can appear in any stage of the regulatory reform process. Its purpose is to collect information from the interested groups in an informal and fast way. Its acceptance is variable and participation depends on the interests at stake. One of the disadvantages of the informal consultation is that it can limit transparency.
- *Distribution of regulatory proposals for public comment:* This form of public consultation is relatively inexpensive. It obtains views from the public and allows affected groups to provide wider information. It is flexible in terms of its depth and types of answers. This type of consultation occurs generally when the regulatory project is released. Answers are generally provided in written form, although in some cases oral answers or discussion sessions are used. This is by far the most used form of public consultation.
- *Public notice and comment:* Public notice is more formal and structured, and provides stakeholders and the wider public with the opportunity to participate in the rule making process within certain rules and timeframes. The public notice element means all interested parties have the opportunity to become aware of the regulatory proposal and are thus able to comment. There is usually a standard set of background information, including a draft of the regulatory proposal, discussion of policy objectives and the problem being addressed and, often an impact assessment of the proposal and, perhaps, of alternative solutions.
- *Public meetings:* Public meetings are organized in a way that interested groups are able to express their points of view face to face. Public meetings are usually discretionary and ad hoc unless connected to other consultation processes (for example, notice-and-comment). They are, in principle, open to the general public, but effective access depends on how widely invitations are circulated, the location and timing of the hearing, and the size of the room. Regulators may request that interested groups send the information in written form.
- *Advisory bodies:* The use of this consultation tool has increased in the last years, especially in OECD economies. These bodies define positions and provide options of improvement to the regulatory proposals. There are many different types of advisory bodies under many titles – councils, committees, commissions, and working parties. Their common features are that they have a defined mandate or task within the regulatory process (either providing expertise or seeking consensus) and that they include members from outside the government administration.

Over the last decade, the use of the internet has facilitated widespread use of broad public consultation methods around the world, including in OECD countries and many APEC

economies. It is increasingly accepted that regulatory authorities should publish on government internet websites for public review the proposed text of any regulation they are developing; an explanation of the regulation, including its purpose and rationale; and any underlying information, data and analyses considered by the authority in developing the regulation, including, as available, a regulatory impact assessment.

iii. Effectiveness in ensuring wide accessibility and high quality consultation

Different consultation tools and processes have different strengths and weaknesses, while consultation can serve differing objectives. To ensure wide accessibility and high quality consultation, the consultation performance should be promoted in different ways. There are two elements of consultation performance. The first is that of engaging stakeholders in the consultative process and the second is that of integrating the results of consultation into the regulatory process.

To engage stakeholders in the consultative process, the challenge is to ensure that key stakeholders actively take up the opportunity to participate in consultation. This can be measured through a number of performance tests, including formatting, targeting, response profiles, adequacy of reasoning, evidence checking, and review of internal regulatory costs, which focus on the quantity and quality of participation in the process. To the extent that participation is lacking, other tests can be used as diagnostic tools. Compliance tests that test how widely consultation opportunities were notified, what materials were made available and what periods of time were allowed for response can diagnose system design problems. Performance tests measuring the targeting of consultation efforts and the response profiles can go beyond the question of compliance with formal standards to the question of the quality of system design and implementation and provide a more sophisticated view of system design issues.

To integrate the results of consultation into the regulatory process, regulators must be open to the inputs received from stakeholders and they must be willing to depart from initial regulatory proposals if and when alternatives are identified that have a more compelling analytic basis. There are significant reasons why such responsiveness may be limited in practice. Thus, a key part of a well-functioning consultation system is likely to involve high levels of transparency and accountability; that is, mechanisms whereby there are external checks on the responsiveness of regulators, creating pressure for consultative inputs to be taken properly into account. There are a number of evaluation tools that focus on this aspect of consultation performance, including evidence checking and audit trails. It was noted that, while the incidence of policy changes – a function test – constitutes a more direct measure of responsiveness, it is an ambiguous indicator, in that a low level of change can be evidence of sound initial consultation and early policy design, just as easily as a lack of responsiveness. The existence of such ambiguities again highlights the need to take a multi-faceted approach to the adoption of evaluation tools in relation to consultation processes in particular.

It is also clear that the two elements of the performance of the consultation tool highlighted here are, in fact, inter-dependent. If stakeholders are not able to perceive a sufficient level of integration of their consultative feedback into the regulatory process – that is, a substantial incidence of regulatory change arising from the consultation efforts made – their willingness to participate will fall over time, as the expected value of that participation diminishes. This effect will operate even if the other system design elements noted above – in terms of formal compliance, targeting and the like – are of a relatively high quality. This inter-dependence itself serves to demonstrate some of the evaluative difficulties that are likely to be encountered. Compliance tests might show a high level of formal compliance with consultation requirements, while performance tests show a low level of participation. This may be the result

of poor performance in integrating past consultative feedback into regulation, rather than the more obvious cause of system design faults limiting effective opportunities to participate.

3. Regulatory impact assessment (RIA)

Regulatory impact assessment (RIA), also called regulatory impact analysis, is a systemic approach to critically assessing the positive and negative effects of proposed and existing regulations and non-regulatory alternatives. RIA may examine impacts on competition, welfare, environment, and administrative burdens, or any other impact that is of relevance to the regulation or its alternatives. Its assessment objects include both the “flow” of regulation (new regulation and amendments to regulation) and the “stock” of regulation (existing regulation).

The purpose of RIA is to help regulators obtain more valuable information for regulatory decision making by providing a detailed and systematic appraisal of the potential impacts. Any regulation may have some positive and negative effects. When a new regulation is proposed, it is very important for the government to understand whether the regulation is likely to achieve its desired objectives and whether there are some alternatives better than the proposed regulation. This requires formal analysis and consultation with affected parties. Therefore, an RIA should be prepared and subjected to public scrutiny to help the government ensure that the regulation will increase net social welfare and that the selected regulatory approach is the best of the alternatives considered - that is, the benefits will exceed costs and the net benefits are maximized.

Since 1974, the use of RIA has become widespread, first among the OECD members, then all over the world. The approach of each country to RIA varies to some extent; however, there are some common elements and the methodology applied in different countries remains consistent. RIA was early adopted in some OECD countries, such as United States (1974), Canada (1977), Germany (1984), and Australia (1985). For example, an early RIA is generally considered to be the "Inflation Impact Assessments" required by the Carter Administration in the United States from 1978. The RIA requirement was broadened during the Reagan administration, with Benefit-Cost Analysis (BCA) becoming the required methodological approach. By 2009, most of OECD countries, and many non-OECD countries, had adopted formal policies mandating the use of RIA in regulatory policy-making. Due to competitiveness pressures, more and more countries will pay more attention to RIA.

i. Objective

The ultimate purpose of RIA is to maximize the net benefits of regulations and reduce the number of low-quality and unnecessary regulations. Also, RIA can improve the transparency of regulatory decisions and enhance consultation and the participation of the affected groups. Governments that use RIA have defined four main objectives concerning regulatory costs and impacts:

Improve understanding of the benefits and the costs of regulation. RIA can inform the decision-making process by analyzing the positive and negative effects of the regulation, assessing the efficiency of a policy and the cost-effectiveness of its instruments. By improving

the basis used to compare the costs and benefits of different regulations and their alternatives, RIA can help the decision-makers to allocate resources from less-efficient regulations to more-efficient regulations which will improve effectiveness and reduce the cost of regulation.

Integrate multiple policy objectives. RIA can be used as a common integrating framework to determine the impacts of policies and to reveal linkages among policies. It can give decision makers the capacity to weigh trade-offs. In this sense, RIA is not only an analytical tool, but a co-ordination tool that can bring different interests together. Market-openness and competition criteria are important common elements to include in RIA.

Improve transparency and consultation. RIA exposes the merits of decisions and the impacts of actions. For this reason, RIA is closely linked to processes of public consultation.

Improve government accountability. RIA can improve the involvement and accountability of decision-making at ministerial and political levels. It fosters an understanding of the impacts policies will have and demonstrates how government decisions benefit society. By emphasizing openness, RIA favors policies that serve the interests of society as a whole, rather than just those of special groups.

ii. Principles

The desired regulation should display certain qualitative indicators. These indicators of regulatory quality are formulated as principles governing the quality of regulation, although there is no single system for the implementation of RIA that is desirable in all economies at all times. The following elements of good practice should serve as starting points for the design of a system likely to maximize the benefits of RIA.

- Commence RIA at the earliest feasible stage in the policy development process.
- Provision should be made for screening regulatory proposals to determine which proposals require RIA and the type of assessment to be undertaken.
- RIA should be documented and made available for public comment and review.
- The RIA report should be used in the regulation approval process.
- RIA should inform monitoring, evaluation and post auditing processes to ensure that regulation does not have unintended effects.

iii. Competition Assessment

RIA is based on benefit-cost analysis, which incorporates competition assessment as one of the central issues. The competition assessment focuses on whether the regulation impedes or restricts competition and how the regulation can be redesigned so that the competition is not unduly inhibited. The goal of the competition assessment is to increase beneficial competition, the process of rivalry in which suppliers compete on price, quality, or innovation so that the customer can consume goods and services with lower price or higher quality or benefit from the new products constantly emerging.

A competition assessment should be conducted if the regulation has any of the following 3 effects:

- Limits the number or range of suppliers. This is likely to be the case if the proposal:
 - Grants exclusive rights for a supplier to provide goods or services.
 - Establishes a license, permit or authorization process as a requirement of operation.
 - Limits the ability of some types of suppliers to provide a good or service.
 - Significantly raises cost of entry or exit by a supplier.
 - Creates a geographical barrier to the ability of companies to supply goods or

services, invest capital or supply labor.

- Limits the ability of suppliers to compete. This is likely to be the case if the proposal:
 - Controls or substantially influences the prices for goods or services.
 - Limits freedom of suppliers to advertise or market their goods or services.
 - Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that many well-informed customers would choose.
 - Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).
- Reduces the incentive of suppliers to compete vigorously. This may be the case if the proposal:
 - Creates a self-regulatory or co-regulatory regime.
 - Requires or encourages information on supplier outputs, prices, sales or costs to be published.
 - Exempts the activity of a particular industry or group of suppliers from the operation of general competition law.
 - Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers.

iv. Methods to Evaluate the Impact of Regulation

There are five main analytical methods used in RIA programs.

- *Cost benefit analysis* quantifies and evaluates the costs and benefits of a regulatory intervention in terms of the public's willingness to pay for them (benefits) or willingness to pay to avoid them (costs). Inputs are typically measured in terms of opportunity costs which are the value in their best alternative use. The guiding principle is to list all of the parties affected by an intervention, and place a monetary value of the effect it has on their welfare (as it would be valued by them).
- *Multi-Criteria Analysis (MCA)* is a systematic comparison of the impact of different alternative policy responses in circumstances in which major impacts are identified, but not able to be quantified. MCA involves the identification of the objectives behind a policy proposal as well as criteria which would indicate the achievement of those objectives. The various policy options are then compared to determine which best meets the criteria identified and therefore are most likely to achieve the overall objectives.
- *Cost effectiveness analysis* compares alternatives to find lowest cost solutions that produce specific outcomes that are measure in non-monetized terms (e.g., illnesses prevented). This method is limited, as it does not determine if the action is worth taking (that benefits outweigh costs) and does not resolve the choice of optimal level of benefits. However, it can help to select the lowest cost regulatory option.
- *Risk assessment* attempts to quantify the risks (involving consideration of the magnitude and likelihood of hazards and their consequences) to enable rational judgment to be made as to whether government action is justified. This method is useful in answering the threshold question of whether to regulate, and contributes to policy choices about the desirable degree of risk reduction. Complications in its use derive from observed variation between real and perceived risk, or between society's acceptances of different kinds of risks.

- *Sensitivity or uncertainty analysis* projects the likelihood of a range of possible outcomes when the assumptions underlying the analysis are changed. This provides policymakers with a more accurate understanding of the likelihood of impacts. Sensitivity analysis should be used as a technique to refine the expected future benefits and costs.

v. Steps of conducting of a RIA

A complete RIA includes at least the following steps:

- *Define the problem and assess its magnitude.* RIA requires a problem to be identified by assessing the nature and size of the problem associated with the expected outcomes in the absence of any further government action. A good problem definition will explain the gap between the current situation and the outcome that the agency is aiming for. Problems should be couched in terms of public interest, broadly considered.
- *Define the objectives.* The objectives should summarize the Government's policy intentions, but also inform how any potential regulatory solution will be evaluated for effectiveness. The objectives, outcomes, goals or targets that are sought in relation to the identified problem should be described. The objectives should be clear and should not pre-justify a particular solution.
- *Identify and describe the full range of feasible options.* Identify the full range of policy options that may fully or partially achieve the stated objectives and thereby address the identified problem. This should include both regulatory and non-regulatory options. Within regulatory options, a representative and pertinent spectrum of viable regulatory forms should be considered.
- *Analyze the costs, benefits and other impacts for each option.* The costs, benefits and impacts of these options should be identified and analyzed. A formal cost-benefit analysis should be conducted in respect of the most significant proposals but it is expected that this may need to be undertaken within the context of a broader multi-criteria approach.
- *Consultation.* The purpose of consultation is to provide confidence about the workability of proposals, that options have been properly considered, and that all relevant data has been obtained. The conclusion of impact analysis should be circulated for comment to relevant government agencies, the experts, and the public.
- *Conclusions and recommendations.* It is crucial for RIA, and particularly for the summary of the analysis in the conclusions, to clearly explain what decisions are required, what choices are available, and what stage of the policy process the RIA reflects. The usual methods of presenting convincing options analysis to meet the RIA requirements include cost-benefit analysis, cost-effectiveness analysis, and incentive analysis if feasible.
- *Implementation.* RIA should cover the entire implementation and enforcement stages of the policy by describing the impact of different choices around enforcement strategy on costs and benefits. Consideration should also be given as to how enforcement costs will be funded—although the appropriate level of analysis of implementation will depend on the stage of the policy development process and the magnitude of impact.

vi. Effectiveness of RIA

There are several factors that may weaken effectiveness of RIA. Among other things the scope of groups within a society on which the impact of regulation is analyzed and the challenge to start RIA are prominent and therefore need to be appropriately addressed.

Scope

A full benefit-cost analysis takes into account impacts on all groups within society. However, perhaps reflecting the historical/political genesis of regulatory reform programs in many countries, it is common for there to be a particular focus on impacts on business (and/or in some cases, on small business). In other cases, while all impacts are required to be assessed, the threshold which determines whether or not RIA must be undertaken reflects whether there is likely to be a substantial impact on the economy. Of course, most countries have quite rigorous requirements for impacts on the government budget to be assessed. These requirements often pre-date the use of RIA and essentially reflect the better established controls that exist on government budgeting (i.e. taxing and spending) generally, rather than being a specific product of RIA requirements.

RIA is often begun as a requirement to analyze impacts from one or more partial perspectives, before broadening progressively over time. This broadening of the required assessment appears to be partly pragmatic: as experience with RIA develops, expertise is also developed, so that more extensive analysis becomes feasible. As well, RIA becomes better accepted by stakeholders as it becomes better understood.

In some contexts in which a broad BCA requirement already exists as the basis for RIA, additional requirements to focus explicitly on impacts on particular groups (e.g. small business, regional areas, the family) are being established, which may be more or less integrated with the general BCA requirement.

Requirements for explicit analysis of a range of sectional impacts tend to focus on groups whose claims are considered to be particularly compelling from a distributional viewpoint. The apparent proliferation of these requirements is arguably an outgrowth of the historical concern, voiced in many countries, that RIA tends largely to ignore the distributional impacts of policy and, as such, is an inadequate, or even misleading guide to policy action.

Challenges

There are several challenges common to most countries when starting to implement RIA:

- Insufficient institutional support and staff with appropriate skills to conduct RIA. In most cases the whole concept of RIA is difficult to understand if regulators have not dealt with it previously. In the process of implementing RIA technical problems are continuously faced, and a lack of solid and continuous training has hindered efficiency and effectiveness. If the inclusion of RIA in the policy-making process does not actively involve policy officials, there is a high risk of having a burdensome bureaucratic process instead of a useful tool for analysis.
- Limited knowledge and acceptance of RIA within public institutions and civil society reduces its ability to improve regulatory quality. The opportunity could be missed to improve public participation in the regulatory process through consultation.
- Lack of reliable data necessary to ground RIA, as well as finding appropriate indicators to facilitate the measurement of the regulatory impact.
- Lack of a coherent, evidence-based and participatory policy process. RIA by itself will not solve all the problems in a regulatory regime. Key supporting elements should also be encouraged and used in order to ensure results. Among them, public consultation plays a fundamental role to collect information and to integrate different views from

those affected directly by regulations.

- Indifference by the public administration, mainly due to inertia in the political environment, is potentially one of the most significant obstacles to an effective RIA system.
- Opposition from politicians concerned about losing control over decision-making. Other challenges to RIA are a rigid regulatory bureaucracy and vested interests which oppose reforms. It is important to make clear that RIA does not weaken the decision making process, but supports it by offering evidence-based regulatory options.

These challenges need to be taken into account from the beginning of the systematization of RIA, and kept in mind as the road map for RIA implementation is defined and followed.

4. International Regulatory Cooperation

As APEC economies are increasingly integrated with each other, the international regulatory cooperation becomes more relevant, particularly in today's global environment where economies are seeking to facilitate the movement of goods, services and capital across borders as a critical part of global value chains and connectivity between economies, while at the same time ensuring that regulatory objectives (e.g. around consumer protection) are being effectively met. Behind-the-border barriers such as regulatory regimes are now more likely to pose barriers to trade and investment flows across the region, compared to at-border barriers (such as tariffs). Regulators therefore need to cooperate with their overseas counterparts to reduce cross-border barriers, and also to enhance regulatory capacity and effectiveness. IRC is important to all economies regardless of their stage of development – both developed and developing economies need successful strategies to deal with how regulation impacts on cross-border flows, and to make the most out of scarce expertise and resources.

i. Objectives for undertaking IRC

The objectives of IRC is to address the particular regulatory challenge in a globalized world and to facilitate the implementation of other key elements of GRPs.

- To reduce barriers to trade and investment which could arise from unnecessary differences between regulatory regimes
- To enhance regulatory capacity and capability
- To enhance policy and regulatory effectiveness

In addition, IRC can provide a useful contribution to the other pillars discussed in the chapter. For example, IRC can help policymakers better assess the benefit and costs of proposed regulation on trade and investment flows. IRC can also help regulators with implementation and enforcement of regulations, given that many of the activities undertaken by firms and consumers today have cross-border implications.

ii. Forms of IRC

IRC could take a range of different forms. At the EC workshop on international regulatory cooperation in the margins of EC2 in 2014, New Zealand presented on a spectrum of cooperation options, ranging from unilateral coordination on one end, moving to informal

cooperation (e.g. information sharing and policy dialogue) and then formal cooperation on the other end (e.g. enforcement cooperation, mutual recognition, and harmonisation). The OECD has developed a similar spectrum of IRC mechanisms which covers arrangements such as exchange of information, soft law, trans-governmental networks, regulatory partnerships and treaties and conventions. US GAO also proposed six categories of IRC activities.

Each IRC option comes with its own benefits and issues for consideration. Policymakers and regulators should carefully weigh up these different benefits and issues when making decisions about how to cooperate with their counterparts from other jurisdictions.

5. Extended policy options of GRPs

In 2013, Leaders and Ministers encouraged economies to explore the possibility of using additional tools to strengthen economies' implementation of GRPs, including single on-line locations for regulatory information, prospective regulatory planning (including forward-looking regulatory agendas), and retrospective reviews of existing regulations.

i. Single on-line locations for regulatory information

With the development of information and communication technology (ICT), "one stop shops" on the internet are one way of carrying out public consultation by providing access to regulatory information and opportunities for public comments on regulatory proposals (one stop shops by internet), which also can be used to implement and improve "notice and comment" procedures of regulatory proposals.

ii. Prospective regulatory planning

The objective of prospective regulatory planning is to ensure that the regulatory lever works effectively--minimizing duplication and conflict between regulations, exploring new areas of societal concern, so that regulations and regulatory frameworks are in the public interest--maximizing social welfare.

iii. Retrospective reviews of existing regulations

Here a conceptual framework within which the ex post evaluation of regulatory tools and institutions can be considered: Firstly, the research is undertaken to date by including responses to the survey of existing practices and organizing our knowledge of existing practices; Then a consistent and comprehensive analytical perspective comes into being to enhance the comparability of the different approaches;

Three types of evaluation are suggested as follows:

- *Compliance tests.* They are essentially process focused, who seek to evaluate formal compliance with the individual elements of the regulatory quality tool or institution in question. That is, they test whether the RIA process, the consultation process, or the regulatory institution in question has meet the procedural requirements set out in laws, policies or guidelines as appropriate. Compliance tests can be applied on both an ex ante and an ex post basis;
- *Performance tests.* They are essentially outcome focused, who measure the quality of the analysis undertaken, going beyond the question of formal compliance with procedural requirements. Performance tests seek to evaluate the performance of the regulatory tool or institution in terms of its ability to add sophistication and relevant data to the regulatory development process and so support a high quality regulatory process;

- *Function tests*. They can be considered as “outcome focused”, who seek to evaluate the actual effect of the regulatory tool or institution on the quality of the regulatory outcome. Thus, they are effectively measuring not only the regulatory quality tool itself, but also the degree to which it is effectively integrated into the policy process via functioning “policy feedback” loops. Therefore these tests can only be carried out ex post.

Further reading

OECD Regulatory Performance: Ex-post Evaluation of Regulatory Tools and Institutions, 30th Session of the Public Governance Committee, GOV/PGC/(2004)29.

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC\(2004\)29&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC(2004)29&docLanguage=En)

APEC-OECD Integrated Checklist on Regulatory Reform (2005)

<http://www.oecd.org/regreform/34989455.pdf>

APEC Economic Committee - Good Practice Guide on Regulatory Reform (August 2008)

http://publications.apec.org/publication-detail.php?pub_id=1061

APEC Sub-Committee on Standards and Conformance - Good Regulatory Practices in APEC Member Economies - Baseline Study (November 2011)

http://publications.apec.org/publication-detail.php?pub_id=1323

APEC Economic Committee - Good Practice Guide on Public Sector Governance (March 2011)

http://publications.apec.org/publication-detail.php?pub_id=1143

Background Document on Public Consultation (2012)

<http://www.oecd.org/mena/governance/36785341.pdf>

GAO (2013), International Regulatory Cooperation: Agency Efforts Could Benefit from Increased Collaboration and Interagency Guidance, GAO-13-588.

<http://www.gao.gov/products/GAO-13-588>

OECD *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing (2014)

<http://dx.doi.org/10.1787/9789264208117-en>

Chapter 3

Summary of Individual Economy Reports on Good Regulatory Practices

This chapter provides an overview of key policy developments concerning the use of good regulatory practices in individual APEC economies based on the information contained in the Individual Economy Reports (IER) submitted by APEC economies. Such developments include building or strengthening institutional and procedural frameworks to oversee and support good regulatory practices, and taking steps to improve the implementation of good regulatory practices. For stock-taking the successful experiences of APEC economies in implementing GRPs, the IERs provide some case studies. Finally, the challenges that APEC economies are currently faced with and the priorities for future reforms are also addressed.

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

Good designing of regulatory institutions ensures that regulatory reforms maximise the efficiency, effectiveness, transparency and accountability of regulations. Good practices in designing regulatory institutions include elements such as i) commitment at the highest political level to an explicit whole-of-government policy for regulatory quality, ii) adherence to principles of open government including transparency and public consultation, iii) mechanisms to actively provide oversight of regulatory policy procedures and goals, iv) a framework to ensure coherence through coordination mechanisms between the supranational, the national and sub-national levels of government and across policy areas, and v) development of regulatory management capacity⁵. In line with these good practices, this section overviews regulatory institutions in APEC economies with a particular focus on mechanisms or bodies to enable internal coordination of rulemaking activity, institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism, coordination mechanisms between national and sub-national level of governments to promote regulatory coherence, and institutions to oversee training and capacity building programs for rule makers and regulators.

Mechanisms or bodies to enable internal coordination of rulemaking activity

Nearly half of the APEC economies which submitted the IERs have established a central body to oversee regulatory policy at the center of the government administration. While design and function of institutions for regulatory oversight differs by economies, these central oversight bodies guide whole-of-government policy for regulatory reform and coordinate rulemaking activity.

As for the location of the central oversight bodies, some economies such as the United States, Australia, Japan and Korea have them within the President's Executive Office or the Cabinet/Prime Minister's Office/Department. For instance, in the United States, the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) oversees the development and reform of regulations. In Australia, the Office of Deregulation

⁵ Please refer to APEC (2008), "Good Practice Guide on Regulatory Reform" and OECD (2012), "Draft Recommendation of the Council on Regulatory Policy and Governance".

in the Department of the Prime Minister and Cabinet coordinates implementation of the deregulation agenda across the government through close consultation with other ministries' deregulation units. In Japan and Korea, the Secretariats of Committee for Regulatory Reform located in the Cabinet or Prime Minister's Office are delegated to design and implement the whole-of-government regulatory reform plan. Similarly, Singapore has set up the Smart Regulation Committee (SRC) to promote good regulatory practices and review rules and regulations, though the SRC comprises of members from various ministries and statutory boards.

Instead, a ministry in charge of public finance or economy and trade traditionally plays a large role in coordinating rule-making activity and reviewing regulations in some APEC economies. For instance, in New Zealand, The Treasury is responsible for managing and monitoring the regulatory management system, complemented by the Ministry of Business Innovation and Employment, which is focused on the impact of regulation on firms. In Mexico, the Federal Commission for Regulatory Improvement (COFEMER), which is an autonomous body of the Ministry of Economy (oversight body), has legal provisions to review existing and new regulations and advocate reforms for the whole government. In Hong Kong China, the Financial Secretary plays a leading role in coordinating the efforts of all government bureaux and departments to promote business facilitation and regulatory review program through several specialized bodies such as the Business Facilitation Advisory Committee (BFAC) and the Economic Analysis and Business Facilitation Unit (EABFU).

In some APEC economies, advisory bodies or experts' panel backed by the government's secretariat play a substantial role in advising on formulation of whole-of-government regulatory policy and coordinating regulatory management activities. The advisory bodies play an advocacy role in promoting long-term regulatory reform policy goals, while they also ensure participation of stakeholders in proposing regulatory reform. For instance, in Japan, the Council for Regulatory Reform, which is comprised of experts from the business sector and academia, discusses key regulatory reform agenda and submits its report to the Prime Minister. Similarly, the Regulatory Reform Committee (RRC) in Korea, which is composed of members from both the private sector and government officials, is responsible for deliberation and coordination in setting the basic direction of regulation policy, reviewing existing regulations and gathering and processing opinions on regulatory reform. In Australia, the Prime Minister's Business Advisory Council brings together prominent business leaders and experts to guide policy and program development, while the Productivity Commission, which is the Australian Government's principal advisory body on micro-economic reform, informs regulatory policy best practices through the results of its research and analysis on a range of economic issues. In Singapore, the Pro-Enterprise Panel (PEP), comprised of mainly business representatives, actively solicits feedback on rules and regulations that hinder businesses and impede entrepreneurship. In Malaysia, the initiatives on Modernising Business Regulation have been strongly supported by the Special Taskforce to Facilitate Business (PEMUDAH), a public private advocacy body that has provided guidance and leadership in driving the reforms forward in a collaborative way.

APEC economies which do not have central bodies specialized in regulatory oversight, rely on cooperation among several ministries or executive/key decision making bodies such as the Cabinet or Executive Council in coordinating regulatory management. For instance, in Indonesia, the State and Cabinet Secretariats, National Development Planning Agency (Bappenas) and several other ministries have responsibility for overseeing regulatory decision making. In Chinese Taipei, while the National Development Council (NDC) serves as an inter-agency coordination unit on matters of regulatory reforms, several agencies are also involved in the coordination of the law-making process. On the other hand, in some economies such as Chile, Peru and Viet Nam, an institution/committee consisting of several relevant ministries

or the Presidency of Cabinet play a leading role in coordinating government agencies and departments with respect to regulatory policy.

Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanisms

In the economies which have the central regulatory oversight bodies, those central bodies tend to oversee regulatory impact assessment (RIA) and public consultation mechanisms and support agencies to carry out RIA by providing guidance, toolkits and training. For instance, in the United States, the OIRA plays an active role in controlling quality of regulations and ensuring transparency by providing guidance to agencies on implementation of regulatory impact analysis, public comments and peer review. In Australia, the Office of Best Practice Regulation (OBPR) in the Department of the Prime Minister and Cabinet provides a strong gatekeeping role in controlling quality of new proposed regulations by administering RIA through the review of adequacy of RIA. In Mexico, COFEMER plays a key role to guarantee transparency in the elaboration and enforcement of regulation, and all RIAs, along with draft proposals are made public through COFEMER's website, starting the process of public consultation. Despite the absence of a central regulatory oversight body, some economies adopt the management system of RIA for facilitating the coordination across the government agencies. In Thailand, the RIA statements which are prepared and attached to the draft law are initially examined by the Secretariat of the Cabinet, and in the case where the draft laws are approved by the Cabinet, the Office of Council of State (OCS) re-examine both validity and accuracy of the checklist. In Peru, the Ministry of Economy and Finance has the function of promoting and overseeing regulatory reform initiatives at a cross-government level with regard to the RIA. Viet Nam established a RIA taskforce within the Ministry of Justice to coordinate the implementation of RIA.

Coordination mechanisms between national and sub-national level of governments

Appropriate coordination mechanisms between national and sub-national level of governments to ensure regulatory coherence are necessary, as they could help identify cross-cutting regulatory issues at all levels of government and avoid duplication or conflict of regulations. APEC economies, in particular those which have more decentralized administration systems, develop such mechanisms through ensuring participation of local governments in the rule making process and information sharing between different levels of government. In Australia, the Council of Australian Governments (COAG), which is chaired by the Prime Minister and composed of state and territory Premiers and Chief Ministers and the President of the Australian Local Government Association (ALGA), provides opportunities for coordinating the central government and governments of the states and territories in removing unnecessary regulatory burdens and implementing 'one-stop-shops' for environmental approvals in each State. In Mexico, COFEMER provides technical advice on matters of regulatory improvement to states and municipalities that request it.

Institutions to oversee training and capacity building programs for rule makers and regulators

Development of regulatory management capacity at both the national and sub-national level of government is a prerequisite condition for implementing good regulatory practices. In some APEC economies such as Mexico and Peru, a regulatory oversight body or ministry in charge of regulatory policy across the government agencies provides training to government officials, while some other APEC economies entrust the provision of training to ministries with regard to their relevant regulatory areas. Many APEC economies including both developed and developing economies provide guidelines or capacity building programs for implementing RIA, though developing member economies tend to have a much broader scope of training.

1.2 Strategy and program for improving regulatory practices

The APEC-OECD Checklist stresses the importance of having an integrated policy for regulatory reform that sets out principles dealing with regulatory, competition and market openness policies. An integrated policy includes key elements such as transparency, non-discrimination and minimal interference with competition and open markets, while giving consideration to how regulatory practices can strengthen implementation of international trade rules, helping to prevent the creation of trade barriers and avoid unnecessary regulatory differences between APEC economies.

Strategy and program for improving regulatory practices

Some APEC economies have adopted an integrated strategy or program which specifies goals and principles of regulatory policy. However, the forms of these strategies vary in their scope. Some provide general principles of rule-making and regulatory reform, while others are focused on more specific purposes such as reducing red tape and streamlining particular administrative procedures. For instance, general principles of GRPs and goals of regulatory policy are specified in the United States' "Regulatory Planning and Review" and "Improving Regulation and Regulatory Review", Canada's "Cabinet Directive on Regulatory Management" and a new Australian Government "Guide to Regulation" published in March 2014. Some other economies are focused on more specific purposes. In Japan, the "Implementation Plan for Regulatory Reform" identifies specific regulatory reform agenda to be implemented and sets out timelines for implementing each regulatory reform agenda. Hong Kong, China is implementing the "Be the Smart Regulator" Program to take forward reform measures to further improve the licensing regime and reduce compliance costs to business. Malaysia has been implementing the Modernising Business Regulation Project since March 2011, which includes modernizing or reducing business licenses. The regulatory reform plan is often specified as one of the elements of a broader economic development plan in many developing member economies. In 2013, China adopted the "Decision on Major Issues Concerning Comprehensively Deepening Reforms" and put forward the integrated regulatory reform strategy focusing on openness, non-discrimination and minimum intervention.

On the other hand, some APEC economies do not have an explicit national strategy and, instead, adopt a bottom-up approach toward implementing GRPs. However, many of the economies commit themselves to complying with good regulatory practice agenda specified by international fora such as APEC and the OECD. Similarly, the participation in regional Free Trade agreements (FTA) or Economic Partnership Agreement (EPA) as well as multilateral discussion in WTO also facilitate regulatory reform consistent with principles of openness.

Objectives and principles

The APEC economies' strategies and programs of regulatory policy specify objectives and principles including the following components.

I) Objectives:

Upper level objectives of regulatory policy in APEC economies refers to the promotion of growth and the creation of innovative and competitiveness business climate, while social dimensions such as protection of public health, safety, and welfare are also specified as key objectives. Intermediate level objectives includes the reduction of regulatory burdens, the facilitation of openness and trade and increased transparency in the rule making process and implementation of regulation.

II) Principles:

Many APEC economies limit the introduction of new regulations to the case where they can be shown to generate overall net benefit. When new regulations are evaluated, a related principle requires the assessment of costs and benefits of available regulatory alternatives (including the alternative of not regulating) in some economies. In this regard, it is not surprising that a number of APEC economies have adopted a principle which obligates any substantive regulatory policy change to be the subject of a Regulatory Impact Assessment (RIA). In addition, regular assessments on stock of existing regulation are also encouraged in some economies. With respect to the rule making process, the importance of coordination among ministries and different level of government and the participation of interested parties including businesses, community and individuals are stressed in the principles adopted by many APEC economies. There are some other principles, which are often mentioned. They include principles related to transparency and non-discrimination in implementing regulation, easy access to regulatory information and compliance with international good regulatory practices.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM⁶

In 2011, APEC Leaders committed themselves to strengthening the implementation of GRPs across APEC economies by (1) ensuring internal coordination of rule-making, (2) assessing the impact of regulations, and (3) conducting public consultations. Subsequently, the APEC economies' progress of GRPs in the three areas has been monitored by the 2011 Baseline Study on Good Regulatory Practices and the 2013 Progress Report. This sub-section summarizes the achievements of APEC economies in these three areas and highlights some recent progress. Although the tables indicated below are not comparable with the results of the 2011 Baseline Study and the 2013 Progress Report due to some simplification and modification of questionnaires, they show a general trend of the APEC economies' progress in adopting GRPs.

(1) Internal Coordination of Rulemaking Activity

The 2011 APEC Leader's commitment to strengthen implementation of GRPs involves actions to develop, use, or strengthen processes, mechanisms, or bodies to enable a whole-of-government approach in the development of regulations, including coordination across regulatory, standards, and trade agencies. The responses from APEC economies in these areas of GRPs are summarized in the following table (table 1).

Table 1: Summary of responses from APEC economies: Internal Coordination of Rulemaking Activity

	Yes	No
Does the government publish at least annually a regulatory/legislative plan?	12 economies AUS, CDA, HKC, INA, JPN, MAS, PRC, ROK, RUS, THA, VN, US	8 economies BD, CHL, MEX, NZ, PE, RP, SIN, CT

⁶ APEC Economic Leaders' Meeting (AELM)

Has the government published a set of good regulatory principles applicable across the government?	15 economies AUS, BD, CDA, HKC, INA, JPN, MAS, MEX, NZ, PRC, ROK, SIN, CT, VN, US	5 economies CHL, PE, RP, RUS, THA
Does the government have a capacity to manage a government-wide program of regulatory reform?	<i>A central body or authority tasked with oversight of regulation quality</i> 9 economies: AUS, CDA, JPN, MEX, NZ, PRC, ROK, SIN, US <i>Several institutions responsible for oversight of regulatory quality</i> 11 economies: BD, CHL, HKC, INA, MAS, PE, RP, RUS, CT, THA, VN	
Does the government systematically review regulations for cost and effectiveness?	<i>A systematic (annual) review program</i> 11 economies: AUS, CDA, HKC, JPN, MAS, MEX, NZ, ROK, SIN, CT, US <i>Targeted, sector based or EoDB review</i> 9 economies: BD, CHL, INA, PE, PRC, RP, RUS, THA, VN	
Are trade and competition principles integrated into regulatory reviews and analysis?	<i>Both or either trade/competition implications explicitly assessed by RIA or consultation with the authorities</i> 16 economies: AUS, BD, CDA, CHL, HKC, JPN, MAS, MEX, NZ, ROK, PE, PRC, SIN, CT, VN, US <i>No explicit assessment on trade/competition implications</i> 4 economies: INA, RP, RUS, THA	

AUS: Australia, BD: Brunei Darussalam, CDA: Canada, CHL: Chile, HKC: Hong Kong, China, INA: Indonesia, JPN: Japan, MAS: Malaysia, MEX: Mexico, NZ: New Zealand, PE: Peru, PNG: Papua New Guinea, PRC: People's Republic of China, ROK: Republic of Korea, RP: Republic of Philippines, RUS: Russian Federation, SIN; Singapore, CT: Chinese Taipei, THA: Thailand, US: The United States, VN: Viet Nam

Publication of annual regulatory/legislative plan

Publication of an annual regulatory or legislative plan could improve transparency and predictability of regulatory activities and facilitate better public consultation with stakeholders. However, the performance of APEC economies in this area is supposed to be weak to moderate as ten APEC economies out of seventeen adopt this practice. A similar trend was also confirmed by the 2011 Baseline Study and the 2013 progress report. The rest of the economies which do not publish annual regulatory plans tend to prepare regulatory plans only for internal use or publish work programs at the discretion of the regulators.

Publication of a set of good regulatory principles

The performance of the APEC economies in this area seems to be moderate to relatively strong. Fourteen economies out of seventeen have an integrated GRP strategy which specifies good regulatory principles. The 2013 progress report also showed a similar trend in that more and more APEC economies adopted this practice. Although some economies still do not publish the principles, they have adopted GRP principles within the government or have relevant principles in the general administration rules.

Capacity to manage a government-wide program of regulatory reform

As discussed in the previous sub-section, some APEC economies have a central body to oversee a whole-of-government regulatory policy, though forms of organization differ by economies. Performance in this area seems to remain moderate as nine economies out of

seventeen established such a central body. In the rest of the economies, several government agencies are collectively in charge of overseeing quality of regulations from different aspects.

Systematic review of cost and effectiveness of regulations

The performance of APEC economies in this area seems to be relatively strong as most of the responding economies implement some form of review to assess the cost and the effectiveness of regulations. This result is also in line with the 2011 baseline study and the 2013 progress report. According to the IERs, ten APEC economies reported that they implement systematic reviews of cost and effectiveness of regulations covering broad sectors. The rest of the economies conduct regulatory reviews focused on specific sectors or aimed at reducing burdens and costs associated with some administrative procedures.

Integration of trade and competition principles into regulatory reviews and analysis

Despite the fact that fifteen APEC economies out of seventeen incorporate trade and competition principles into reviews and analyses, it is difficult to judge overall performance in this area because of the lack of detailed information as to how trade and competition principles are integrated into regulatory reviews. Based on the limited information in the IERs, trade and competition issues seem to be explicitly incorporated into regulatory impact assessment in a limited number of economies, while other economies tend to rely on discretionary inter-agency consultation including trade or competition authorities. In addition, regulatory impact assessment in some economies seems to focus only on either trade or competition issues rather than both.

(2) Regulatory Impact Assessment (RIA)

The 2011 APEC Leader’s commitment involves actions to develop, use, or strengthen mechanisms for assessing the impact of regulations, which involves effective and consistent use of the tools and best practices for developing new regulations and reviewing existing regulations. Table 2 summarizes the responses from APEC economies with respect to the implementation of RIA.

Table 2: Summary of responses from APEC economies: Regulatory Impact Assessment (RIA)

	Yes	No
Does the RIA or other explanatory documents define the problem to be solved?	17 economies AUS, CDA, CHL, HKC, JPN, MAS, MEX, NZ, PE, PRC, ROK, PR, RUS, CT, THA, VN, US	3 economies BD, INA, SIN
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	16 economies AUS, CDA, CHL, HKC, JPN, MAS, MEX, NZ, PE, ROK, PR, RUS, SIN, CT, VN, US	4 economies BD, INA, PRC, THA
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	17 economies AUS, CDA, CHL, HKC, JPN, MAS, MEX, NZ, PE, PRC, ROK, PR, RUS, SIN, CT, VN, US	3 economies BD, INA, THA
How are trade friendly alternatives to regulation assessed?	15 economies AUS, CDA, HKC, MAS, MEX, NZ, PE, PRC, ROK, PR, SIN, CT, THA, VN, US	5 economies BD, CHL, INA, JPN, RUS

AUS: Australia, BD: Brunei Darussalam, CDA: Canada, CHL: Chile, HKC: Hong Kong, China, INA: Indonesia, JPN: Japan, MAS: Malaysia, MEX: Mexico, NZ: New Zealand, PE: Peru, PNG: Papua New Guinea, PRC: People's Republic of China, ROK: Republic of Korea, RP: Republic of Philippines, RUS: Russian Federation, SIN; Singapore, CT: Chinese Taipei, THA: Thailand, US: The United States, VN: Viet Nam

Regulatory Impact Assessment seems to have become a norm of regulatory policy in many APEC economies. According to the IERs, fourteen APEC economies out of seventeen have adopted some form of regulatory impact assessment, though the coverage and the quality of assessment differ by economies. An increasing number of APEC economies require mandatory ex-ante RIA covering almost all new regulations, while some of the economies conduct RIA or a similar assessment only partially, focusing on limited sectors.

With regard to the quality of RIA, significant efforts are devoted to improving the process of RIA. According to the IERs, many APEC economies require identification of problems to be solved and a range of feasible options for solving the problem. Some APEC economies also reported that when regulatory proposals could affect trade, they assess alternatives options which could have less of an impact on trade. Typically, when regulatory actions have potential trade impacts, the assessment of such regulatory proposals requires consultation with trade authorities, stakeholders and other interested groups. For example, in the United States, OIRA involves the Office of the U.S. Trade Representative and the U.S. Department of Commerce to ensure that it is not unnecessarily trade restrictive.

(3) Public Consultation Mechanisms

The 2011 APEC Leader's commitment involves actions to 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. Table 3 summarizes the responses from APEC economies with respect to public consultation mechanisms.

Table 3: Summary of responses from APEC economies: Public Consultation Mechanisms

	Yes	No
Is the text of proposed legal documents and/or RIAs published for comment before adoption?	18 economies AUS, BD, CDA, CHL, HKC, JPN, MEX, NZ, ROK, PE, PRC, RP, RUS, SIN, CT, THA, US	2 economies INA, MAS
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	18 economies AUS, BD, CDA, CHL, HKC, JPN, MAS, MEX, NZ, PE, PRC, ROK, PR., RUS, SIN, CT, VN, US	2 economies INA, THA
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	Feedback is mandatory/ recom- mended 17 economies AUS, BD, CDA, CHL, HKC, JPN, MAS, MEX, NZ, PRC, ROK, RP, RUS, SIN, THA, VN, US	No/ at the discretion of regulators 3 economies CT, INA, PE

AUS: Australia, BD: Brunei Darussalam, CDA: Canada, CHL: Chile, HKC: Hong Kong, China, INA: Indonesia, JPN: Japan, MAS: Malaysia, MEX: Mexico, NZ: New Zealand, PE: Peru, PNG: Papua New Guinea, PRC: People's Republic of China, ROK: Republic of Korea, RP: Republic of Philippines, RUS: Russian Federation, SIN; Singapore, CT: Chinese Taipei, THA: Thailand, US: The United States, VN: Viet Nam

The submitted IERs suggest that many APEC economies have adopted GRPs to improve public consultation mechanisms. However, some caution is required in interpreting these results, as some of the measures for facilitating better public consultation are not mandatory and allow the discretion of regulators. For example, although many economies publish draft proposals of legal documents and RIAs for public comments before their adoption, publication is not necessarily mandatory in some economies. As for the availability of plainly written, clear, and concise drafts for public comment, many economies have adopted principles or a guideline to ensure proper public comment procedures. However, only a limited number of economies set out a minimum period of consultation, while others adopt a more flexible approach. With regard to the use of internet, many economies tend to provide public comments online. As indicated in the 2013 progress report, it seems that an increasing number of economies have an ex-post feedback system, which explains to stakeholders how comments were taken into account.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

In 2013, Leaders and Ministers encouraged economies to explore the possibility of using additional tools to strengthen economies' implementation of GRPs, including single online locations for regulatory information, prospective regulatory planning (including forward-looking regulatory agendas), and retrospective reviews of existing regulations. This subsection provides an overview with regard to the achievements of APEC economies in implementing these GRPs.

(1) Single online location for regulatory information

The APEC-OECD Check list suggests that policies, laws, regulations, practices, procedures and decision making should be transparent, consistent, comprehensive and accessible to users both inside and outside the government and to domestic as well as foreign parties. Among other means, the internet is the most invaluable communication method ensuring access to the regulatory information. Establishment of a single online location for regulatory information across the whole of government, including proposed regulations, supporting documents, public comments and responses to them, and final regulations could i) strengthen the government's ability to conduct public consultations and coordinate regulatory work within a government, ii) ensure access of stakeholders to regulatory information and opportunities for comment, and iii) promote predictability, fairness and public confidence, thereby creating a more transparent and attractive commercial environment.

According to the IERs, ten APEC economies including Australia, Canada, China, Hong Kong, China, Mexico, Korea, Singapore, Chinese Taipei, Viet Nam and the United States have established single online locations for regulatory information. In many cases, the regulatory websites are managed by central government agencies, though some economies such as Korea integrate the regulatory information of the central and local governments. The single online locations for regulatory information adopted by APEC economies tend to provide information including proposals of new or modified regulations, regulatory review data, RIA, public comments and responses, and registered regulations.

Some APEC economies including Japan and New Zealand have not established a single online location that provides comprehensive regulatory information, though online regulatory information is accessible from the websites of relevant government agencies. New Zealand's IER argues that a single channel does not guarantee better accessibility to relevant information, in particular if there is a high volume of information being made available.

(2) Prospective regulatory planning including forward-looking regulatory agendas

Public notices of rule-making including prior notification and consultation with stakeholders are fundamentally important for a well-managed regulatory system. Introduction of processes, mechanisms, or bodies to publish forward-looking regulatory agendas could help an economy implement effective regulatory programs, coordinate regulations, conduct public consultations, resolve potential conflicts, involve stakeholders and ensure policy priorities.

Fourteen economies including Australia, Canada, Chile, China, Hong Kong, China, Indonesia, Japan, Korea, Mexico, New Zealand, Singapore, Chinese Taipei, Thailand, and the United States have adopted processes, mechanisms, or bodies to publish forward-looking regulatory agendas. Forward-looking regulatory plans in some economies cover the whole of the central level of government, though some economies require each ministry to submit and publish its regulatory plan. The frequency of the publication of forward-looking regulatory plans varies from once in six months to two years, though annual publication is the most prevalent practice in APEC economies.

(3) Reviews of existing regulations

Reviews of existing regulations allow governments to identify outdated and excessively burdensome regulations and to modify or repeal those regulations. Various tools and initiatives including periodic reviews, deregulation programs and sunset or legislative periodic reviews are used to maintain the stock of regulations in optimal shape. The credibility of these reviews can be further enhanced if they are undertaken by the central regulatory oversight body, the competition authority or another body with the expertise to examine regulatory legislation and programs.

Fifteen economies including Australia, Brunei Darussalam, Canada, China, Hong Kong, China, Indonesia, Japan, Korea, Mexico, New Zealand, Peru, Singapore, Chinese Taipei, Thailand and the United States implement reviews of existing regulations. Many economies conduct reviews of existing regulations by putting priority on reducing unnecessary burdens and costs, while preserving the safety, health and welfare of citizens. Some economies conduct a periodical government-wide review of existing regulations or deregulation program managed by the central regulatory oversight body, though many other economies implement a periodical review at the level of government department or ministry. The sunset clause system is introduced in some economies, while economies such as New Zealand take a different approach by allowing agencies to take responsibility for managing their regulatory regimes. In reviewing existing regulations, many economies use RIA as a principal tool to evaluate the costs and benefits. Many economies also place priority on ensuring public consultation to reflect the views of various stakeholders and citizens in reviewing existing regulations.

3. Experiences of APEC economies (case studies)

This subsection summarizes the APEC economies' experiences with successful cases of application of GRPs. The submitted IERs contain successful experiences in various aspects of GRPs including internal coordination of rulemaking, RIA, public consultation, review of

existing regulations and single online locations for regulatory information. The examples referred to below are only a fraction of those case studies.

Internal coordination of rulemaking

Some economies reported that the central regulatory oversight body tended to play a bigger role in inter-agency regulatory coordination and consultation with various stakeholders and interested groups such as foreign chambers of commerce and commercial organizations. As for the application of GRP principles across the government, New Zealand carried out a round of the Best Practice principles, against which regulatory regimes were assessed, to identify areas where further analyses are necessary.

RIA

Many APEC economies provided examples of the successful application of RIA. Chinese Taipei incorporated RIA into performance assessments of subordinate departments. The RIA conducted in Australia is focused on net benefit of options and costing the regulatory impacts on business, community and individual. Mexico has developed an electronic tool that evaluates and categorizes the potential impact of the regulations with cost of compliance.

Public consultation

Many APEC economies reported improvement of public consultation processes. Such examples include: the adoption of common rules across the government including Public Comment Procedures in Japan, the development of guidelines on public consultation in Indonesia, the frequent informational meetings with stakeholders at various stages of rule-making in Chinese Taipei and the continuous consultation with stakeholders before and after the legislation in Viet Nam.

Retrospective review of existing regulation

Some APEC economies including Singapore and the United States provided specific examples of the review of existing regulation which resulted in a significant reduction of burdens and costs of compliance. In measuring the costs imposed by regulations, Mexico applies the Standard Cost Model (SCM), which was originally developed by Netherland.

Single online locations for regulatory information

Some economies adopted measures for improving the usability and the accessibility of online services of regulatory information. The United States renovates its regulatory portal site by introducing innovative new search tools and social media connections and improving access to regulatory data. In Singapore, several one-stop platforms have been developed to make it easier for businesses to obtain information.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

General issues

Some APEC economies raise issues with regard to the approach to and the objectives of regulatory policy. New Zealand argues that a focus on red-tape or de-regulation agendas are weaker at delivering effective regulatory systems that are aimed at ensuring certainty, risk, safety, and security. Instead, it pursues a moderate regulatory quality management system that treats regulation as one option among potential alternative policy options. The United States suggests there is difficulty in developing a robust approach to evaluating the impact of regulations on economic growth and other standard indicators of economic activity despite

their importance in overall economic policy. The political economy aspect of regulatory reform is mentioned by some APEC economies. Australia refers to the challenge of maintaining the momentum for reform over the long term to deliver valued deregulatory reforms which contribute to productivity growth. It is suggested that culture change and capability amongst policy makers and regulators will be critical in ensuring a rigorous approach to policy making.

Specific challenges

I) Internal coordination

Some APEC economies including Chile, Indonesia and Malaysia point out that one of the major weaknesses of the regulatory system is a lack of a central institution for coordination and oversight of regulatory policy or the absence of a whole-of-government centralized strategy for GRPs. Viet Nam also suggests the necessity to have a system for prioritizing the regulatory agenda. Hong Kong, China suggests that it is challenging to justify investment in permanent mechanisms for cross agency co-ordination rather than dealing with each rulemaking exercise on its own merits under a lead agency. In some cases, such mechanisms may promote the development of expertise and quality of regulatory practice over time, but may also lengthen processes. Mexico stresses the necessity to embrace a “whole-of-government” culture for regulatory improvement policy. It suggests that a key element to achieve a “whole-of-government” culture for regulatory improvement policy is strengthening advocacy function, which, for instance, can be achieved through the creation of a citizen-based agency external to the government. Besides this, Peru reports that the implementation of GRPs has only been concentrated at the central level of Government and that agenda on spreading the GRPs to the regional and local levels of Government remain a challenge.

II) RIA

Many APEC economies indicate the necessity to improve RIA process. RIA is only applied to the limited regulatory areas in some economies. Lack of necessary measures to quantify the cost and benefit of the effects of regulation is a key challenge in some economies including Thailand. Similarly, more objective and systematic RIA process is required in Korea. Brunei Darussalam suggests the necessity to coordinate sector-specific regulators in implementing RIA. Constraints on staff and other resources and the necessity to train staff members in charge of the assessment of regulatory measures are pointed out by some economies. For instance, Chinese Taipei reports that the operating costs of RIA are significant and rule makers lack sufficient time to perform cost-benefit analysis including both quantitative and non-quantitative assessments. Lack of guidance such as review criteria and mechanisms to determine whether RIA statements are adequate and the absence of a dedicated agency to evaluate RIA statements remain key challenges in some economies such as Peru and Chinese Taipei. With regard to the method of assessment, Hong Kong China suggests the difficulty in quantifying some benefits and costs such as social and environmental impacts, spill-over effect on other policies/sectors, while unexpected changes in the environment and constraint on data availability also pose challenges in implementing RIA.

III) Public consultation

Hong Kong, China suggests that it is challenging to balance the needs for transparency and efficiency in the decision-making process. In some cases, it is difficult to identify and reach all stakeholders concerned. Mexico expresses the necessity to enhance consultation by conducting public consultation from the early stages of regulatory development. Malaysia points out the importance of extending the use of information and communication technologies (ICT) as a tool to promote transparency by ensuring unrestricted online access to the regulatory information.

IV) International regulatory cooperation (IRC)

International regulatory cooperation (IRC) has recently become an area of focus for some APEC economies. IRC can be useful in reducing regulatory differences, but it is also useful to enhance regulatory effectiveness across borders or improve regulatory capacity and sharing of scarce resources. Due to the increasingly global nature of the regulatory playing field, economies are encouraged to consider the range of different IRC mechanisms. In doing so, economies seek to reduce regulatory costs, burdens and delays to market that are created by unnecessary misalignments in regulatory requirements. Singapore refers to the challenge of dealing with complexity arising from increased globalization and technological changes, which generate new products and services as well as new way of business. Chinese Taipei stresses the importance of advancing the harmonization of regulations with international standards and preventing rigid regulatory requirements from diminishing the international competitiveness of the economy. Related to this point, Peru reports that the participation in regional trade agreements such as TPP facilitates a better implementation and improvement of GRPs.

4.2 Priority for future reform in individual economies

Priority for future reform to improve quality of regulations and to adopt GRPs differs significantly by economy, depending on the development of each regulatory system. However, as indicated below, some aspects of GRPs are identified by many APEC economies as priority areas for future reform.

Objectives

In pursuing further regulatory reform, many APEC economies including Brunei Darussalam, Japan, Korea, Mexico, and Singapore suggest that reducing regulatory burdens and improving the business environment, thereby promoting economic growth remain a top priority goal. Some economies including China attach high priority to removing government's controls and following the principles of trade liberalization and fair competition.

Improving internal coordination

Improving internal coordination is suggested as an important future agenda in many developing APEC economies. Key challenges in this area include the establishment of a central regulatory oversight body and the introduction of regulatory guidelines applied to all government agencies. In addition, Mexico points out the necessity to promote regulatory reform at the subnational level in order to improve the quality of rules in the local level.

Review and assessment of regulations

Strengthening the cooperation and coordination among ministries and agencies in an effort to integrate RIA with the policy-making process is an urgent task for some economies. To this end, Malaysia, for instance, plans to provide assistance and guidance to ministries and agencies to manage their regulatory changes and develop standardized systems and processes within the ministries and adequate capacity building for them to manage regulatory processes. As for the retrospective review of regulations, the United States plans to further institutionalize retrospective review as an essential component of the regulatory policy.

Public consultation

Many APEC economies including Australia, Chile, Malaysia, Mexico, and Peru put a priority on improving public consultation processes. For instance, Peru plans to strengthen and improve the public consultation procedures by ensuring not only the publication of regulatory

drafts but also feedback from rule-makers. Introduction of a standardized guideline on public consultation in providing the guidance principles and the requirements for implementing adequate consultation is an important policy agenda in Malaysia. Chile aims to strengthen its work towards a single online location for regulatory information, which in the long term should include an updated regulatory repository, a public consultation mechanism, and the most recent reviews of current regulations. The need for improving online database for regulatory information is also emphasized by Viet Nam.

Other priority areas

The need for strengthening capacity building remains a high priority in many APEC economies including Mexico, Peru, Thailand and Viet Nam. In particular, both Mexico and Thailand suggest that the reviews and the measurement of regulatory impacts require a high level of expertise. Besides this, ensuring effective compliance to the defined requirements in policy-making strategy is an important agenda in Malaysia. Peru indicates that the completion of the negotiations of the Regulatory Coherence or Regulatory Improvement chapters of the TPP and Pacific Alliance is a top priority.

5. Conclusion

The submitted IERs contain rich information as to how far APEC economies have implemented reform to adopt GRPs and what challenges they are faced with. The IERs confirm that APEC economies have made good progress in adopting various GRP measures for strengthening institutional and procedural frameworks to oversee good regulatory practices and to ensure internal coordination of rule-making, assessing the impact of regulations and conducting public consultation. In particular, a wider adoption of regulatory impact assessment is one of the major achievements. With regard to the new GRP agenda such as single online locations for regulatory information, prospective regulatory planning and reviews of existing regulations, many APEC economies correctly recognize the necessity to strengthen GRPs in those areas and attach high priority to those measures. These findings underscore the importance of APEC's GRPs initiatives to support member economies through the dissemination of best practices and the provision of capacity building programs.

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Australia

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

Australia is a federated nation which includes the Australian Government and six separate states and two territories with their own governments. This report focuses on the Australian Government.

The Australian Government has an ambitious and extensive new regulatory reform agenda to reduce regulation and boost Australia's productivity. This approach aims to provide businesses with flexibility, certainty and confidence to innovate and adapt, and thereby support competition and growth. It is based on the premise that some degree of regulation is necessary and desirable for efficient markets, productive industries and harmonious communities, promoting substantial benefits for society as a whole, but that excessive red tape can detract from productivity and ultimately lower the living standard of all citizens.

The Australian Government is strengthening its regulatory policy framework significantly, with the focus now clearly centred on reducing regulatory burden. The Government has increased regulatory scrutiny and embarked on an active programme of reform across all areas of the Australian Government. It is also working with governments in the Australian states and territories to reform their regulations and policies.

The Australian Government's agenda is underpinned by a broad framework of institutional structures, mechanisms and tools that manage and coordinate regulation and its reform, consistent with the Good Regulatory Practices and extended areas agreed by APEC. The agenda establishes a commitment, at the highest political level, to a whole of government policy of reform.

In the first half of 2014, there have already been significant reductions in regulation. The first parliamentary repeal day to cut unnecessary and costly legislation and regulation (further information below), was held in the House of Representatives on Wednesday 26 March 2014. The Government introduced legislation and tabled documents to repeal over 10,000 pieces of legislation and regulations which, along with other measures, cut over \$700 million of red tape from across the economy.

1.1 Institutions to oversee good regulatory practices

The Prime Minister, supported by a Parliamentary Secretary for deregulation, leads the Government on deregulation. All Australian Government Ministers and their departments and agencies have responsibilities in implementing deregulation.

An Office of Deregulation has been established in the Australian Government Department of the

Prime Minister and Cabinet to coordinate implementation of the deregulation agenda across the Government.

Deregulation Units have been established in each Australian Government department to coordinate deregulation in each portfolio. They report their progress to the Government annually. Each unit is led by a senior official. The Office of Deregulation holds regular meetings with the heads of these Deregulation Units to manage and coordinate whole-of-government implementation of the agenda.

The Australian Government has also moved the Office of Best Practice Regulation (OBPR) from the former Department of Finance and Deregulation, into the Department of the Prime Minister and Cabinet. This is designed to ensure increased attention to the impacts of regulation and provide a strong gatekeeping role in relation to any proposed new regulation. The OBPR administers regulatory impact analysis (RIA) by reviewing the adequacy of RIA and reporting annually on agency compliance. The OBPR maintains day-to-day independence from government in its decision making on the RIS system. The OBPR administers both the Australian Government and Council of Australian Governments (COAG) RIA requirements (further information below).

The deregulation agenda benefits from a number of stakeholder consultation mechanisms. A new Prime Minister's Business Advisory Council brings together prominent business leaders and experts to guide policy and programme development. It helps inform the Government's regulatory policy. Each Minister is also establishing advisory councils and equivalent consultation mechanisms comprising business and non-government representatives, to advise on regulatory policy and opportunities to reduce red tape.

A number of other fora have been established for information and skill sharing. For example, the Office of Deregulation supports a number of information and knowledge-sharing activities, including 'communities of practice' that assist Federal-level policy makers and regulators.

The Productivity Commission, the Australian Government's principal advisory body on micro-economic reform, informs regulatory policy best practice through the results of its research and analysis on a range of economic issues. In early 2014 the Commission completed a study for the Government on a framework for assessing regulatory performance.

Minimising regulatory burden across jurisdictions is an important part of the deregulation agenda in Australia, given the existence of numerous state and territory governments that also make policy relating to regulation including, in the case of state governments, policies implemented through local governments. The Australian Government leads work with Australian states and territories through COAG. COAG is chaired by the Prime Minister and comprises state and territory Premiers and Chief Ministers and the President of the Australian Local Government Association (ALGA) to promote reform on issues of national significance.

Through COAG, the Australian Government and governments of the states and territories have

all agreed to work in their own jurisdictions to improve regulation and remove unnecessary red tape. State and territory governments are working bilaterally with the Australian Government to implement 'one-stop-shops' for environmental approvals in each State. Australian and state/territory governments, through COAG, have agreed to work together to reduce red tape, concentrating initially in a number of key areas. These areas are: manufacturing; higher education; early childhood; 'end-to-end' regulation of small businesses (with each state to target specific small business sectors); and improving regulatory performance on the ground, considering opportunities to consolidate regulatory functions, including through amalgamation of regulators where appropriate.

1.2 Strategy and program for improving regulatory practices

The Government's deregulation agenda is an integrated regulatory reform strategy. It has concrete mechanisms and action for achievement, as well as public engagement and review. This agenda is consistent with the APEC principles of: regulatory improvement, competition and market openness; supporting transparency, non-discrimination and minimal interference with competition and open markets; helping to prevent trade barriers; and avoiding unnecessary regulatory differences between APEC economies.

\$1 billion annual target and other measures

The primary aim of the Australian Government's deregulation agenda is to reduce existing regulatory burden and halt any expansion to it. It is based on an increased recognition that regulation should only be imposed where absolutely necessary and should not be the default position in dealing with public policy issues. This strategy involves a number of important elements.

The Government is removing (AUD) \$1 billion of excessive, unnecessary or overly complex regulation across Government every year. Further, any new regulatory proposals require offsets in reduction of other regulation.

The agenda emphasises an increased appreciation of the social and economic impacts of regulation and that regulation must not be the first option for policy makers.

The new approach defines "regulation" as anything that involves compulsion or compliance by businesses, as well as community groups (including not-for-profit organisations) and individuals. "Regulation" includes legislation and legislative instruments, as well as 'quasi-regulation'.

Further measures are also being taken that support deregulation and the specific red tape reduction target. Notably, these measures are important mechanisms for strengthening regulatory best practice, in their own right, and are designed to ensure meaningful reductions are made in regulation over time. These measures are:

- the development of a Regulatory Burden Measurement (RBM) framework to quantify all regulatory burden;
- audits of existing stocks of regulation by all Government departments, the first of which are

- forming a benchmark for future deregulation and audits;
- a strengthening of RIA, with a focus on costing impacts of regulation on business, community organisations and individuals. RISs will continue to be overseen by OBPR;
- a forward work programme of short, medium and long term priorities for regulatory reform;
- auditing of regulator performance, to ensure consistent and efficient approaches to regulatory enforcement appointments;
- at least two Parliamentary sitting days each year to repeal counterproductive, unnecessary or redundant regulation;
- in-depth reviews of regulation within specific sectors and after implementation of regulation;
- linking of the remuneration of senior management in Government departments to performance in reducing regulatory burden; and
- annual reporting to the Australian Parliament on progress.

Principles to guide policy makers

A new *Australian Government Guide to Regulation* was published in March 2014. It highlights ten principles to guide Australian Government policy makers:

1. Regulation should not be the default option for policy makers: the policy option offering the greatest net benefit should always be the recommended option.
2. Regulation should be imposed only when it can be shown to offer an overall net benefit.
3. The cost burden of new regulation must be fully offset by reductions in existing regulatory burden.
4. Every substantive regulatory policy change must be the subject of a Regulation Impact Statement.
5. Policy makers should consult in a genuine and timely way with affected businesses, community organisations and individuals.
6. Policy makers must consult with each other to avoid creating cumulative or overlapping regulatory burdens.
7. The information upon which policy makers base their decisions must be published at the earliest opportunity.
8. Regulators must implement regulation with common sense, empathy and respect.
9. All regulation must be periodically reviewed to test its continuing relevance.
10. Policy makers must work closely with their portfolio Deregulation Units throughout the policy making process.

The Guide and principles are published on a new Cutting Red Tape Website (<http://www.cuttingredtape.gov.au>) which reports regulatory information and progress, and invites public comment.

Stronger Regulatory Impact Analysis

The strengthening of the RIA framework focuses on costing any regulatory impacts on business, community organisations, and individuals. The framework continues to be overseen by the OBPR, which administers both Australian Government and COAG RIA requirements.

The OBPR provides training on RIA to Government departments and agencies to increase awareness of RIA requirements and improve the quality of impact analysis and consultation.

A RIS is mandatory for all Cabinet submissions. A RIS is also required for all new policy proposals where the policy is likely to have a measurable impact on business, community organisations or individuals. This includes new regulations, amendments to existing regulation and, in some cases, regulations being remade. RISs must be developed early in the policy process.

Even when a RIS may not be required, agencies are advised that a RIS is generally good practice where an agency or regulator is responsible for issuing rules or guidance material for businesses, community organisations or individuals. All RISs must quantify the regulatory burdens for business, community organisations and/or individuals of new or amended regulations, and identify reductions in regulatory burdens to offset the costs.

This approach ensures that every policy option is carefully assessed, its likely impact costed and a range of viable alternatives is considered in a transparent and accountable way against the default position of no new regulation. For example, a clear set of questions is promoted as part of RIA to help guide considerations about the impact and the need for a regulatory proposal. They are:

- What is the problem you are trying to resolve?
- Why is government action needed?
- What policy options are you considering?
- What is the likely net benefit of each option?
- Who will you consult about these options and how will you consult them?
- What is the best option from those you have considered?
- How will you implement and evaluation your chosen option?

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

In 2011, APEC Leaders committed to strengthening the implementation of Good Regulatory Practices across APEC economies by (1) ensuring internal coordination of rule-making, (2) assessing the impact of regulations, and (3) conducting public consultations. Subsequently, the APEC economies' progress of practices in the three areas has been monitored by the 2011 Baseline Study on Good Regulatory Practices and the 2013 Progress Report.

The Australian Government is a strong contributor to good regulatory practices in the APEC region, supporting the APEC-OECD Integrated Check List for Regulatory Reform and subsequent APEC measures for strengthening economies' regulatory practices. Australia also hosted a highly successful RIA training program in 2012 to over 600 officials from the Philippines, Hong Kong, China, Vietnam, Russia, Malaysia, Thailand, Chinese Taipei, Chile and Peru.

The table below summarises Australia's progress against the Good Regulatory Practices:

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments
Does the government publish at least annually a regulatory/legislative plan?	✓		The Australian Government publishes planned regulatory reforms as part of Parliamentary Repeal Days held twice per year. The Government is also reporting annually to Parliament on progress with regulatory reforms. Government departments include information on regulatory activity on their websites.
Has the government published a set of good regulatory principles applicable across the government?	✓		These are articulated through a number of mechanisms: published in the <i>Australian Government Guide to Regulation</i> and www.cuttingredtape.gov.au and actively promoted through numerous mechanisms to educate policy makers and regulators at all levels. The Australian Government is also developing a framework for assessing the performance of regulators.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		The Australian Government has an extensive agenda for deregulation being implemented across Government. It is led by the Prime Minister, with an established framework of structures, mechanisms and tools for implementation, including with governments of Australian states and territories.
Does the government systematically review regulations for cost and effectiveness?	✓		An element of the Australian Government's deregulation agenda is post-implementation reviews of regulation. The <i>Legislative Instruments Act 2003</i> also requires regular review of instruments.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		An agency preparing a RIS is required to assess competition impacts and restrictions. Where a proposed regulation has a direct bearing on export performance, a trade impact assessment should be incorporated into the RIS.

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments
Does the RIA or other explanatory document define the problem to be solved?	✓		A RIS must clearly identify and define the problem to be solved. The RIS should offer evidence about the magnitude of the problem and the costs of not doing anything.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		A RIS must include a range of genuine and viable alternative policy options. The number of options included should be commensurate with the magnitude of the policy problem being considered, but three is a good minimum rule of thumb. At least one option must be non-regulatory.
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		The option with the highest net benefit should be the recommended option, taking into account economic, social and environmental benefits and costs.
How are [trade friendly] alternatives to regulation assessed?	✓		Where a proposed regulation has a direct bearing on export performance, a trade impact assessment should be incorporated into the RIS. The trade impact assessment should summarise the impact of regulatory options and proposals on exporters and importers and assess the overall impact on Australia's international trade. The OBPR has issued guidance on how to complete a trade impact assessment.

(3) Public Consultation Mechanism

	Yes	No	Comments
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		<p>Consultation is a part of RIA in Australia. Agencies have four options for consultation: full public consultation; targeted consultation; confidential consultation; and post-decision consultation. Open and comprehensive consultation is the preferred approach.</p> <p>Draft legislation is published when it is introduced into the Australian Parliament. Legislation that involves significant changes to law or has significant community impacts is released as exposure draft legislation for detailed consideration and is, in most cases, inquired into, with public hearings, by Australian Parliamentary committees.</p> <p>Principle Seven of the Ten Principles for Australian Government Policy Makers, in <i>The Australian Government Guide to Regulation</i>, states that information on which policy</p>

			makers base decisions must be published. RISs are published on the OBPR website as soon as practicable.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		In March 2014, the Australian Government published <i>The Australian Government Guide to Regulation</i> , which included principles for best practice consultation. Given the range of circumstances in which regulation is developed, the Australian Government has provided agencies with these principles, rather than prescribing a set approach to consultation. COAG also has a <i>Best Practice Regulation Guide</i> which operates in relation to national regulatory proposals considered by COAG councils, national standard-setting bodies or COAG itself.
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	Not in all cases.		Agencies are encouraged to demonstrate how they have taken consultation responses into consideration. This is outlined in <i>The Australian Government Guide to Regulation</i> . The COAG <i>Best Practice Regulation Guide</i> includes similar advice regarding the provision of feedback on how consultation responses have been taken into consideration.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

The Australian Government's deregulation agenda includes mechanisms and practices that support improvements in the areas extended at the 2013 Australian Economic Leaders Meeting. They enable public awareness and input into regulatory policy considerations. They include: on-line regulatory information measures; prospective regulatory planning; and active programmes for regulatory review.

(1) Single on-line locations for regulatory information

All final Australian Government legislation and legislative instruments are listed on the ComLaw website, www.comlaw.gov.au.

Mechanisms also include the Government's Cutting Red Tape Website, www.cuttingredtape.gov.au, which provides information on the Government's regulatory policy, its planned and current reforms, with links to other useful regulatory information such as the OBPR website (below). It includes information on the whole of government deregulation progress.

The OBPR hosts a website to support RIA, ris.dpmc.gov.au. On this website the OBPR publishes

Australian Government and COAG RISs and instances of non-compliance with the RIA requirements. Responsibility for consultation, however, remains with the individual departments and agencies.

Australian Government departments and regulators include regulatory information on-line as appropriate.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The Australian Government conducts prospective regulatory planning through its broad deregulation agenda to identify short, medium and long term priorities for reform across all areas of government. It regularly publicises these priorities and action on them through numerous mechanisms, including its Parliamentary Repeal Days and regular reporting on deregulation progress to Parliament.

(3) Reviews of existing regulations

Australian Government departments are conducting audits of all their existing regulation. These form the benchmark for future reform.

Post-implementation reviews of regulations are required within two years where an agency has failed to comply with the RIA requirements or within five years where the regulation has a substantial impact on the economy.

Regular review of subordinate legislation is a requirement under the *Legislative Instruments Act 2003*, including for instruments which are about to cease (or 'sunset').

3. Experiences of APEC economies (case studies)

The Australian Government RIS system has evolved over the years. These changes have been intended to increase the relevance of the RIS system for the policy-making process and better match it to Government regulatory priorities. For example, the new RIS requirements focus on the net benefit of options and costing the regulatory impacts on businesses, community organisations and/or individuals. This matches the current focus on reducing regulatory burden. Making a RIS mandatory for all new policy proposals, likely to have a measurable impact on business, community organisations or individuals, ensures that decision-makers are better informed of the potential regulatory impact of decisions.

4. Challenges and priorities for future reform

Significant progress has been made in the first six months of the Australian Government's reform agenda. This comprises, among other things, the first Parliamentary Repeal Day held in March 2014 and work underway on the next one in late 2014; deregulation as a standing item on the agenda for COAG meetings, with initial meetings in December 2013 and May 2014 agreeing four

priority areas for reform and an approach to developing options for consideration at the next COAG meeting; and the audit of existing stock of regulation under way in each department, for completion in 2014.

A key challenge is maintaining reform momentum over the long term to deliver valued deregulatory reforms which contribute to productivity growth. Culture change and capability amongst policy makers and regulators will be critical, ensuring a rigorous approach to policy making where regulation is never adopted as the default solution, but rather introduced as a means of last resort.

Measurement and consultation remain a priority. This, and continuing work with states and territories, will ensure whole of government and whole of economy progress and impacts are considered.

Brunei Darussalam

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

i) Mechanisms or bodies to enable internal coordination of rulemaking activity

There is currently no specific central agency in Brunei Darussalam which is responsible for reviewing and undertaking regulatory reforms. However, there are sector-specific regulators who oversee good regulatory practices such as:

1. Civil Service Reform Committee which was formed in November 1991 and is chaired by the Prime Ministers' Office. The committee is tasked with overseeing the development of a civil service that is competent, effective, responsive, progressive, innovative and dynamic. It is responsible for reviewing, introducing and monitoring reform initiatives in the civil service as a whole.
2. 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 delivery by the civil service as well as to facilitate integrated coordination among relevant government agencies involved. Under the purview of this committee as well, the Change Management Committee was established in April 2008 with the responsibility, among others, to suggest, coordinate and facilitate initiatives towards streamlining and improving business processes.
3. Under the responsibility of the Management Services Department (MSD), various initiatives geared towards enhancing a culture of excellence and innovation in the performance of the civil service are supported. These include initiatives such as the Civil Service Excellence Award (CSEA) and the Quality Control Circle (QCC) Programme. These efforts not only enable the Government to adapt to environmental changes but also to continuously strive to improve the quality of services rendered to the public. Furthermore, the department is responsible for developing the Client's Charter and in ensuring that all government agencies adhere to their individual charters in good faith.
4. Ministry of Primary Resources and Industry plays a major role in co-ordinating reform efforts, particularly in facilitating a conducive 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.

5. The Ministry of Finance plays a major role in introducing, implementing and reviewing amendments to the nation's financial policies, rules and regulations with a view to enhancing transparency and accountability as well as encouraging investment into Brunei.
6. 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 also emphasizes on the monitoring and evaluation of strategies, policies, programs and projects especially through the system of key performance indicators (KPI).

Since the last APEC Economic Policy Report (AEPR) in 2009, two new sector specific agencies have been established which are:

7. Autoriti Monetari Brunei Darussalam (AMBD) which acts as the central bank and regulatory authority for financial institutions in Brunei Darussalam; and
8. Authority for Info-Communications Technology Industry (AITI) which acts as ICT and telecommunication industry regulator. The Attorney General's Chamber (AGC) helps provide information on the existing regulatory and legislative framework that could contribute to the system of Good Regulatory Practices.

ii) Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism
There are no institutions that oversee Regulatory Impact Assessment (RIA) and public consultation mechanism. However, the sector-specific regulators conduct their own RIA and public consultations individually.

iii) Coordination mechanisms between national and sub-national level of governments to promote regulatory coherence

There is only one level of government in Brunei Darussalam therefore, there is no need for a coordination mechanism between national and sub-national levels of government.

iv) Institutions to oversee training and capacity building programmes for rule makers and regulators

An outline of the relationships between agencies would be useful for our attempt to make international comparisons.

Due to the decentralized nature of rule-making in Brunei Darussalam, each regulatory authority is individually responsible for their own training and capacity building. For example, the Autoriti Monetari Brunei Darussalam (AMBD) conducts their training and capacity building programmes through the Centre for Islamic Banking, Finance and Management (CIBFM).

AITI makes use of international organizations/fora such as ASEAN, APEC, APT and ITU for capacity building where these international organizations share best regulatory benchmarks and

also provide access to experts who can advise on best regulatory approaches suited for the country as well as human capacity building.

1.2 Strategy and program for improving regulatory practices

For Brunei Darussalam, regulatory issues are integrated into the long-term development framework. Embedded in the Wawasan Brunei 2035 or National Vision 2035 is the “Outline of Strategies and Policies for Development (OSPD)” which is intended to guide ministries and government bodies towards achieving the 2035 National Vision. Among the strategies and policy directions included in the OSPD is the “Institutional Development Strategy”. This strategy provides for a strong foundation for regulatory reform agenda in Brunei.

In order to ensure that government institutions maintain high standards of governance in the public and private sectors, the following policy directions will be followed:

- Ensuring a modern legal system that is clear in its provisions;
- Introducing regulatory frameworks in line with international best practices;
- Building a modern and effective civil service that facilitates national development;
- Streamlining government procedure and regulations to enable prompt decision making, provision of high quality public services and minimisation of “red-tape”;
- Creating new institutions such as an independent ombudsman to ensure accountability in the public and private sectors;
- Ensuring that the economic policy is well planned and implemented among the key government agencies and all others involved.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		✓	
Has the government published a set of good regulatory principles applicable across the government?	✓		The Institutional Development Strategy under the OSPD to achieve the National Vision 2035
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		
Does the government systematically review		✓	Each agency reviews their

regulations for cost and effectiveness?			respective sector
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?		✓	RIA has not been adopted in Brunei.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?		✓	
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?		✓	
How are [trade friendly] alternatives to regulation assessed?		✓	

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		In some cases e.g., AITI produces a Public Consultation Paper for public comment.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		E.g. AITI by practice will give a specific time-frame and usually allows extensions
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		Yes, but not all agencies

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

The Attorney General's Chambers (AGC) website hosts texts of Acts and Orders. However, these

are only legislations that are already in force. Proposed regulations and supporting documents would be made available on the responsible agency's website for example AMBD and AITI.

AITI, which acts as ICT and telecommunication industry regulator ensures that there is transparency of its regulations to the public. All the licences and frameworks are readily available on AITI's website which is accessible to the public. Furthermore, AITI conducts dialogues with different stakeholders so they can better understand the processes and regulations which are under AITI's purview.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The lack of a forward-looking regulatory agendas stems from the fact that there is no central regulatory agency in Brunei Darussalam. Currently, regulatory reforms are under the purview of individual ministries or sectors.

(3) Reviews of existing regulations

Towards the end of 2010 the Prime Minister's Office established a committee known as Committee to Review Laws whose terms of reference include:

- i) To determine the need to make new laws;
- ii) To update and amend the current laws in accordance with the situation and needs of the state;
- iii) To act as proponent and facilitator to government agencies for the purpose of updating and amending the current laws.

Other than that, AITI is finishing up a project to review the existing legislations and frameworks within the telecommunications regulatory framework. Furthermore, the establishment of the Research and Law Review Division at the AGC is a step towards having periodic and systemic reviews of existing laws and legislations in Brunei Darussalam.

3. Experiences of APEC economies (case studies)

During the 2011 APEC Economic Leaders' Meeting (AELM), 3 specific areas were outlined to strengthen the application of GRPs namely:

- a) Ensuring internal coordination of regulatory work;
- b) Assessing the impact of regulations (RIA); and
- c) Conducting public consultations.

In the 2013 AELM, strengthening implementation of GRPs was further elaborated by listing the following optional tools used by some economies to help achieve the goals:

- a) single online locations for regulatory information;
- b) prospective regulatory planning; and
- c) periodic reviews of existing regulation;

AITI as a case study for Good Regulatory Practices in Brunei Darussalam

The Authority for Info-communication Technology Industry of Brunei Darussalam (AITI) was awarded the fourth-generation long-term evolution (4G LTE) licences to local network operators in the country where each licensee will be issued with 2 x 20 MHz of spectrum bandwidth in the 1800 MHz band, which promises to deliver faster data rates than the existing 3G technology.

AITI worked with local operators and relevant stakeholders on feasibility studies, field trials and regulatory assessment. The regulator also published a public consultation paper on the "allocation of the 1800 MHz band for international mobile telecommunication systems and services" to seek comments from the industry on the spectrum requirement for LTE in the 1800 MHz band, the band plans, type of technology and procedures for cross-border coordination. This enabled them to get feedback from the stakeholders and industries involved so that the band chosen was the most feasible for deployment of 4G LTE in Brunei Darussalam.

In line with the recommended approaches to GRPs listed above, AITI had implemented two of the six recommendations namely conducting public consultations and single online locations for regulatory information. AITI has also provided a single on-line location for the ICT industry regulations. Since these reforms have just been implemented recently, the economic impacts of these regulatory reforms have yet to be assessed. However, in doing so, AITI has reported that they had found that applying the recommended steps had helped them to achieve its roles and objectives in managing radio frequency spectrum resources. Stakeholders were supportive in providing responses and that they were satisfied with how the proceedings were conducted.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

As regulatory reviews are undertaken by sector-specific regulators and agencies concerning issues within their jurisdiction, one of the biggest challenges is coordination. The sector regulators will have to coordinate and conduct regulatory impact assessments based off their own expertise and self-defined scopes. This leaves room for a potential gap in their impact analyses. The Committee to Review Laws is also an important step in the right direction in making GRPs more central to the development agenda.

The institutional development strategy which aims to ensure that government institutions maintain high standards of good governance in the public and private sectors remains a challenging endeavor due to the scarcity of qualified and skilled human capital resources. A proper and

comprehensive framework is needed to mobilise the strategy. Brunei Darussalam however has a strong economic background with a stable political environment which is a crucial enabling factor in achieving GRPs.

4.2 Priority for future reform in individual economies

In view of Brunei's small and unique economy, strong emphasis has been placed on the need to develop a competitive edge. Brunei sees the development and efficient functioning of the market and the private sector as a crucial undertaking that needs to be considered adequately and appropriately. The need for continuous and positive reviews of regulations, particularly those that may help streamline government procedures and reduce the burden on businesses, will further assist towards achieving this objective.

Developing a more coordinated system for regulatory reform reviews should also be considered. Efforts to think beyond periodic reviews should be translated into actions. Public support through regular consultations and awareness building is also important in ensuring transparency and to avoid unnecessary regulations. Reviews should be conducted both prior and subsequent to the implementation or removal of any regulations so that enforcement of any existing or new regulations can add value to the process in its entirety.

Moving forward, Brunei Darussalam acknowledges that there is still a lot to be done in developing a proper regulatory reform policy. In the meantime, Brunei believes in the need to instil the right mindset to support positive reforms and to develop a stronger foundation for the regulatory reform process.

Canada

Developments in Good Regulatory Practices

1. Overview of the Institutional Framework to Oversee Good Regulatory Practices

1.1 Institutions to Oversee Good Regulatory Practices

i) Mechanisms or bodies to enable internal coordination of rulemaking activity

The Treasury Board of Canada Secretariat (TBS) has a dual mandate: to support the Treasury Board as a committee of ministers and to fulfil the statutory responsibilities of a central government agency.

The Regulatory Affairs Sector at TBS supports the Treasury Board in its role as the Queen's Privy Council for Canada by providing advice to the Governor General and by providing management and oversight of the government's regulatory function. In addition, the sector provides policy leadership on federal regulatory policy, the *Cabinet Directive on Regulatory Management*, and guidelines and tools to implement this directive.

The sector advises Treasury Board ministers on Governor in Council submissions, supports implementation and continuous improvement of the Cabinet Directive on Regulatory Management, and oversees government-wide implementation of Canada's systemic regulatory reforms in reducing red tape.

Additionally, the Privy Council Office's Orders in Council Division provides advice and support to the Clerk of the Privy Council on a range of activities relating to use and management of Orders in Council, Regulations, and Statutory Instruments. The Division also provides secretariat support to the Treasury Board Cabinet Committee in relation to its role in approving Orders in Council, Regulations and other Statutory Instruments.

Among its activities, the Division:

- Produces and distributes Orders in Council
- Prepares a weekly agenda of Orders in Council for approval by Treasury Board
- Sends Orders in Council and Statutory Instruments to the Governor General for approval
- Registers and publishes regulations in Part II of the *Canada Gazette*
- Maintains records of approved Orders in Council, together with:
 - *Canada Gazette* (Part II)
 - Several Oath Books
- Receives submissions and prepares Orders in Council for appointments and special events
- Responds to public inquiries regarding Orders in Council

ii) Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism

The Regulatory Affairs Sector of the Treasury Board Secretariat is responsible for ensuring that the analysis (on regulatory proposals made or approved by the Governor in Council or Treasury Board) that is provided by departments, agencies, and entities to which the Cabinet Directive on Regulatory Management applies is consistent with the commitments and directions set out in the Directive and that the analysis effectively supports Ministerial decision making.

Among other responsibilities, the Regulatory Affairs Sector reviews regulatory proposals, challenges departments and agencies on the quality of regulatory analyses, and advises them when the directions set out in the Cabinet Directive on Regulatory Management – including those related to RIA and public consultation – have not been met.

iii) Institutions to oversee training and capacity building programmes for rule makers and regulators

The Regulatory Affairs Sector of the Treasury Board Secretariat is also responsible for providing quality training and capacity building opportunities for departments. This is accomplished primarily by working in partnership with the Community of Federal Regulators (CFR) and the Canada School of Public Service (CSPS). Each year, Regulatory Affairs analysts participate in a wide range of programming, such as leading sessions in annual conferences, designing subject-matter specific training opportunities (e.g. Administrative Burden Baseline Tool training), or participating in departmental training sessions upon request. Through the CSPS, the Regulatory Affairs Sector currently supports the identification, development and delivery of a core curriculum of regulatory courses for federal regulators.

1.2 Strategy and Program for Improving Regulatory Practices

Canada's regulatory policy - the Cabinet Directive on Regulatory Management - supports the government's commitment to 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 through a more effective, efficient, and accountable regulatory system. The directive also supports the government's new commitment to reducing the regulatory burden to Canadian businesses, ensuring that regulators are sensitive to the needs of small businesses, and creating a more predictable and transparent regulatory environment to enable business development and economic growth by the government.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in Applications of GRPs in the Areas Committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		Available at: www.tbs-sct.gc.ca/tbs-sct/ar-lr/gwfrp-ppreg-eng.asp
Has the government published a set of good regulatory principles applicable across the government?	✓		Refer to the <i>Cabinet Directive on Regulatory Management</i> : www.tbs-sct.gc.ca/rtrap-parfa/about-ausujet-eng.asp
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		Refer to Canada's Red Tape Reduction Action Plan: www.tbs-sct.gc.ca/rtrap-parfa/index-eng.asp Refer to the <i>Cabinet Directive on Regulatory Management</i> : www.tbs-sct.gc.ca/rtrap-parfa/about-ausujet-eng.asp
Does the government systematically review regulations for cost and effectiveness?	✓		Refer to Section 6 (G) in the <i>Cabinet Directive on Regulatory Management</i> : www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha67
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		Refer to Section 6 in the <i>Cabinet Directive on Regulatory Management</i> : www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha6
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		Refer to Section 6 (E) in the <i>Cabinet Directive on Regulatory Management</i> : www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha64
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		Refer to Section 6 (F) in the <i>Cabinet Directive on Regulatory Management</i> www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha68
How are [trade friendly] alternatives to regulation assessed?	✓		Refer to Section 6 (D) in the <i>Cabinet Directive on Regulatory Management</i>

			www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha64
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(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		Refer to Section 6 (A) in the <i>Cabinet Directive on Regulatory Management</i> www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha61 ; and <i>Canada Gazette</i> , Part I: www.gazette.gc.ca/rp-pr/p1/index-eng.html
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		Refer to Section 6 (A) in the <i>Cabinet Directive on Regulatory Management</i> www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha61 ; and <i>Canada Gazette</i> , Part I: www.gazette.gc.ca/rp-pr/p1/index-eng.html
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		Refer to Section 6 (A) in the <i>Cabinet Directive on Regulatory Management</i> www.tbs-sct.gc.ca/rtrap-parfa/cdrm-dcgr/cdrm-dcgr01-eng.asp#cha61 ;

2.2 Implementation of GRPs in the Areas Extended at the 2013 AELM

(1) Single on-line locations for regulatory information

The Canada Gazette is the official newspaper of the Government of Canada. It has been published regularly by the Queen's Printer since 1841 and electronic issues have been posted online since January 1998.

The *Canada Gazette* consists of three parts. Parts I and II are the sections relevant to regulation. Published every Saturday, the Canada Gazette, Part I, contains proposed regulations from the Government, as well as public notices, official appointments, and miscellaneous notices from the private sector that are required to be published by federal statute or by regulations. Published every other Wednesday, the Canada Gazette, Part II, contains all regulations that have been enacted, as well as statutory instruments and other documents, such as orders in council, orders and proclamations.

Through the *Canada Gazette*, Part I, the Government includes Canadians in the regulatory process. All Canadians have a chance to submit their comments to the relevant government department or

agency responsible for the proposed regulations, before they are enacted and published in Part II.

The standard period for pre-publication in the *Canada Gazette*, Part I, is 30 days, unless the following takes place:

- Another period is specified by the enabling act
- Treasury Board ministers agree to a different pre-publication period
- The proposed regulation affects international trade, in which case a pre-publication period of at least 75 days is required in order for Canada to fulfill its obligation of notification under various trade agreements

The name and contact information of the person responsible for the proposed regulations is found at the end of each regulatory impact analysis statement that accompanies the proposed regulations.

(2) Prospective Regulatory Planning

Forward regulatory plans provide advance notice of the government's intent to regulate, thereby creating a more predictable regulatory environment so businesses and Canadians can plan ahead. By increasing awareness of upcoming regulatory changes, businesses, consumers and all Canadians will be able to better plan their future on regulations that will affect them.

In October 2012, the Government of Canada committed to introduce forward regulatory plans to provide Canadians and businesses with early notice of the government's intention to regulate. Each year, departments and agencies are to publish on their websites forward regulatory plans that, at a minimum, do the following:

- i. Identify and describe expected regulatory changes;
- ii. Provide information on planned consultations; and
- iii. Provide departmental contacts for further information.

In spring 2013, regulators posted their first forward regulatory plans on their respective web sites. Adding forward regulatory plans to Canada's already transparent system enables business, consumers and all Canadians to be informed of, and engaged in, the regulatory process at the earliest possible stage.

(3) Reviews of existing regulations

As stated in the Cabinet Directive on Regulatory Management, departments and agencies are responsible for ensuring that regulation continually meets its initial policy objectives and for reviewing regulatory frameworks on an ongoing basis. The Directive outlines specific requirements related to measuring and reporting on performance, evaluating regulatory programs, and reviewing regulatory frameworks.

3. Experiences of APEC Economies (case studies)

Forward Regulatory Planning

A transparent and predictable regulatory system enables Canadians and businesses to prepare and adjust their own plans and activities before new rules are made. It also allows stakeholders to make informed decisions about their future and encourages investment and innovation.

By introducing forward regulatory plans, the Government of Canada has taken a significant step toward increasing transparency in the federal regulatory system for Canadians and businesses. These plans provide stakeholders with early notice of regulatory changes to be introduced by regulators within a 24-month period.

In spring 2013, regulators posted 32 forward regulatory plans on their respective Acts and Regulations Web pages. Regulators collectively identified 460 planned regulatory initiatives to be implemented over the next two years in their forward regulatory plans. These initiatives covered a wide range of sectors – from health and the environment, to security and trade.

A government-wide list of forward regulatory plans was also published on the Treasury Board of Canada Secretariat's website to provide Canadians and businesses with easy access to these plans.

Going forward, these plans are being updated on a semi-annual basis to reflect the changing operating realities of regulators.

4. Challenges and priorities for future reform

Priorities for future reform in individual economies

The Canadian Government's Red Tape Reduction Action Plan is one of the most ambitious regulatory red tape-cutting exercises in the world today. Moving forward, Canada will continue to stay the course in implementing the following Action Plan commitments:

- Through the **Administrative Burden Baseline initiative**, regulators will develop and maintain an inventory of requirements in regulation that impose administrative burden on business, thereby providing additional assurance of the Canada's commitment to monitoring and reporting on regulatory red tape. Once established, these inventories will help regulators manage their stock of regulatory requirements. This information will be posted on departmental Acts and Regulations Web pages by fall 2014 and updated annually thereafter.

- The Government of Canada will follow through on its commitment to legislate **the One-for-One Rule**. In doing so, Canada will be one of the first countries to give such a rule the weight of legislation. The “One-for-One” Rule will reduce administrative burden by requiring ministers to remove at least one regulation each time they introduce a new one that imposes administrative burden on business. In addition, regulatory changes that increase administrative burden need to be offset with equal administrative burden reductions.
- Regulators will publish **interpretation policies** that clarify how they interpret regulations and when stakeholders can expect to receive answers to their questions in writing. These interpretation policies will be published on departmental Acts and Regulations Web pages later this year.

Chile

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

i) Mechanisms or bodies to enable internal coordination of rulemaking activity

Although Chile does not have systematic coordination of internal rulemaking activity, in a way, the Ministry of the General Secretariat of the Presidency acts as a leader and as a coordinator among public institutions regarding regulatory issues. It is a leader since it sets and applies the Presidential top priorities. SEGPRES also has a coordinating role since all the regulations that require the President's signature and approval go first through the Legal Division of this ministry, and then only those regulations thoroughly examined are passed on to the President. Examples of these regulations include draft bills and an important portion of decrees (supreme decrees). The coordinating role of SEGPRES is also backed by the Interministerial Coordination Division, which leads the international commitments and strategies regarding GRPs as the Centre of Government.

Chile has followed a bottom-up approach to coordinate rulemaking activity. It is carried out by the distinct institutions and ministries. In particular, the ministries and undersecretaries of each line ministry are responsible for the design and review of regulations. Within each ministry, there are several instances to coordinate the regulatory work between agencies on specific areas. For example, there are inter-ministerial commissions on Obstacles to Trade, Sanitary and Phytosanitary Measures, and SMEs in order to strength the coordination on regulatory matters. The Council of Ministers for Sustainability, comprised by the Ministers of Agriculture, Finance, Health, Economy, Energy, Public Works, Transport and Telecommunications, Mining and Social Development, is another example of inter-ministerial coordination.

In addition to the SEGPRES, the Budget Office (DIPRES) plays a key role in rulemaking activity. In Chile, before a law promulgated by the Executive goes to the Parliament, it needs to be accompanied by a Financial Report. The Financial Report contains information on the law's impact on the budget of the different ministries and agencies involved in the enforcement of the law. In this sense, all proposed laws must be channelled through the DIPRES before going to Parliament. At the same time, within the DIPRES, there is an Evaluation and Public Management Control System, which evaluates public programs and institutions. This system improves the efficiency of the allocation and use of public resources, and in turn, improves the management of public institutions.

In summary, even though centralized coordination of rulemaking activity does not exist in Chile, there are several important actors, such as the SEGPRES and DIPRES, involved, and many of

the line ministries conduct coordinating activities independently, which are described below.

ii) Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism

Ex ante evaluation

Chile has ex ante regulatory impact assessment in specific areas such as Small and Medium Enterprises (SMEs), Environment and Technical Barriers to Trade. Regarding SMEs, Law 20,416 establishes that Ministries or organisms should develop an estimation of the social and economic impact that this new regulation will have over SMEs. Those new regulations affecting SMEs should be reported to the Ministry of Economy. There are online forms available that should be completed by the parties to fulfil the regulatory impact evaluation (<http://www.economia.gob.cl/areas-de-trabajo/subs-economia/pymes/ley-20-416>).

Law 19,300 on the General Bases of Environment establishes that every project or activity that could possibly have environmental impact should present a declaration of environmental impact or develop an environmental impact study; Depending on the complexity or degree of impact of the environmental impact, one or the other shall be used. This law calls for the regulation to be reviewed at least every 5 years, using the same criteria to make a cost-benefit analysis. In 2010, the law was modified and a Council of Ministers for Sustainability was introduced. The Council serves to advise and set policy guidelines on any new regulation that covers environmental matters. In this sense, the Council is working on harmonizing environmental regulations at a whole-of-government level. At the same time, the Ministry of Environment also established guidelines to evaluate policies regarding the quality of water improvements (2008) and the quality of air improvements (2011).

The Ministry of Foreign Affairs carries out the obligations set by Law 19,912 and the Decree 77 (2004) from the Ministry of Economy of Chile. Law 19,912 updates national regulations according to the commitments adopted with the WTO. Decree 77 establishes that in order to ensure fulfilment of the obligations derived from international agreements regarding technical barriers to trade, new regulations must indicate the purpose of the draft regulation or procedure and the reasons for the approach adopted, the alternatives considered and reasons for rejecting them, a description of the advantages and disadvantages and technical feasibility of verifying compliance with the measure and the existence of applicable international standards on the subject.

Ex post evaluation

The ex-post analysis of the laws is carried out by the Evaluation of the Law Department that depends of the Chamber of Deputies in the Chilean Congress. The pilot program was

designed with the help of the OECD and will be reviewed and reformulated as they accumulate more experience in this area.

Public Consultations

All ministries, under Law 20,500, Associations and Citizen Participation in Public Administration, which introduces amendments to Law 18,575 of the General Bases of the State Administration, must conduct public consultations on their policy proposals. This Law has been led and enforced by SEGPRES, where each line ministry addresses their topics regarding public consultations.

This Law was reinforced by an instruction issued by the Transparency Council, which indicates that this information must also be available on the “Transparency link” of the Ministry or Service stating the rule.

Some specific areas where Chile holds public consultation include the following: SMEs, environment, technical barriers to trade, and indigenous affairs (Convention N° 169 of the International Labor Organization). For example, the Decree 77 establishes a public consultation period of 60 days for all technical regulations and conformity assessment procedures.

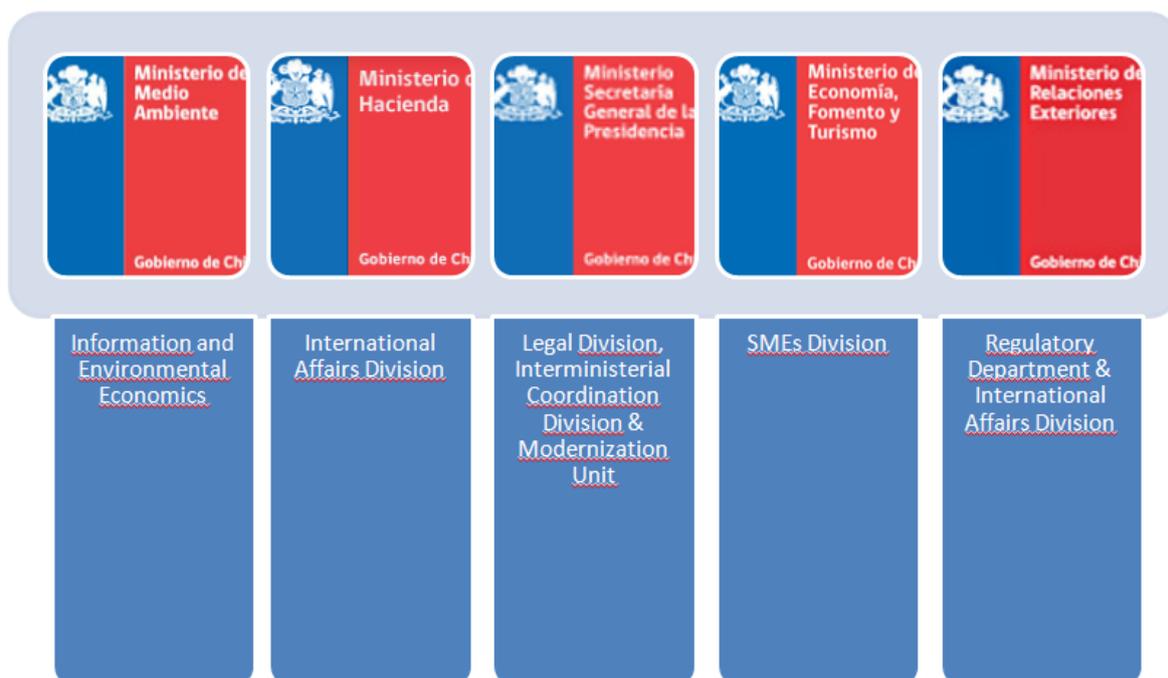
iii) Coordination mechanisms between national and sub-national level of governments to promote regulatory coherence

Since Chile is a centralised country, subnational levels of government are not empowered to issue their own regulations.

iv) Institutions to oversee training and capacity building programmes for rule makers and regulators

The capacity building programmes are led independently by the ministries that work on areas of GPR. For example, both the Regulatory Department at the Ministry of Foreign Affairs and the SMEs Division at the Ministry of Economy occasionally perform training for rule makers and regulators. Besides, Government rule makers and regulators take advantage of the capacity building within International Organizations such as APEC, OECD and WTO.

An outline of the relationships between agencies would be useful for our attempt to make international comparisons.



1.2 Strategy and program for improving regulatory practices

As previously mentioned, Chile has a bottom-up approach to establishing regulatory reform strategies. Chile has also 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).

Chile has made several improvements towards enforcing GRPs. For example, regarding transparency, the Parliament has in place the website *Ley Chile* (<http://www.leychile.cl/>) which allows the search of different kinds of existing regulations such as laws and decrees. The Modernization Unit, from the Ministry of the Presidency, has been evaluating the possibility of a regulatory repository, but focused on an easy access of regulations on a two-way scheme, for both agents who want to open a business and the ones affected by them.

In addition, regarding regulatory practices that can strengthen implementation of international trade rules, it is worth mentioning that the International Affairs Division from the Legal Department of SEGPRES reviews draft bills (both from the Executive and Parliament) on a regular basis in order to ensure that they do not interfere with our international commitments and agreements.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		✓	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. The annual message of the President on the 21 st 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.
Has the government published a set of good regulatory principles applicable across the government?		✓	Chile has not adopted general principles for GRP applicable across the government. However, the Chilean State general administration rules (Law 18,575, 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 regulations. With respect to the principles on transparency/consultancy, the 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.
Does the government have a capacity to manage a government-wide program of regulatory reform?		✓	Chile has neither a central regulatory oversight authority nor an advisory body that reviews broad areas of regulation against good regulatory principles. Nevertheless, on the one hand, 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. On the other hand, the Ministry of Finance analyses the impact of draft primary laws on the national budget.
Does the government systematically review regulations for cost and effectiveness?		✓	There is no systematic program for regulatory review. However, Chile has made some advances at the sectorial level. For example, Law 19,300 on General Environmental Bases considers a cost-benefit analysis

			in order to keep them in mind when evaluating the impact of a new regulation (regarding the regulation on environmental quality and emission and prevention and decontamination plans). A review of regulation is established at least every five years, using the same criteria of cost-benefit analysis.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		When the draft bills or decrees may impact on competition, in its review process SEGPRES requests the opinion of the Ministry of Economy or the National Competition Agency (FNE).

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		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. The government applies important elements of RIAs or partial RIA in specific areas. For example, Law 20,416 requires 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. Another example is the Decree 77/2004, which requires that in the development of technical rules and standards to include the following applications of RIA elements: 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) incorporated; and assessing alternative approaches to achieving regulatory objectives when designing new regulations.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		Law 19,300 establishes a broad analysis of the economic and social impact to evaluate different parameters and regulatory scenarios for new regulations.
Does the impact assessment include a	✓		In the case of Law 20,416, information about the Law

reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?			<p>can be found at: http://www.economia.gob.cl/areas-de-trabajo/subs-economia/emprendimiento-y-pymes/ley-20-416/. All the information is in Spanish.</p> <p>In December 2012, for Decree 77/2004 (Requirements for the preparation, adoption and application of technical regulations and conformity assessment procedures), DIRECON published a “Guide on Good Regulatory Practices,” in Spanish.</p> <p>The Ministry of Environment has elaborated a methodological guide in regard to developing a comprehensive economic and social impact analysis for legal instruments of air quality management. All of this information can be found at: http://www.sinia.cl/1302/w3-channel.html</p>
How are [trade friendly] alternatives to regulation assessed?		✓	<p>Decree 77/2004 supports that regulation be non-restrictive on trade. However, formal assessment of the impact that new regulation are likely to have on inward and outward trade and investment are conducted rarely. Chile has mostly used ex-post regulatory reviews rather than ex-ante RIA to reduce the impacts of regulation on trade. Chile’s favourable 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>

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		<p>In February 2011, Law 20,500 on associations and citizen participation in public governance entered into force. This law establishes that each Ministry and public service has to make public consultations but they can decide how to do so. Since August 2011, this law has been implemented progressively across all government agencies. In practice, each government service includes on its website a link for “public consultation”, where most of the new bills of law are submitted to consultations. It is important to highlight that before the entry into force of Law 20.500, Decree 77/2004 established mandatory consultation</p>

			<p>requirement for technical regulations and conformity assessment procedures.</p> <p>Law 19,300 on General Environmental Bases considers a process of consultation on environmental quality standards and emission and prevention and decontamination plans. After the prior notice, there is an initial period for any person to send technical background on the subject to be regulated. Upon publication of the draft regulation, there is a period of 60 working days to make observations. Additionally, the Advisory Council of the Ministry shall review the regulation. Moreover, within the public sector a committee is created where all the services involved in the new regulation are invited to participate.</p>
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		<p>Law 20,500 indicates that each agency has the capacity to determine how to make their consultation process, including the comment period. In most of the cases, the consultation consists of making the legal document with an executive summary publicly available on the respective web pages, with indications on how to send the observations (normally online submission).</p>
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		<p>Law 20,500 indicates that in the event that comments, proposals or consultations are made, the respective entity shall respond online or by other means.</p>

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

On the one hand, Chile has a single window for TBT regulations, where you can have access to Technical Regulations and Conformity Assessment Procedures (www.reglamentostecnicos.cl). Currently, Chile is working on improving this online platform in order to assure that documents contained are properly updated.

On the other hand, the Parliament has the website *Ley Chile* (<http://www.leychile.cl/>) which allows the search of different kind of existing regulations such as laws and decrees, previously published only in the Official Journal.

(2) Prospective regulatory planning including forward-looking regulatory agendas

Per the previous table, even though the Chilean government does not have an official institution which oversees regulatory planning, there are two tools that unofficially set certain guidelines for regulatory planning. The first one consists of the Government Programme, which sets objectives to address, create and revise national regulations. The second one is the annual May 21st Presidential Message, in which the President gives account of his/her administration and the specific plan for the following year, including new regulations and upcoming regulatory reforms.

(3) Reviews of existing regulations

The only experience available in this matter was carried out in 2012 by the Ministry of Economy, Development and Tourism under the Law 20416. That law called for the review of regulations related to SMEs. The review initiative was comprised of three studies in the areas of human health and safety, labor, and tax. Based on the findings of the studies, modifications to existing regulation were proposed (simplification, modifications accounting for the lower compliance capacity of SMEs; and other minor changes). These modifications were meant to improve the overall regulatory environment for SMEs.

It is noteworthy to mention that as part of the Productivity, Innovation, and growth Agenda recently announced by President Mrs. Michelle Bachelet a unit of regulatory oversight and coordination was included. This unit will coordinate and carry out evaluations of the impact of upcoming and existing regulation. It will also promote coherence and consistency of the regulation as a whole; and finally, it will seek to guarantee that the society as a whole is better off with the introduction of a new regulation and the stock of existing regulation.

3. Experiences of APEC economies (case studies)

In 2010, The Ministry of Economy, Development and Tourism in compliance with Article 5th of the Law 20416 (2010) and in accordance with the best practices in regulatory quality advanced by the Organization for Economic Cooperation and Development (OECD), introduced a procedure designed to increase transparency and accountability of the effects of regulatory actions on SMEs. Likewise, the procedure was developed to level the playing field by reducing the disproportionate economic effects that regulatory actions might impose on SMEs. The procedure seeks to assist regulatory agencies in identifying the negative effects that regulatory proposals, or the amendments to existing regulations, may impose on SMEs in order to design the most cost-effective regulation that has a low administrative and economic burden on SMEs. The law also calls for all government agencies that issue regulation with potential effects on SMEs to make publicly available all relevant information related to a regulatory proposal soon to be published, including a SME regulatory impact assessment. In addition, a notice regarding an upcoming regulatory proposal must be sent to the Ministry of Economy, Development and Tourism before a regulation draft is approved. As for the experience of the procedure, several regulatory proposals

have prompted the staff of the Ministry to engage in roundtable discussions with regulators and request more information when the impact on SMEs was not clearly assessed; data lacked or was not the most up to date information

In order to comply with international GRPs, both at the WTO and Free Trade Agreements, Chile has implemented some legal tools. The Decree N° 77/2006 of Ministry of Economy establishes GRP principles in our legal system in the preparation, adoption and application of Technical Regulation and Conformity Assessment Procedures. Since the entry into force of this Decree N°77, public consultation and participation of interested person, both in Chile and abroad, have increased on Technical Regulations and Conformity Assessments Procedures. Additionally, a period 60 days was established for public consultations as well as a period of 6 months between the adoption and the entry into force of any technical regulation or conformity assessment procedures which have permitted the industry to have a reasonable period of time to adjust to the new regulation.

In 2013, The Ministry of Environment established a Secondary Environmental Quality Standard (NCSA) for the protection of the continental surface waters of the Maipo River Basin, biodiversity and its ecosystem services. The NCSA sets the values of concentrations and periods (maximum or minimum) allowable for substances, elements or any combination thereof whose presence or absence may contribute a risk to the protection or conservation of the environment, or the preservation of nature (Source: Law 19,300).The Maipo River Basin had previously been prioritized (2004-2005) as consequence of its strategic importance and high impact on biodiversity (including endemic species). Later, in 2006 there was a public participation process, which influenced the determination of physical-chemical parameters (e.g. nutrients, organic compounds, metals and others), their limits and zoning (places where the standard is audited). Moreover, it is worth noting that this standard was supported by the Ministry of Agriculture, Food and Environment (MAGRAMA) of Spain, which suggested adding and deleting some parameters considering the available information for Chile.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

In this report, we have chosen to highlight the best practices of a few of our Ministries. That is not to say that other ministries not mentioned here are not conducting noteworthy developments in the area of GRPs. Notwithstanding, we would like to highlight the recent developments of the Ministry of Environment as one of our strongest cases of GRP practices. The recent advances in RIAs conducted by the Ministry of Environment and the Council of Ministers for Sustainability reflect, in a way, the transversal RIA approach recommended by the OECD.

Like many other APEC economies, one our weakest GRP practices could be the lack of an overall centralised strategy for GRPs. Chile has taken many steps through its various ministries to

develop similar GRPs. However, a thorough official analysis of costs and benefits of establishing a centralised GRP coordinating body has yet to take place. Despite this weakness, it is important to highlight the fact that Chile remains in the very first position among Latin-American countries (34° worldwide) concerning the easiness in opening businesses, according to the ranking *Doing Business 2014*. The previous ranking provides account for the legal certainty of the Chilean regulatory framework, since foreign and national investment keep growing at high rates.

4.2 Priority for future reform in individual economies

The Chilean government aims to strengthen its work towards a single on-line location for regulatory information, which in the long term should include an updated regulatory repository, a public consultation mechanism, and the most recent reviews of current regulations.

We have already started this effort with initiatives such as *LeyChile* and others. Under the future regulatory reform program to be implemented in Chile, it has been prioritized to update the website www.reglamentostecnicos.cl, in order to assure that all information contained is properly updated and easy to find.

People's Republic of China

Developments in Good Regulatory Practices

Since the reform and opening up, China constantly and actively promotes market-oriented reform, and gradually establishes a comprehensive regulatory system adapted to the market economy. Since the global financial crisis broke out in 2008, especially after China's new government took office, structural reforms are reinforced in China and the regulatory system reform is an important part of it. In 2013, the Decision on Major Issues Concerning Deepening Comprehensive Reforms (hereafter the Decision) adopted the Third Plenary Session of the 18th CPC Central Committee clears that China will "reform the market regulatory system, harmonize the regulations in different regions, and eradicate barrier to inter-region trade, illegitimate preferential policies and monopoly", which set the goal and the direction for China's regulatory reform up to 2020.

In line with the template developed by APEC Economic Committee, this report will briefly introduce the institutional framework of China's regulatory system and the new development and experiences of China's regulatory reform in recent years. Also we will present a case study on food safety regulatory reform. Finally, we will touch upon the main direction and key areas of future regulatory reform in China.

1. Overview of the Institutional Framework to Oversee Good Regulatory Practices

After several rounds of reform on government institutions, China has established a new system of regulatory policy formation with reasonable division of labor and cooperation. With the reform of super ministry system, the duplication of functions among departments was reduced and the efficiency of decision-making was improved. At the same time, the decision-making coordination mechanism of multiple levels was set up to ensure the consistency of policies.

1.1 Institutions to oversee good regulatory practices

From 2011 to 2013, China carried out a new reform on the State Council bodies, the key element of which was the transformation of government functions. The priority of reform was to streamline administration and delegate more powers to lower-level governments. During this period, institutions and mechanisms are strengthened and administrative efficiencies are improved. The government steadily pushes forward the reform of super ministry system, forsaking or delegating to lower-level governments some authorities in investment, production, and operation previous exclusive to central government. Some excessive regulations, such as the qualification licensing and certification, were abolished. The programs that give too much discretion to officials, such as special transfer payments and charges, were reduced also. Some departments' functions and the mechanism of division of labor are adjusted to reduce the overlap and fragmentation of functions. At the same time, local governments also make adjustments accordingly. Through these reforms a new regulatory pattern comes into being, by which one sector is mainly regulated by one specific ministry with other ministries' coordination.

1.1.1 Government Regulatory Decision Mechanism and Coordination Mechanism

According to China's current administrative system, the State Council and its subordinations make the decisions on regulation. The State Council, i.e. the Central government, is the highest administration of executive branch of state. As China being a unitary country, the ministries and sub-national governments are under the leadership of State Council. State council is responsible for developing and implementing national comprehensive regulatory reform. Also, it supervises "good regulatory practice" carried out by the governments at all levels. According to the Regulations on Administration of the Establishment and Staffing of the Administrative Agencies of the State Council, the administrative agencies of the State Council are classified by their functions including Ministries and Commissions under the State Council, Organizations directly under the State Council, taskforce under the State Council, Institutions Directly under the State Council, and Administrations and Bureaus under the Ministries & Commissions as well. These agencies undertake some regulatory functions more or less. In the group of Ministries and Commissions under the State Council, the National Development and Reform Commission (hereafter NDRC) which is the comprehensive economic management department is responsible for the investment regulation and price regulation, and the line ministries in charge of specific sectors, such as the Ministry of Industry and Information Technology, the Ministry of Housing and Urban Construction, the Ministry of Transport, Ministry of Agriculture, Ministry of Commerce, the Ministry of Culture, the Health and Family Planning Commission, the People's Bank of China, are responsible for the regulations of sectors that they oversee. In addition, the Ministry of Environmental Protection, the Ministry of Human Resources and Social Security, the Ministry of Land and Resources also undertake some regulatory functions in corresponding areas. In the group of Organizations directly under the State Council, the State Administration for Industry and Commerce, the General Administration of Quality Supervision, Inspection and Quarantine, the State Food and Drug Administration, the State Administration of Work Safety, the State Intellectual Property Office, the National Tourism Administration undertake relevant regulatory functions. In the group of Institutions Directly under the State Council, China Banking Regulatory Commission, China Securities Regulatory Commission, and China Insurance Regulatory Commission are regulators for financial sectors. National Energy Administration is in charge of the regulation in energy industry, which is under NDRC. National Railway administration, State Post Bureau, and Civil Aviation Administration of China under the Ministry of Transport are regulators in respective industries.

➤ **The high-level deliberation and coordination agencies**

State Council is the highest-level agency of deliberation and coordination. There are several forms of mechanism.

➤ **The committee**

The committee at State Council level, which is usually headed by Premier or vice Premier, is set up to coordinate the regulations that is practiced by several ministries. For example, the State Anti

Monopoly Committee is responsible for the coordination of the executive departments of anti-monopoly under NDRC, the State Administration for Industry and Commerce, and the Ministry of Commerce respectively, which enforce the antitrust law and anti unfair competition law. The national food safety committee, the national work safety committee are respectively high-level deliberation and coordination mechanism of food safety and work safety.

➤ **The leading groups**

The state council also sets up “leading groups” under the leadership of the premier or vice premier to coordinate regulatory decision-making. For example, the leading group of national prevention and control of atmospheric pollution and energy-saving emission reduction is headed by the premier, the Secretariat office of which is sit in the NDRC and National Energy Administration. The leading group is responsible for coordination among several relevant ministries and commissions including the Ministry of environmental protection, the Ministry of industry and information technology etc.

➤ **The inter ministerial working group**

Inter ministerial working group is another coordinating mechanism, which is headed by a leading ministry. The environmental protection inter ministerial working group is an example which is led by the ministry of Environmental Protection. These inter ministerial working groups are established for the implementation of some major regulatory policies or regulatory goals. They share some significant characteristics such as temporary, loose, and flexibility. And they usually don't have full-time staffs. Their coordination abilities are mainly depended on the resources and capacity of their leading ministries or commissions.

➤ **The countersign mechanism**

The processes of countersign by the State Council or the ministries and commissions are also helpful to the coordination of the regulatory decision-making. For example, the polices related to environmental protection, food and drug safety, or those related to market access, investment and price regulation in the natural monopoly industries require the cooperation among different departments. Therefore, the regulatory authorities usually seek advices from related ministries and commissions in the name of the State Council and get their written feedback so that the regulatory policies would meet with less resistance in its approval and implementation. Such policies are often issued with a name including the words “the guidance of the state council”, such as "the guidance of the State Council on the maintenance of the order of market competition and the construction of good market competition environment" released in 2014. Also there are some processes of countersign implemented by the ministries and commissions but not in the name of the State Council. These regulatory policies have less authority compared with those countersigned in the name of the State Council.

1.1.2 Regulatory Impact Assessment (RIA)

According to China's political system and government structure characteristics, China has established a multi-level, wide-range, comprehensive regulatory assessment system.

➤ **Multi-layer administration for regulatory impact assessment**

At the central government level, the National People's Congress is responsible for the legislative process, including some legislation on regulation. And some regulatory impact assessments, such as cost and benefit analysis, are included in the law-making process. The regulatory agencies under state council, such as the State Administration of Quality Supervision Inspection and quarantine, the State Administration of production safety supervision and management, the CBRC, CSRC, CIRC and SERC are responsible for RIA of regulations under their jurisdictions. At the local level, the local branches of CPC, local people's Congress, and the local government take corresponding regulatory impact assessment function for local regulations.

➤ **Multiple mechanism of regulatory impact assessment**

China did not form a single mechanism of regulatory impact assessment, but dispersed the functions of regulatory impact assessment to specific branches of the party, the government, and the legislative agencies and then form a multiple mechanism of the regulatory impact assessment. First, the cost benefit analysis is incorporated into the legislative process. In 2004, the State Council issued the Outline for the Implementation of Comprehensively Promoting Law-Based Administration, the Article 17 of which stipulates that "Explore items of government legislation, especially economic legislation, the project cost-benefit analysis system. Government legislation should not only consider the cost of the legislative process, but also to study the implementation of the law enforcement and social costs." Second, RIA is done by the evaluation of the implementation of the development plan. Development planning plays an important role in China's economic and social development, which includes many regulatory areas and set up a goal for the regulation. In the implementation of the development plan, an important process is the annual and middle-term evaluation on its accomplishment. The evaluation covers the achievement of the goal of the development plan which includes the regulatory impact assessment.

➤ **Flexible executive modes on regulatory impact assessment**

China's regulatory impact assessment adopted a flexible way in which the main body of the assessment includes the public, experts, and government officials as well. For example, in the process of legislation on regulation the public opinion will be collected by internet, traditional media and other ways. Also the experts' opinion will be collected by symposium, seminars and workshops. The hearing participated by the public and experts will be held when a major regulatory decision is made. the current regulatory impact assessment is dominated by subjective evaluation. For example, to develop some regulatory policies and analyze their effects, a questionnaire survey method may be taken to collect the public views.

1.1.3 Public Consultation Mechanism

In line with its unique conditions, China has established a public consultation mechanism of multi-party participation to improve the openness and fairness of regulatory policies.

The public consultation is a necessary step in China's legislature-making process. The draft of legislation needs to be made public for the comments of the public and the relevant interest group. The website of NPC (www.npc.gov.cn) is a unified platform for collecting the comments on the draft of legislation. The number of participants is increasing year by year. This mechanism makes sure that the laws and regulations can fully reflect public opinion. Moreover it significantly improves the quality of legislation. Besides the NPC, the departments and governments at all levels are obligated to collect suggestions in the same way before regulations and policies are adopted. In the decision-making on price regulation, the public hearing is introduced to ensure the representatives from residents, experts and industry can express their views. The experts' role in public consultation is highlighted in recent years. The decisions on major regulations and their parameters needs to be based on the consultation with the experts.

1.2 Strategy and Program for Improving Regulatory Practices

1.2.1 The General Principle and Idea of Regulatory Reform

In 2013 The Decision on Major Issues Concerning Comprehensively Deepening Reforms (hereafter the Decision) was adopted and put forward the integrated regulatory reform strategy or philosophy. Openness, non discrimination and minimum intervention are all introduced by it.

In the respect of openness, the Decision proposes to implement the positive list on regulation and make the operation process public according to the law. The governments at all level are forbidden to exercise authority not in the positive list. Also the openness of the government and the process of policy-making should be promoted in every area. The process of administration and public service and the administrative decision should be public.

In the respect of non discrimination, the Decision suggests that the government protects the property rights and legitimate interests of all kinds of ownership by ensuring that various ownerships have equal access to production factors, open and fair market competition and the same legal protection and supervision. In order to encourage the development of private sector, the Decision also propose to adhere to the equality of rights, equality of opportunity and equality of rules, to abolish all forms of unreasonable regulations on the non-public sector, and to eliminate hidden barriers and fix specific measures, and to formulate the policy to grant non-public sector the concession.

In the respect of minimal intervention on, the Decision proposes that the basic economic system should evolve on the decisive role of the market in resource allocation. To achieve this, the government's administrative examination and approval items should be reduced and the process

of industrial and commercial registration should be simplified. Also, the scope of government pricing should be narrowed to promote the efficiency of the allocation of resources according to market rules so that maximum benefit and efficiency optimization can be achieved.

1.2.2 To Promote the Liberalization of International Trade Regulatory reform

To adapt to the new situation of economic globalization, China is striving to push for two-way openness, promoting the combination of expanding China's overseas business presence and attracting the foreign investment. China also makes efforts to promote the free flow of production factors both domestically and internationally, the efficient resources allocation, and the integration of different markets and to participate in and develop the international economic cooperation and competition.

Expand FDI market access. China strives to unify the laws and regulations on domestic and foreign investment, to promote the stability, transparency, predictability of FDI policy. China tries to explore the implementation of pre-market-access national treatment and the negative list management of foreign investment, to promote the openness of financial, education, culture, health and other services orderly, to open the industries of elder caring, architectural design, accounting and auditing, trade logistics, e-commerce and other service to foreign capital, to further open up the general manufacturing industry. Also the optimization and integration of special customs supervision areas will be accelerated.

China Shanghai Free Trade Zone was established to explore new ways to open up and accumulate new experience to open up. Based on the existing reform pilot, a number of new areas with good conditions should be selected to build up new free trade zone (port) district. The personal and companies' overseas business should be expanded and the enterprises and individuals should be treated as market player for overseas investment. The companies are encouraged to explore the overseas market such as EPC, labor service cooperation with foreign players at their own risks. Green investment, mergers and acquisitions, portfolio investment, joint investment carried out in new ways should also be allowed.

2. Application of Good Regulatory Practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		
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?	✓		
Does the government systematically review regulations for cost and effectiveness?		✓	
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		
Does the impact analysis or other justification include a range of reasonable options for solving the problem?		✓	
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		
How are [trade friendly] alternatives to regulation assessed?	✓		

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

The APEC ministerial meeting held in 2013 encourages member economies to explore the use of more tools to strengthen the implementation of "good practice", including releasing information on a single online platform, developing forward-looking regulatory plan, reevaluating the existing

regulatory policies. These tools can enhance the effectiveness of regulation and China's government has used them and gained some experience.

2.2.1 Single On-Line Locations for Regulatory Information

China's e-government construction began in the 1990s, which was closely associated with the process of government's regulatory reform. At present, "The Chinese Government portal" (www.gov.cn) is the unified regulation information release platform of Chinese central government. Meanwhile, the ministries and affiliated institutions of the State Council had established their own official websites, which are used to release ministries' key information, such as responsibilities, organization, administrative licensing guidelines, project process guidance and law enforcement procedures documents. Generally contact information is on the websites of regulation departments to receive public comments and suggestions. BBS are set on some ministries' websites to strengthen communication with the public.

The regulators' website construction is a systematic project. Not only the State Council and ministries and affiliated institutions, but also the local governments at all levels have established their own official home pages. The construction of E-Government is combined with the reform of government to promote the open and efficient government. E-government construction can fully mobilize the enthusiasm of the public for democratic participation and strengthen interaction between the government and citizens. In this respect, cities in developed coastal areas accumulated a lot of experience as pioneers. For example, government agencies cooperated with enterprises, industry associations, trade unions, consumer protection organizations and other agencies to establish a unified data networking platform, collecting information on the enforcement of related regulation policies timely, and periodically adjusted the policies and implementations of regulation according to the information. Relying on the Internet, "intermediary service supermarkets" were built, which aggregated various intermediary service agencies with their businesses on credit, legal services, intellectual property, management, information consulting, personnel services, asset evaluation, audit and other business scopes. This helps to establish an open and fair intermediary market competition mechanism, regulate the market behaviors of intermediary agencies, and improve efficiency and convenience of private investment services. Nevertheless, due to the backward on new ideas and the lack of skills, the central and western areas of China with relatively low level of economic and social development, cannot fully enjoy the convenience and efficiency brought by e-government in a period of time.

2.2.2 Prospective Regulatory Planning Including Forward-Looking Regulatory Agendas

China's prospective agenda on regulatory reform is released through the CPC party Congress, five-year planning and ad hoc reform action planning.

Chinese Communist Party held the NPC once every five years, on which the structural reform, such as regulatory reform, will be reviewed in the course of the session of examination of the economic and social reform. Also, the new program and new plan will be promulgated to guide

the regulatory reform and the establishment of the new regulatory system in the future. In 2013 the meeting of the Third Plenary Session of the eighteenth NPC adopted the Decision on deepening comprehensive reform that proposed that the basic economic system should evolve on the decisive role of the market in resource allocation and the government should play a more positive role, which points the direction of the deregulation in some certain industries. At the same time, the Decision put forward the direction and goal of the reform on the price regulation in natural monopoly industries, environmental regulation, and food and drug safety regulation. According to the Decision, the State Council and ministries are making a prospective plan on deepening regulatory reform in their own areas for periods from present to 2020.

China's national economic and social development five-year plan is another programmatic document guiding the reform of regulation and the establishment of regulatory system. The five-year plan worked out by the central government will be submitted to the National People's Congress for deliberation and approval. At present, China's Twelfth Five Year Plan (2011 -2015 years) is being implemented, and the central government and local governments have started an initial research on the thirteenth five-year plan. Under the guidance of five-year plan, the ministries and local government develop a forward-looking regulation plan with clear road map and schedule in their own jurisdictions.

NDRC is responsible for formulating an outline of key tasks on the economic reform every year, which is subject to approval by the State Council and become the important documents guiding the reform, such as the reform on the regulatory system. For example, the latest document, the opinions on the key tasks of deepening economic reform by NDRC in 2014, includes not only the direction of the whole regulatory reform but also specific reform tasks on price regulation, food and drug safety regulation and environmental regulation.

In order to forward the reform in specific area smoothly, some ad hoc action plan are formulated by the State Council to ensure the implementation of the regulatory policy. For example, to promote a new round of reform on the medical and health system, the State Council formulated a three-year action plan (2009-2012) for the new medical reform, and then the relevant departments and local governments developed guidance for the reform of their own field and their regions considering the actual situation. In recent years, the general price is relatively stable. To seize the favorable opportunity and deepen the reform on price formation mechanism and price regulation, NDRC, who is in charge of the price reform, has formulated a three-year action plan(2013-2015) for the price reform.

2.2.3 Review of Existing Regulations.

First, China's central government reorganizes and adjusts the functions of the departments of the State Council every five years. In this process, the supervision department or organization management department will conduct an assessment on regulatory reform. The assessment includes which approval authorities shall be delegated or cancel and the effects of the change. At present, China is under a new round of the reform of administrative reform and 400 plus items of administrative examination and approval authority has been delegated or canceled. At the same

time, the positive list of administrative examination and approval of different departments and all levels of government is formulating. In the future the regulatory power not in the list should not be exercised by the government.

Second, the ministries are required to reviews existing regulation on regular basis. The Opinions of the State Council on Strengthening the Building of a Government Ruled by Law request the ministries to review and make the outcome public. Based on the review result, the existing regulation could be amended or abolished. For example, NDRC abolished hundreds of rules or directives in 2013, including the " environmental protection inspection methods in licensing coal production procedure" issued by the Ministry of coal industry in 1997, the notice on rectification of post and telecommunications tariff standards issued by the State Planning Commission and the Ministry of post and telecommunications in later 1990s.

3. Experiences of APEC Economies (Case Studies)

Food safety is a major issue concerning people's health and life safety as well as social harmony and stability. The government plays an important role in the food safety management. After more than 10 years of efforts, China has basically established a regulatory system of food and drug safety, which is a typical case to promote "good regulatory practice".

Since the beginning of this century, there have been several food and drug safety incidents that alarmed both the public and the government. It was widely recognized that China's regulation system on food and drug safety needs to be revamped to respond to changing market situation.

Super-ministry model in food and drug safety regulation was introduced. Before this reform, the regulation of food and drug safety was shared by several departments of government. During a new round of reform of the State Council in 2013, Food and drug administration was upgraded, to which the majority regulatory responsibilities of food and drug safety was assigned. Food and Drug Administration established national food safety commissioner system, under which the Ombudsmen supervise and inspect the monitoring and rectification in the key links and areas of food, health care products, cosmetics production, and participate in the investigation and emergency response to serious and catastrophic incident.

The coordination of food safety was strengthened. In 2010 China established the Food Safety Commission of the State Council, with 15 national ministries and commissions as members. The main responsibilities are to analyze the food security situation, guide food safety work, propose major policies and measures of food safety regulation, and implement food safety regulatory responsibilities. During 2011 to 2012, three more major functions, i.e., food Safety comprehensive coordination, leadership in major food safety incident investigations and unified food safety information release, were assigned to the Food Safety Commission.

The regulation on food safety is improved. During the last three years, driven by the Food Safety

Commission, China frequently introduced or revised food safety regulatory laws and regulations and strengthened the accountability of all stakeholders. In 2014, Food safety law of the People's Republic of China (revised draft) made the improvement in following areas: first, implement the most stringent management in the whole process of production, sales and consumption of food; second, imposed the severe punishment on wrongdoers and criminated the regulation-break if great damage were made; third, improve risk monitoring, assessment and food safety standards system; Fourth, set up prizes for reporting of illegal activities and give big roles to consumers, industry associations and medias in supervision, and establish a multi-party governance structure. Besides, the food and drug safety standards are strengthened. As joint works of Ministry of Agriculture, Ministry of Health, General Administration of Quality Supervision, Inspection and Quarantine, and a variety of professional standards committees, including National Institute of Standardization, National Standardization Technical Committee of Feed Industry, National Animal Quarantine standardization Technical Committee. In the standard setting process, many specialized institutions participate in, and potential risk factors have been considered, including analysis on the difficulty of the implementation of the standards, impact on public health and the cost of production, and other aspects of business analysis.

The implementation of regulation is strengthened. China established an electronic information tracking system, which records all types of data of the entire process of production and circulation of raw materials and products in detail and deliver the data to regulatory agencies at all levels timely. Food safety has also been incorporated into the performance valuation of officials. In some regions, fail to implement the food safety regulation would disqualify the officials.

4. Challenges and Priorities for Future Reform

4.1 Challenges That Individual Economies Are Facing

In general, ensuring internal coordination of rule-making is the strongest area of China, followed by conducting public consultations, while assessing the impact of regulations is relatively weak.

China has established a strong institutional framework for coordination of rule-making. CPC and state council play the leading role in coordination. NDRC, as a central agency in policy development, also take the responsibility of coordination. The super ministry reform empowers the ministries who play leading role in regulation in specific industries.

The public consultation has been strengthened in recent years. The E-government program facilitate the public participation of regulation-making. The government is obligated to seek the comments from the public. And the experts play a larger role in regulation-making.

RIA received more attentions in recent years. The government has required RIA as an essential part of regulation-making. The cost-effectiveness analysis was introduced. However, the use of RIA is still limited as expertize and operational tools in this field are lacking.

4.2 Priority for Future Reform in Individual Economies

Further strengthen coordination within the government regulatory decisions. In 2014, China sets up the leading group to lead the work to comprehensively deepen reform with President Xi Jinping as its head. The leading group is a high-level coordinating body for improving regulation and coordination in the field of reform, and will deploy national important reform, promote regulatory reforms, and coordinate to promote the formation of regulatory reform efforts in the future. Meanwhile, it will optimize the institution, functions and work procedure of the regulation organizations to effectively improve regulatory efficiency.

Further remove the control of government over the market by deepening the reform of administrative approval system. Minimize center government's management on micro affairs to the maximum. Abolish administrative approvals where market mechanism can effectively regulate economic activities, and standardize the management and improve the efficiency to those administrative approval affairs maintained. As to those economic and social matters directly to the grass roots and with large quantity and coverage, the administrative approvals should be decentralized to local and grassroots management. In order to make the market can play a decisive role in allocating resources; the market price mechanism should be improved. The prices that can be determined by the market should be determined by the market without undue government interference. The government can only determine the prices in specific domains such as important public services, network-based natural monopoly sectors, and liberalize all the prices in competitive domains.

Regulatory reform will more strictly follow the principle of trade liberalization and fair competition. China will accelerate the formation of a modern market system with fair competition, consumers' freedom of choice, free movement of goods and factors of production and equal exchange. The efforts need to be made to remove market barriers and improve the efficiency of resource allocation and fairness. All of corporate investment projects should be independently and legally decided by the corporations themselves without administrative approvals, except those projects related to national security, ecological security, deployment of major national productive forces, exploitation of strategic resources and major public interest. Implement unified market access system. Based on development of a negative list, all types of market players can access to the domains outside the negative list equally and legally. Explore a management mode for foreign investments with pre-establishment national treatment and negative list. Promote the reform of domestic trade circulation system and develop the business environment of legalization. Clean up and abolish a variety of rules and practices which are harmful to a unified national market and fair competition, strictly prohibit and punish all kinds of illegal acts to implement preferential policies, oppose local protection, monopoly and unfair competition. Establish and improve social credit system, which praises the integrity and disciplines the dishonesty. Promote government procurement of services, and introduce competition to all transactional management services in principle. Government procurement should be implemented through purchase contract, commission and other means.

Establish and improve the RIA. In the future reform, China's regulatory system should be compatible with OECD-APEC RIA system. The capacity on data collection and operational tools development should be strengthened.

Hong Kong, China

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

(A) Internal coordination of rulemaking activity and regulatory impact assessment

1.1.1 In Hong Kong, China (HKC), a full Regulatory Impact Assessment (RIA) study is not compulsory for new regulatory proposals. However, it is often conducted for major policy proposals. The Government of Hong Kong Special Administrative Region (HKSARG) has issued clear internal guidelines to ensure that prior to formulating new policies and legislation, all Policy Bureaux/Departments are required to assess the impacts of such policies and legislation on government finance, civil service, sustainable development, economy (covering trade, competition, jobs and business compliance cost), productivity, the environment, and human rights and should be submitted to the Executive Council¹ for deliberation. An assessment of the merits of viable regulatory and / or non-regulatory options would also be taken into consideration.

1.1.2 All major policy proposals to the Executive Council require prior endorsement from the Policy Committee comprising all principal officials. Starting from August 2012, this mechanism has been strengthened by setting up several specific policy groups under the Committee. These groups provide an institutional platform for a smaller group of senior officials of government agencies concerned to be involved early in the process of policy formulation and coordination, including evaluation of options, and identifying and resolving policy, resource and political issues.

1.1.3 The HKSARG 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 (<http://www.legco.gov.hk/general/english/bills/bill1213.htm>). A Legislative Council brief is published for every bill to be examined by the Council in the current year. The brief contains information on implications of the regulatory proposal, which cover financial, civil service, economic, productivity, environmental, sustainability and human rights impacts.

(B) Public consultation mechanism

1.1.4 The Government has issued a General Circular to set out the policy and principles of public consultation and the importance of keeping the public informed of the results of consultation

¹ The Executive Council is an organ for assisting the Chief Executive of the HKSAR in policy-making. The Chief Executive of the HKSAR shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council and making subordinate legislations, among others.

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. A business consultation e-platform (<http://www.gov.hk/bizconsult>) 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. Its mobile apps are also available for free download from the iPhone App Store and Google Play by searching for “eabfu”.

1.1.5 The Legislative Council invites views from the general public in scrutinising major regulatory proposals which may cover subsidiary legislation. Views are collected in the form of oral presentations at the subject meetings or written submissions through fax/ emails. All submissions received will be made available to the Administration, the media and the public, and uploaded onto the website of the Legislative Council (http://www.legco.gov.hk/general/english/sec/invite_s/invite_s.htm). For enabling informed comments by the public, a Legislative Council brief and the bill (draft legal documents) are published in the website.

(C) Coordination mechanisms within the government to promote regulatory coherence and training and capacity building programmes for rule makers and regulators

1.1.6 The business facilitation and regulatory review program under the leadership of the Financial Secretary coordinates the efforts of all government bureaux and departments, using several specialized bodies.

1.1.7 The Business Facilitation Advisory Committee (BFAC) advises on the priority for conducting regulatory reviews of selected sectors and sets up dedicated sector-specific task forces to carry out the reviews. The task forces usually invite the relevant industry stakeholders to take part in the reviews. The BFAC advises and reports to the Financial Secretary on the development and implementation of programs and measures to facilitate business compliance with Government regulations. This serves as a channel for the senior management of the HKSARG to monitor regulatory reform progress.

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

1.1.9 Good regulatory practice (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.

1.2 Strategy and program for improving regulatory practices

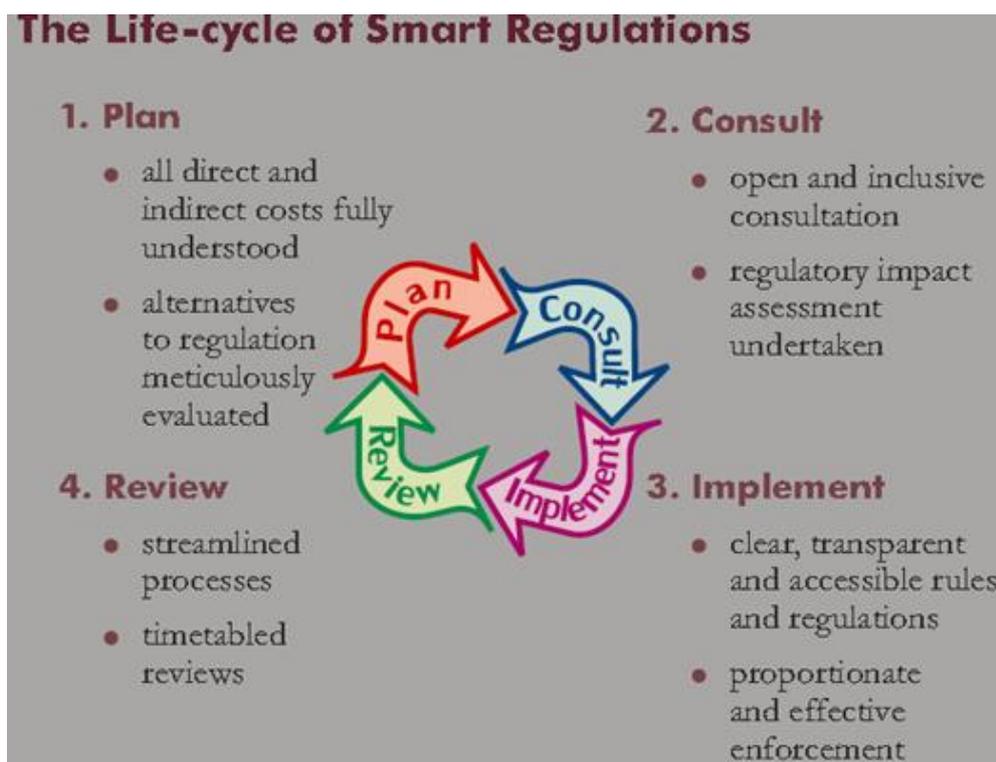
1.2.1 The HKSARG has reported that, in all practical circumstances, HKC's regulation, competition and market openness policies do not discriminate between goods, services, or service suppliers in like circumstances, be they foreign or domestic. There are rare and well-defined situations where suppliers 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.

1.2.2 The HKSARG 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 programme.

“Be the Smart Regulator” Programme

1.2.3 The HKSARG has implemented the “Be the Smart Regulator” Programme since 2007 to take forward reform measures to further improve the licensing regime and reduce compliance costs to business.

1.2.4 The “Be the Smart Regulator” Programme has published a set of GRP principles for regulators. The principles cover the areas in the figure below.



1.2.5 Under this Programme, the EABFU and the Efficiency Unit (EU) jointly co-ordinate with 30 relevant bureaux/departments to make various improvements (including legal, procedural and technological solutions) to their business licensing services in terms of efficiency, transparency and customer-friendliness, while safeguarding public interests.

1.2.6 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.

1.2.7 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 license issuance.

1.2.8 Performance pledges are established and reviewed periodically for continuous improvement. The regulatory reviews are built into civil service performance standards. So far, 28 B/Ds have provided 64 new/revised departmental performance pledges and 68 new/revised licensing guides to improve the efficiency and transparency of the licensing regime for business.

1.2.9 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 900 issues raised at the BLG meetings have been clarified or resolved.

1.2.10 As part of the initiatives under the “Be the Smart Regulator” Programme, the EABFU has developed a Business Impact Assessment (BIA) framework and a Business Compliance Cost (BCC) framework to assist bureaux/departments in conducting BIA on their regulatory proposals at an early stage of policy formulation. Through conducting BIAs, unreasonable regulatory or licensing requirements can be avoided and compliance costs and administrative burdens on businesses can be minimized without compromising public interest.

1.2.11 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. The BIA serves to help bureaux and departments assess the implications of their regulatory proposals and explore ways to minimize the regulatory impact on business.

1.2.12 The BIA framework 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 (including the analysis of potential costs and benefits to all the affected business stakeholder groups and the impact on competition and small and medium-sized firms). The fourth stage consolidates assessment results and recommends refinements to regulatory proposals (including mitigation measures and monitoring/evaluation mechanisms).

1.2.13 The BCC framework together with an IT tool (developed by the EABFU in 2012) assists bureaux/departments in assessing the business compliance costs and administrative burdens in a structured and consistent manner, and can be used for ex ante assessment of compliance costs of regulatory proposals and ex post assessment of compliance costs of existing regulations.

1.2.14 The “Be the Smart Regulator” Programme also recommends open and inclusive consultation -

- Start early – before proposals are developed
- Consult widely – include the views of industry, professionals, academics and the community
- Use quantitative (surveys) and qualitative (interviews, focus groups, etc) techniques to gain a full understanding of different views
- Provide easy access (typically Internet-based) to consultation papers, regulatory impact assessments, etc
- Explain rationale for positive and negative decisions before they are taken on board

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		Please refer to Section 1.1.3
Has the government published a set of good regulatory principles applicable across the government?	✓		Please refer to Section 1.2.3 – 1.2.4
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		Please refer to Section 1.1.6 – 1.1.7 and 1.2.5
Does the government systematically review regulations for cost and effectiveness?	✓		Please refer to Section 1.1.8, 1.2.5 – 1.2.9
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		Please refer to Section 1.1.1 – 1.1.3, 1.2.10 – 1.2.12

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		Please refer to Section 1.1.1 – 1.1.3, 1.2.10 – 1.2.13
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		Please refer to Section 1.1.1 – 1.1.2
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		Please refer to Section 1.2.10 – 1.2.13
How are [trade friendly] alternatives to regulation assessed?	✓		In assessing regulatory impacts, subject bureau/departments will consult trade officials, as appropriate.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		Please refer to Section 1.1.4 – 1.1.5
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		Please refer to Section 1.2.14

Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		The “Be the Smart Regulator” Programme recommends that regulators “explain the rationale for positive and negative decisions before they are taken on board.”
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2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

All legislation of Hong Kong, China is available online. It is also a common practice for regulatory bodies to put their regulations on their websites accessible to the public.

Public 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.

(2) Prospective regulatory planning including forward-looking regulatory agendas

Please refer to Section 1.1.1 – 1.1.5.

(3) Reviews of existing regulations

Please refer to Section 1.1.6 – 1.1.9, 1.2.1 – 1.2.2.

3. Experiences of APEC economies (case studies)

Please refer to Section 1.2.3 – 1.2.14.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

Challenges encountered in assessing impacts of regulation:

4.1.1 Some benefits and costs are difficult to quantify/monetise, such as the social and environmental impacts. Even with the appropriate methodology, relevant or meaningful data may not be always available. The spill-over effects on other sectors/policy areas may not be readily identifiable, and that the exercise to quantify the impacts could be highly technical.

4.1.2 There are inherent difficulties in forecasting future events. In particular, unexpected changes may occur during or after ex ante impact assessment. New circumstances and challenges may arise and change the social, economic and business environment. Data availability is often a concern too. Moreover, an approach or policy that is likely to deliver the greatest net benefit to society at a particular point in an economic cycle may turn out to be detrimental at another point in the cycle.

4.1.3 Research capabilities to identify regulatory and non-regulatory alternatives as well as international approaches are subject to time, manpower and resources constraints. Moreover, international best practices may not be applicable in the light of different socioeconomic settings as well as the distinctive local culture and systems. It is therefore important to ensure that the regulatory approach could cater for the local circumstances while on par with international best practice. There is the need to be mindful of the risk of stifling innovation and investment by premature regulatory intervention. At times, non-regulatory measures may be just as effective in achieving the public policy need(s) / policy goal(s).

4.1.4 Connecting all sectors of the community in order to identify the public need for any new regulation, and to conduct regular research and market analysis of any proposed regulatory policy change/new policy in a timely manner can be a challenge. In addition, public opinions may be divergent or even polarised. It is not easy to balance the interests of different parties.

Challenges encountered in ensuring internal coordination of rulemaking:

4.1.5 Justifying investment in permanent mechanisms for cross agency co-ordination rather than dealing with each rulemaking exercise on its own merits under a lead agency is challenging. In some cases, such mechanisms may promote the development of expertise and quality of regulatory practice over time, but may lengthen processes.

4.1.6 The regulatory policy goals and strategies initially communicated may be subject to subsequent changes in the light of evolving environment or other unforeseen incidents. Some policies are required to “keep-up” with the fast pace of regulatory reform at international level (e.g. financial regulations), which is resource demanding.

Challenges encountered in conducting public consultation:

4.1.7 It is challenging to balance the needs for transparency and efficiency in the decision-making process. At times, it is difficult to identify and reach all stakeholders concerned. Even if concerned stakeholders are engaged, sometimes they are not keen to offer their views on regulatory proposals. There are also difficulties in inviting the silent majority to express their views in order to achieve balanced public consultation.

4.1.8 Not all new regulations could be put for public consultation as some new regulations only affect specific groups of stakeholders and the general public may have no interest involved. Some regulations are too technical or complex to engage public opinions. In this circumstance, industry and expert advice may be consulted instead.

4.2 Priority for future reform in individual economies

HKC 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 impacts on government finance, civil service, sustainable development, economy (covering trade, competition, jobs and business compliance cost), productivity, the environment, and human rights, before formulation of new policies and legislation.

With the advent of online social media and other channels for expression of opinions, HKC is considering ways to engage the public especially young people through the Internet.

Indonesia

Developments in Good Regulatory Practices

The following materials provide an update of Indonesia's development of good regulatory practices. It draws from the 2012 OECD Regulatory Reform Review of Indonesia – which provides an independent and objective assessment of Indonesia's reforms. This has been supplemented with information on recent developments since the completion of this assessment.

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

Indonesia has several institutions within the executive branch that have responsibility for overseeing regulatory decision making. These include:

- The state and cabinet secretariats;
- The National Development Planning Agency (Bappenas);
- Three co-ordinating ministries (economic affairs; people's welfare; as well as political affairs and security);
- The Ministry of Law and Human Rights – and its Directorate General for Laws and Regulations and National Law Development Agency; and
- The Ministries of Home Affairs and Finance.

However, Indonesia has yet to establish a single institution neither to oversee good regulatory practices nor to ensure that laws/regulation serve a whole-of-government policy. It should be noted that the government of Indonesia has a moratorium on the creation of new institutions. Within this context, it is possible that the existing institutions could play a role in overseeing good regulatory practices.

The State and Cabinet Secretariats gateway for new central government regulatory proposals (i.e. laws, government and presidential regulations), and have authority to return regulatory proposals if deemed unsatisfactory. The State Secretariat focuses on the formulation of bills, draft government regulation in lieu of law and draft government regulations. The Cabinet Secretariat focuses on presidential regulations, decrees and instructions.

The National Development Planning Agency (Bappenas) is responsible for formulating medium-term national development policies and plans. Bappenas' Directorate for the Analysis of Laws and Regulation has previously developed a Regulation Framework Analysis Model for proposed bills and sub-national regulations and the Law and Regulation Analysis Model for reviewing and simplifying existing laws and regulations. However, these tools have not been adopted in the rule making process.

Three co-ordinating ministries oversee implementation of the National Medium Development Plan (RPJMN) in their respective domains (i.e. economic affairs; people's welfare; as well as political affairs and security). Among the co-ordinating ministries, the Co-ordinating Ministry for Economic Affairs plays the lead role in relation to international regulatory obligations (e.g. APEC, ASEAN) – and in the interactions with the OECD Regulatory Policy Committee.

The Ministry of Law and Human Rights co-ordinates the formulation of the forward regulatory plan (PROLEGNAS), reviews the legal harmonisation of regulatory proposals and provides non-binding guidance on the preparation of regulatory proposals.

The Ministries of Home Affairs and Finance focus on coherence of sub-national regulations with the public interest and higher-order regulation. The Ministry of Home Affairs establishes procedures for the review of regulations issued by both the sub-national houses of representatives and sub-national executives. The Ministry of Home Affairs works closely with the Ministry of Finance's Directorate General of Sub-national Financing in relation to subnational regulations that impose taxes and charges.

1.2 Strategy and program for improving regulatory practices

There has been a growing awareness and understanding in the government of Indonesia during the last decade of the role of regulatory reform in facilitating economic development.

In order to assist in the development a more comprehensive strategy and program for its improving regulatory practices, the government of Indonesia requested the OECD to conduct a Regulatory Reform Review in 2010. Indonesia is the first ASEAN Member State to undergo a Regulatory Reform Review by the OECD. The OECD has conducted such reviews of a number of APEC member economies: Australia (in 2010), Canada (2002), China (2009), Japan (1999 and 2004), Korea (2000, 2007), Mexico (1999, 2004, 2011, 2014), Russia (2005) and the United States (1999).

The Coordinating Ministry of Economic Affairs and the Ministry of Law and Human Rights are currently developing Guidelines on Public Consultation. The initiative follows from the recommendations of the OECD Regulatory Reform Review and supports Indonesia's implementation of the Honolulu Leaders' Declaration 2011, Appendix-D on Strengthening Good Regulatory Practices. This initiative is financially supported by the APEC (Supporting Good Regulatory Practices: Improving Public Consultation Mechanism in Indonesia), with technical inputs from the OECD.

The proposed guidelines aims to significantly enhance efforts by Indonesia to ensure new regulatory initiatives are developed in an open and transparent process that ensure the benefits of these reforms are shared by stakeholders and disruption to the public caused by reform activities is minimized. The government of Indonesia has established an interministerial group involving all of the institutions within the executive branch that have responsibility for overseeing regulatory decision making. A first draft of the guidelines have been prepared and discussed, and consultation with representatives of business and civic organisations planned for later in 2014.

The National Development Planning Agency (Bappenas) is developing a workplan to improve regulatory decision making and improve the quality of regulation, under the 2015-2019 RPJMN. This workplan proposes to strengthen the role of 5 (five) institutions i.e. Ministry of Law and Human Rights, Ministry of Home Affairs, Ministry of Finance, State Secretariat and Bappenas to be the regulatory oversight bodies in Indonesia. These institutions will provide policy recommendation as well as to determine the set of requirements for draft regulations proposed by ministries/agencies in Indonesia in accordance to the main objectives of the RPJMN. The workplan is currently under development and is expected to be promulgated in early 2015.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		The Ministry of Law and Human Rights together with the Legislative Committee (Baleg) of the People's House of Representatives jointly prepare a five-year national regulatory agenda (PROLEGNAS) and establish annual regulatory priorities. However, the PROLEGNAS only applies to bills and amendments of laws and not implementing regulations. Law 12/2011 on the Formulation of Laws and Regulations envisages the creation of regulatory plans for implementing regulations, however, to date no such plans have been published.
Has the government published a set of good regulatory principles applicable across the government?	✓		These are established in Law 12/2011 on the Formulation of Laws and Regulations. These principles explicitly refer to: <ul style="list-style-type: none"> • Clarity of purpose and objective (kejelasan tujuan); • Appropriate institutional authority (kelembagaan atau pejabat pembentuk yang tepat); • Appropriate type, level and content (kesesuaian antara jenis, hierarki, dan materi muatan); • Able to be implemented (dapat dilaksanakan); • Empowerment and results-oriented (kedayagunaan dan kehasilgunaan); • Clear formulation (kejelasan rumusan); and • Openness (keterbukaan)
Does the government have a capacity to manage a government-wide program of	✓		Indonesia has several institutions within the executive branch that have responsibility for overseeing regulatory decision making:

regulatory reform?			<ul style="list-style-type: none"> • The state and cabinet secretariats; • The National Development Planning Agency (Bappenas); • Three co-ordinating ministries (economic affairs; people's welfare; as well as political affairs and security); • The Ministry of Law and Human Rights – and its Directorate General for Laws and Regulations and National Law Development Agency; and • The Ministries of Home Affairs and Finance. <p>All ministries are responsible for formulating, establishing and implementing policies in their respective fields. To do so they are supported internally by agencies and centres to conduct research and development, develop human resource capabilities, manage data and information to provide analytical support and recommendations and increase capabilities of the ministry. Those with responsibility within ministries for ensuring quality regulations often found in a number of different units including policy research and development agency (badan penelitian dan pengembangan) and policy harmonisation and analysis centres (pusat analisis dan harmonisasi kebijakan). It is also often found in the legal bureau (biro hukum) because of its responsibility for legal review of laws and regulations.</p>
Does the government systematically review regulations for cost and effectiveness?		✓	
Are trade and competition principles integrated into regulatory reviews and analysis?		✓	

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?		✓	Law No. 12/2011 on the Formulation on Laws and Regulations requires that proposed bills from the House of Representatives, Regional Representative Council or President of the Republic, as well as draft sub-national government regulations, be based on a standardised academic study (naskah akademis). The focus of academic studies is to justify the government's intervention and choice of instrument prior to discussions on a proposed bill and draft sub-national government regulation.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?		✓	
Does the impact assessment include a reasonable		✓	

selection of a preferred option, based on the potential major impacts, both negative and positive?			The 2012 OECD Regulatory Reform Review of Indonesia noted that the concept of the academic study shares a number of similarities with RIA. First, its aims to improve the design of regulation by assisting policy makers to identify the specific policy need and objective of the regulation. Second, it is intended to be integrated early into the policy making process, as is a prerequisite for initiating formal discussions on laws and sub-national regulations. Third, responsibility for the preparation of academic studies principally resides with the institution that is initiating the bill or draft sub-national regulation. Fourth, its introduction as a formal requirement was supported by the highest political levels, having been agreed upon both by the President of the Republic and the House of Representatives. However, the OECD noted that academic studies also share a number of significant differences with RIA. First, academic studies are to be applied equally to all bills and draft sub-national regulations, but not at all for their implementing regulations. Second, academic studies do not explicitly require an assessment of the quantitative impact, including direct (administrative and financial) and indirect (opportunity) costs borne by business, citizens or government. Third, academic studies are treated more from a compliance perspective – rather than to support decision making.
How are [trade friendly] alternatives to regulation assessed?		✓	

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?		✓	The Coordinating Ministry of Economic Affairs and the Ministry of Law and Human Rights are currently developing Guidelines on Public Consultation. The initiative follows from the recommendations of the OECD Regulatory Reform Review and supports Indonesia's implementation of the Honolulu Leaders' Declaration 2011, Appendix-D on Strengthening Good Regulatory Practices. This initiative is financially supported by the APEC (Supporting Good Regulatory Practices: Improving Public Consultation Mechanism in Indonesia), with technical inputs from the OECD.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?		✓	The proposed guidelines aims to significantly enhance efforts by Indonesia to ensure new regulatory initiatives are developed in an open and transparent process that ensure the benefits of these reforms are shared by stakeholders and

Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?		✓	disruption to the public caused by reform activities is minimized. The guidelines are intended to address issues of publishing draft documents, time and modalities for public comment and the government's responsibilities to respond / provide feedback on how comments were addressed. The government of Indonesia has established an interministerial group involving all of the institutions within the executive branch that have responsibility for overseeing regulatory decision making. A first draft of the guidelines have been prepared and discussed, and consultation with representatives of business and civic organisations planned for later in 2014.
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2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

Laws, government regulations and presidential regulations must be published in the Gazette of the Republic of Indonesia (Lembaran Negara Republik Indonesia), with an explanatory note accompanying a law and regulation published as an annex to the Gazette of the Republic of Indonesia (Tambahan Lembaran Negara Republik Indonesia). President Regulation No. 1/2007 on the Approval, Promulgation and Distribution of Laws and Regulations requires that government regulations in lieu of law, government regulations and presidential regulations must be published in the Gazette of the Republic of Indonesia. Law No. 12/2011 makes publication of the law and regulations in the Gazette of the Republic of Indonesia the responsibility of the Minister of Law and Human Rights.

Dissemination must happen through print and electronic media, among other methods – though there is no single on-line location for regulatory information. The State and Cabinet Secretariats, secretariats of public institutions and sub-national secretariats are required to maintain an Internet-based law/regulation information system. State and Cabinet Secretariats are required to publish information on laws/regulations that are approved or issued by the President of the Republic. Secretariats of public institutions, ministries and sub-national governments are required to provide information on laws/regulations issued by the head of their organisation, minister, sub-national head of government, respectively. Other public institutions may operate and maintain their own information system.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The National Legislative Programme (PROLEGNAS) is the legislation mechanism to issue new laws or to amend existing laws over the government's five-year term. Sub-national governments are required to establish an annual regulatory programme (PROLEGDA). These forward-looking regulatory agendas are required by Law No. 12/2011. The output of this process is list of priorities of bills (draft laws) which will be issued annually by House of Representatives (DPR). The list of

priorities draft laws or PROLEGNAS could be accessed through the website of Ministry of Law and Human Rights at <http://bphn.go.id/prolegnas>.

Bills and draft sub-national regulations included in the Prolegnas and Prolegda must be accompanied by information on their proposed objective, scope and outcomes. This information is to be drawn from a mandatory academic study (naskah akademis), discussed below. The Prolegnas annual priorities and the Prolegda are subsequently to be voted by the plenary of their respective house of representatives before a vote on the annual budget law. In principle, this timing is to ensure that the Prolegnas and Prolegda are included in the annual work plans and budget of government institutions.

The PROLEGNAS and PROLEGDA are prepared jointly by their respective house of representatives and executives. The houses of representatives' legislative drafting units co-ordinate input from political factions, committees and members within their respective house of representatives as well as the general public. The Ministry of Law and Human Rights and sub-national legal departments co-ordinate input from their ministries/sections at their respective level of government. The Ministry of Law and Human Rights support sub-national governments in the formulation of their PROLEGDA. There is, however, no specific responsibility or mechanisms for co-ordinating the programmes between different levels of government. Nor are sub-national governments required to share their respective PROLEGDA with any national government entity to support a more whole-of-government approach.

PROLEGNAS and PROLEGDA do not provide any information of potential costs of the draft laws and regulations once they are implemented.

(3) Reviews of existing regulations

The 2010-14 medium-term national development plan establishes a goal to review of only sub-national government regulations. It sets out to target 12 500 sub-national regulations: 3 000 in 2010, 9 000 in 2011, 3 000 in 2012, 2 500 in 2013 and 2 500 in 2014. While the national government met this target in 2010, priority has focused on regulation imposing illegal taxes and user charges rather than other economic impact, raising concern over the impact of the review process. Moreover, where attention focuses on programmes of administrative simplification by the national government it is narrowly on reducing the processing time for licensing rather than questioning the necessity of licenses.

The National Development Planning Agency (Bappenas) is the agency who responsible for formulating national medium-term development plans (RPJMN). The RPJMN forms the basis for the ministries and government agencies in formulating their respective Strategic Plans (Renstra K/L) includes the vision, mission, goals, strategies, policies, programs, and development activities related with the duties and functions of the Ministry / Institution. In this regard, Bappenas took the initiative to: *i*) inventorise draft and existing laws and regulations; *ii*) review and evaluate draft and existing laws and regulations; *iii*) co-ordinate and harmonise draft and existing laws and

regulations at national and sub-national levels; *iv*) formulate policy recommendations on draft and existing laws and regulations; and *v*) make available information on the results of analysis of draft and existing laws and regulations. These initiatives are one of the tools to monitor ministries/agencies are on the right directions to achieve their objectives as stated on the Ministries' Renstra.

3. Experiences of APEC economies (case studies)

As noted in the previous sections, the Coordinating Ministry of Economic Affairs and the Ministry of Law and Human Rights are currently developing Guidelines on Public Consultation. The government of Indonesia will be pleased to share this experience in due course.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

- No institution for co-ordination and oversight of regulatory policy
A number of national government institutions have responsibility for regulatory management, however, No single institution considers regulatory co-ordination & oversight as its formal responsibility

Narrow *ex ante* assessment of proposed laws and regulations

- Assessment focused on philosophical, sociological & juridical not economic cost-benefit
- Assessment results not systematically used as basis for consultation & decision making

Limited *ex post* evaluation of laws and regulation

- The *ex post* review is as the government approach to review of stock of sub-national regulations which focus to assure coherence of sub-national regulation with higher order regulation not to assess impact of regulation

4.2 Priority for future reform in individual economies

As noted in the previous sections, The National Development Planning Agency (Bappenas) is developing a workplan to improve regulatory decision making and improve the quality of regulation, under the 2015-2019 RPJMN. This workplan proposes to strengthen the role of 5 (five) institutions i.e. Ministry of Law and Human Rights, Ministry of Home Affairs, Ministry of Finance, State Secretariat and Bappenas to be the regulatory oversight bodies in Indonesia. These institutions will provide policy recommendation as well as to determine the set of requirements for draft regulations proposed by ministries/agencies in Indonesia in accordance to the main objectives of the RPJMN. The workplan is currently under development and is expected to be promulgated in early 2015.

Japan

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

i) Mechanisms or bodies to enable internal coordination of rulemaking activity

On January 23, 2013, the Japanese Government established the “Council for Regulatory Reform” within the Cabinet Office. The Council explored and discussed regulatory reforms that could help economic and social structural reform. On June 5, 2013, the Council presented its findings to the Prime Minister in a report entitled “Report on Regulatory Reforms”

Based on the findings of the report, the Cabinet decided a plan to implement regulatory reforms (Implementation Plan for Regulatory Reform) on June 14, 2013. The plan aimed to immediately start implementing needed reforms of regulations, systems and applications mentioned in the findings by setting their implementation deadlines.

ii) Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism

Based on the Government Policy Evaluations Act, individual administrative organs have been conducting policy evaluation. Further, on the basis of the Cabinet Order for Enforcement of the Government Policy Evaluation Act, individual administrative organs are required to implement ex-ante evaluation of regulations. Ministry of Internal Affairs and Communications (MIC) has administrative jurisdiction over the Government Policy Evaluation Act and the Cabinet Order for Enforcement of the Government Policy Evaluation Act, and is working towards improving the quality of ex-ante evaluation of regulations. For example, it has developed the Implementation Guidelines for ex-ante Evaluation of Regulations. While individual administrative organs conduct ex-ante evaluation of regulations on their own responsibility, MIC has been conducting examination in terms of improvement of the quality of the evaluation.

As a part of “public consultation mechanism”, the Administrative Procedure Act (APA) requires “Organs Establishing Administrative Orders, etc.” to implement the Public Comment Procedure (PCP) when they establish “Administrative Orders, etc.” However, not all procedures are necessarily implemented based on this, because of the provision of exclusion from application, and existence of voluntary public comment procedures. While MIC has administrative jurisdiction over the APA, MIC does not “oversee” each public comment procedure because administrative organs should conduct PCP under their own responsibility and in conformity with the APA.

iii) Coordination mechanisms between national and sub-national level of governments to promote regulatory coherence

Each Minister may give ordinary local government technical advice or recommendations that are deemed appropriate concerning the operations of the administrative affairs and other matters. In some cases, the Minister will request the ordinary local government to submit necessary materials or information so that it can give the appropriate advice or recommendation.

iv) Institutions to oversee training and capacity building programmes for rule makers and regulators

The National Personnel Authority (NPA) oversees training conducted by each ministry (including rule makers and regulators). The NPA makes sure that each ministry conducts its training in an appropriate manner, from the viewpoint of securing fair personnel administration. In addition, the NPA conducts inter-ministerial joint training for future senior officials in each ministry, mainly in order to improve their sense of mission as servants of the whole community with strong ethical awareness.

1.2 Strategy and program for improving regulatory practices

The Cabinet decided the “Implementation Plan for Regulatory Reform” on June 14, 2013. This plan intends to promote economic and social structural reforms and to contribute to the revitalization of the Japanese economy by supporting economic activities through detecting potential demands and reviewing a wide variety of regulations. The plan also sets timelines for each regulatory reform and ensures steady implementation of reforms presented in “Report on Regulatory Reform”, submitted by Council of Regulatory Reform.

“Implementation Plan for Regulatory Reform” set regulatory reform as the contributor to national growth and development, the stabilization and improvement of people’s lives and invigoration of economic activities. From this perspective, Japan has pushed forward regulatory reform to 1) achieve economic growth that adapts to changing economic circumstances 2) offer various opportunities to people, 3) offer opportunities to entrepreneurs full of creativity and motivation and 4) ensure safety and more efficient measures.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		“Implementation Plan for Regulatory Reform” was decided by the Cabinet in June 14, 2013, which is scheduled to be revised in the middle of

			2014.
Has the government published a set of good regulatory principles applicable across the government?	✓		“Implementation Plan for Regulatory Reform” was decided by the Cabinet in June 14, 2013, which is scheduled to be revised in the middle of 2014.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		“Implementation Plan for Regulatory Reform” is decided by the Cabinet as a government-wide policy. Cabinet Office follows up on implementation status of the plan at the end of every fiscal year.
Does the government systematically review regulations for cost and effectiveness?	✓		Implementation Plan for Regulatory Reform” aimed to support economic activities through detecting potential demands and reviewing a wide variety of regulations. Cabinet Office follow-ups on implementation status of “Implementation Plan of Regulatory Reform” at the end of every fiscal year.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓ (competition)	✓ (Trade)	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 competition, such impacts shall be taken into consideration.

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		Implementation Guidelines for ex-ante Evaluation of Regulations requires administrative organs to provide the information of the problem to be solved in the document related RIAs.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		For example, cost-benefit analysis, cost-effectiveness analysis, cost analysis.
How are [trade friendly] alternatives to regulation assessed?		✓	

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓	✓ (RIAs)	Under APA, Organs Establishing Administrative Orders, etc., are required to publicly notify in advance the proposed Administrative Orders, etc., and any materials relating to the proposed Administrative Orders, etc.(Article 39),
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		Under APA, Organs Establishing Administrative Orders, etc., are required to publicly notify the results following the consideration of the submitted comments, as well as the grounds for this(Article 43(1)(iv))

2.2 Implementation of GRPs in the areas extended at the 2013 AELM**(1) Single on-line locations for regulatory information**

Administrative agencies provide information regarding legislations and orders which fall under their jurisdiction in their web sites although Japan has not established single on-line locations that provide comprehensive regulatory information.

(2) Prospective regulatory planning including forward-looking regulatory agendas

Under APA amended in 2005, Organs Establishing Administrative Orders, etc., are required to publicly notify in advance the proposed Administrative Orders, etc., and any materials relating to the proposed Administrative Orders, etc. (APA Article 39). They are also required to publicly notify the results following the adequate consideration of the submitted comments in PCP, including the grounds for this (APA Article 43 (1) (iv)).

On June 14, 2013, the Cabinet decided “Implementation Plan for Regulatory Reform” as a government-wide policy. This plan intends to promote economic and social structural reforms and to contribute to revitalization of the Japanese economy by supporting economic activities through detecting potential demands and reviewing a wide variety of regulations. The plan also sets timelines for each regulatory reform and ensures steady implementation of reforms presented in “Report on Regulatory Reform” submitted by Council of Regulatory Reform. The implementation plan is scheduled to be revised in the middle of 2014.

(3) Reviews of existing regulations

Cabinet Office actively promotes reforms stated under “Implementation Plan for Regulatory Reform” and follows up on implementation status of the plan at the end of every fiscal year, which is reported to Council for Regulatory Reform and disclosed to the public.

“Hotline on Regulatory Reform” was established on March 22, in 2013, which received requests about regulatory reform including simplification of a wide variety of procedures, from citizens and business communities. Cabinet Office requires relevant ministries and agencies to respond to the requests on a timely basis and summarize the responses, which are then published to the citizens and reported to Council for Regulatory Reform.

Furthermore, for the purpose of constructing “the most business friendly country in the world” and “the best country to live in the world”, the Japanese government utilizes “International Benchmark Test” which examines whether regulations of Japan are cutting edge with respect to need and reasonableness of each regulation in comparison with international standards.

3. Experiences of APEC economies (case studies)

Recent effort of regulatory reform can be seen in the three pronged economic strategy of Abe administration. As an important basis composing the “Growth Strategy”, which is the third arrow of the economic strategy, Council for Regulatory Reform has proactively discussed regulatory reforms which have immediate effect on economic recovery and which are especially urgent. The council compiled “Report on Regulatory Reform”. Based on the report, the Cabinet decided “Implementation Plan of Regulatory Reform”.

Regulatory review in Japan is also organized around the concept of special zones. Currently, three Special Zone initiatives that take regulatory special measures have been promoted in Japan.

Special zones for structural reform 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. By advancing structural reform in the region where they are located, reform zones are designed to stimulate the local economy and in effect that of Japan as whole. The government has so far invited proposals for special regulatory measures on 25 occasions; as a result, 234 regulatory reforms have been carried out in special zones and 541 at the nationwide level, for a total 775 (as of May 2014).

Since applications for special zones for structural reform began being accepted in April 2003, a total of 1218 zones have been established throughout Japan (as of May 2014), each with its own distinctive character. (<http://www.cao.go.jp/en/minister/specialzones.html>)

As a further regulatory reform promotion, Comprehensive Special Zone (CSZ) initiative started in 2011. This initiative is a project-based one aiming at developing industrial clusters and maximum

use of regional resources. The government designates CSZ for two types of objectives: the CSZ for International Competitiveness Development and the CSZ for Local Revitalization. In the CSZ system, the government carries out special measures not only for regulatory exceptions but also for tax, fiscal and financial support. Under this initiative, councils comprised of ministries concerned and local governments of designated areas hold regular discussion on the issues concerning regulations which seems to impede the progress of each zone's project. 7 CSZs for International Competitiveness Development and 41 CSZs for Local Revitalization have been designated by September 2013.

In addition to the measures mentioned above, the Japanese Government started National Strategic Special Zone (NSSZ) initiative in 2013 to promote further regulatory reform. NSSZ is like a drill bit that is strong enough to break through the solid rock of vested interests. In the NSSZs set by the central government, regulatory reforms and other measures are carried out intensively and comprehensively to enhance international competitiveness of industries and to promote the formation of international centers for economic activities. The government designated six areas as NSSZs in May 2014. (Six areas include Tokyo area and Kansai area as "The international business and innovation hubs", Niigata city and Yabu city as "The reform centers for agriculture", Fukuoka city as "The reform centers for employment system"; and Okinawa prefecture as "The international tourism center").

As for Public Consultation, APA was established to provide common rules concerning procedures for dispositions, administrative guidance and notifications, and procedures for establishing "Administrative Orders, etc.", The Act aims to advance a guarantee of fairness and progress towards transparency in administrative operations. The APA was amended in 2005 and this amendment established PCP as a legal procedure.

MIC conducted the survey on the implementation of the PCP under APA of FY2009 and published the result on December, 2010. According to the result of the survey, in 136 cases (32.5%) among 418 cases where comments were submitted, the submitted comments have been reflected in the proposed regulations and the draft of "Administrative Orders, etc." have been revised in consideration of the submitted comments.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

Japan has taken a series of steps that are consistent with the GRP recommended by APEC. 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" (OECD Reviews of Regulatory Reform - Japan: Progress in Implementing Regulatory Reform. 2004)

In last decade, Japan has continuously made progress in the area of regulatory policy. In 2005, Japan amended the Administrative Procedure Act. It now requires that public comments are legally mandatory when national administrative agencies enact orders such as cabinet orders and ministerial orders. The purpose of this amendment was to seek to advance a guarantee of fairness and progress towards transparency in administrative operations by providing for “Public Comment Procedure, etc.”, as common rules concerning procedure for establishing “Administrative Orders, etc.”

To expedite regulatory reform, the Council for the Regulatory Reform established within the Cabinet Office is taking charge of the study and deliberation of regulatory reform. Cabinet Office actively promotes the reforms stated under “Implementation Plan for Regulatory Reform” and follows up on implementation status of the plan, which is reported to Council for Regulatory Reform and disclosed to the public. Furthermore, Cabinet Office is implementing the formulation of system for functioning PDCA cycle so that each ministry can voluntarily and actively promote regulatory reform on its own.

4.2 Priority for future reform in individual economies

The aims of regulatory reform are the contribution to the national growth and development, stabilization and improvement of people’s lives and invigoration of economic activities. From this perspective, Japan pushes forward regulatory reform with an eye on achieving economic growth fit to changing economic circumstances, offering various options to people, offering opportunities to entrepreneurs full of creativity and motivation and ensuring safety by more efficient measures.

Republic of Korea

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

- Regulatory Reform Committee

An overall framework of the Regulatory Reform policy is formulated by the central and local regulatory bodies, including the Regulatory Reform Committee (RRC), ministries and local governments.

The RRC was created by the 1997 Basic Act on Administrative Regulations (BAAR), under the authority of the President. The RRC is composed of 22 members, 15 of whom are from the private sector and 7 are government officials from various departments. The RRC is jointly chaired by the Prime Minister and one member from the private sector appointed by the President. The RRC is responsible for deliberation and coordination of each of the following.

- (1) Setting the basic direction of regulation policy as well as research and development of regulatory institutions
- (2) Items that pertain to the review of the establishment or reinforcement of new or existing regulations
- (3) Review of existing regulations, establishment and implementation of a comprehensive plan on regulatory improvement.
- (4) Registration and promulgation of regulations
- (5) Gathering and processing opinions on regulatory reform
- (6) Inspection and evaluation of the progress made by administrative agencies on different levels in terms of regulatory improvement

- Regulatory Reform Office

The secretariat function supporting the RRC is undertaken by the Regulatory Reform Office (RRO) which is located in the Prime Minister's Office. The RRO conducts annual evaluations on regulatory reform of each ministry. Each ministry should submit a regulatory reform plan and is evaluated the results on a yearly basis.

- Ministries and Local Governments

Each ministry and local government also established its own regulatory reform group to review regulations that are either to be introduced or amended.

1.2 Strategy and program for improving regulatory practices

Korea is reforming its regulatory system in a rational and transparent manner based on the following six major regulatory institutions and systems;

- (1) Legality of regulations: An administrative agency cannot impede the right of or impose duties on the people through regulations which do not have any legal basis.
- (2) Registration of regulations: Every regulation shall be registered and open to the public.
- (3) Regulatory Reviews: When each ministry introduces or strengthens its regulations, the RRC reviews the necessity and feasibility of the regulation proposals. If the regulation proposals are reviewed as unnecessary or unreasonable, the RRC advises the ministries to abolish or amend them.
- (4) Public Consultation: The government guarantees the participation of interested parties and reflects their opinions when performing regulatory reforms.
- (5) Evaluation: The Korean government annually assesses and evaluates the outcomes of its regulatory reform process.
- (6) Regulatory Information System (RIS): Through the establishment of an information system for regulatory management, the Korean government supports the regulatory reform process of central administrative agencies and local governments by providing technical support to the regulatory assessment, management of registered regulations, etc.

Based on such measures and protocols, Korea thoroughly manages regulations to ensure their effective achievement of policy goals.

In addition, even in the case of a regulation established for necessary needs, depending on changes in situations and social demands, the regulation may be given room for maneuver in terms of its application and interpretation. Also, to guarantee the freedom and creativity in corporate activities, the Korean government has boldly abolished unnecessary regulations while adopting measures for improving the quality of regulations.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		
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?	✓		
Does the government systematically review regulations for cost and effectiveness?	✓		
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		
How are [trade friendly] alternatives to regulation assessed?	✓		Assesses their effect on fair trade, investment and SMEs

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		

2.2 Implementation of GRPs in the areas extended at the 2013 AELM**(1) Single on-line locations for regulatory information**

The Korean established a regulatory information system in 2009 and has been carrying out the project for the improvement of the function. Currently, the entire life cycle of regulations has been digitized and dealt with online, including the processes pertaining to new and strengthened regulation proposals, regulatory review data, registered regulations, expired regulations, and annual regulatory reform performance reports.

The government was able to raise the regulatory quality and enhance the administrative efficiency through the systematic management of the regulatory information system.

In addition, in 2012, the government upgraded the system by integrating the regulations of the central and local governments, effectively laying the foundation for the combined management of all regulations by the government.

(2) Prospective regulatory planning including forward-looking regulatory agendas

According to the 'Comprehensive Regulatory Reform Plan', the Korean government requires the head of every central administrative body to manage and control the regulatory reform process of its agency by abolishing or easing/rationalizing unnecessary or outdated regulations.

The Regulatory Reform Committee (RRC) is the control tower monitoring such individual processes separately performed by each agency. Every year, the Committee sets the guideline for regulatory reform specifying focus areas for regulatory reform. According to the guideline, each ministry sets its own plan for regulatory reform and submits the plan to the Committee. After reviewing all the plans submitted by each ministry, the Committee aggregates them and establishes the Comprehensive Regulatory Reform Plan of the year. After deliberations at the Cabinet meeting, the plan is presented to the President before its official announcement.

On top of that, through an evaluation on the performance of regulatory reform, the Prime Minister's Office aims to encourage each ministry's effective and voluntary endeavour for regulatory reform. Particularly, the evaluation includes qualitative assessments performed by independent evaluators from the private sector, while a survey to examine the public's satisfaction level over the outcomes of regulatory reform has been introduced to ensure that reforms are carried out in a more user-oriented manner.

(3) Reviews of existing regulations

The Prime Minister's Office is in charge of managing and monitoring each ministry's reform process of regulatory easing, eliminating and rationalizing, which is based on the 'Comprehensive Regulatory Reform Plan' individually formed by each ministry.

From 2014, the scope of the 'sunset system', whose application was limited to new or strengthened regulations according to the Basic Act on Administrative Regulations, is to be expanded to existing regulations to enhance their regulatory applicability and flexibility. Further,

the application scope of the 'effect-loosing sunset system', which makes a regulation loose effect with the expiration of the sunset period, has been expanded to existing regulations, while the 'sunset for review', which reassesses the validity of regulations with the expiration of the sunset period, is planned to be introduced as well.

Also, by taking a negative approach to the application and interpretation of regulations, the government aims to change its regulatory concept in a direction of providing permissions in general while applying regulations only to the areas defined as exceptions.

The Korean Government is focusing on reducing regulations as they impose unnecessary or excessive burdens on the people and business. And it is also seeking to ease or abolish bundles of existing regulations across multiple ministries.

The RRC is in charge of conducting an annual regulatory assessment on ministries' regulatory performance. A panel of regulatory reform evaluation, which is comprised of regulatory experts from the private sector, performs the evaluation on each ministry's performance focusing on achievements. Ministries marking high grades are provided with incentives to promote the continued momentum for regulatory reform.

3. Experiences of APEC economies (case studies)

In recent years, the Korean government has been credited for making remarkable advancement in the aspect of adopting successful policies, institutions and tools for ensuring the quality of regulations (2007.2 OECD). Moreover, its regulatory approach has been changed from a regulator-centered to a user-oriented approach, while actively promoting reforms on existing regulations to ease the burdens in corporate activities.

In 2013, the Korean government shifted its focus and frame of regulations from regulators to the general public, making the system more user-oriented. By changing the principle of regulation from the positive to the negative system, the government chose to allow more and prohibit less, and established a new frame of regulation, setting a new rule which guarantees more autonomy and creativity of market players.

This negative system was first introduced to the priority areas which require market competition and creativity the most in combination with minimum influence and intervention from the administrative authorities. In this way, the Korean government could enable more freedom in business activities while inducing more investment in the market.

The Korean government has been running a program of reporting unnecessary or irrational regulations which is similar to the U.K.'s 'Red Tape Challenge.' Through this channel, anyone with any type of regulatory grievance or complaint can easily give his/her suggestions (www.better.go.kr). If the regulation is considered to be inevitable to be maintained, the reasons

and justification should be provided with by the related authority taking full responsibility of the feedback process.

At the same time, the government revised the guideline for regulatory impact analysis and introduced various measures including the sunset system to improve regulatory quality, continuing its efforts to reduce administrative burdens on the public as well as businesses.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

Areas to improve: Regulatory impact analysis

The Basic Act on Administrative Regulations defines the regulatory impact analysis as “a tool suggesting the standard for determining the validity of regulations by forecasting and analyzing possible impacts of regulations on the life of the general public as well as the overall society, national economy and administration in an objective and scientific manner.” Based on the definition, the regulatory impact analysis has been used as an effective tool for guiding the logical and rational way of regulatory decision-making by promoting the use comparative analyses of policy alternatives. And if the introduction of regulations is inevitable, the analysis encourages the pursuit of best alternatives in consideration of the cost, benefit, impacts and effectiveness of regulatory enforcement.

There is, however, a clear need for improving the system of regulatory impact analysis as, in 2015, Korea is to introduce regulatory ‘Cost-in, Cost-out.’ Under this new system, when a new regulation is adopted, another regulation among the existing regulations, which has the same regulatory cost as the new regulation, should be eliminated. To ensure the successful operation of the system, there should be a new process which is more objective and systematic than the current regulatory impact analysis. This way, the impact of regulatory policies can be estimated in a more accurate manner through a specific and detailed analysis and reviews on regulatory costs.

4.2 Priority for future reform in individual economies

As a result of years of tireless effort, Korea has learned that regulatory reform can be one of the most effective means to amplify economic growth potential and create jobs at little cost. Endeavors to relieve administrative burden on companies and people are in progress. But a successful regulatory reform also requires upgraded skills and more proactive working methods. The possibility of gap in implementation exists, as working level officials need to adopt new methods of work and interact with society. The Korean Government plans to implement the regulatory strategies and policies as effectively as possible. (End)

Malaysia

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

Malaysia aims to achieve developed nation status by 2020 and is undertaking various initiatives to enhance its competitiveness while having sustainable development and inclusive growth¹. The importance of an enabling regulatory environment for businesses and citizens is a key priority for the Government of Malaysia. Implementing good regulatory practices are seen as an important part of improving the regulatory environment, in particular the implementation of Regulatory Impact Statements or Analysis (RIA).

The Tenth Malaysia Plan (2011-15) and the Economic Transformation Programme (ETP) emphasised the importance of improving existing business regulations and removing unnecessary rules and compliance costs for better regulatory delivery.

Good Regulatory Practice (GRP) is aimed at transforming the rule-making process within the government and ultimately modernize business regulations thus ensuring the quality of new regulations.

1.1 Institutions to oversee good regulatory practices

The initiatives on Modernising Business Regulation have been strongly supported by the Special Taskforce to Facilitate Business (PEMUDAH), a public private innovative advocacy body that has provided guidance and leadership in driving the reforms forward in a collaborative way.

The Performance Management and Delivery Unit (PEMANDU) in the Prime Minister's Office have identified 131 projects to improve the regulatory delivery of high priority issues or policy areas that impact upon businesses and citizens. PEMANDU has been successful in targeting specific problems and driving reforms across the government to find solutions to achieve better policy outcomes. This includes repealing, amending and transforming specific regulations as well as the overall regulatory framework. There have been a number of very well constructed and executed initiatives that have delivered real outcomes in reducing and improving the existing regulatory environment.

Institutional Actors for implementing the National Policy on the Development and Implementation of Regulations (NPDIR) are as follows:

¹ The Tenth Malaysia Plan (2011-15) and the Economic Transformation Programme (ETP)

- a) The NPDIR will be overseen by the National Development Planning Committee (NDPC) who will also examine RIS for adequacy. NDPC has been entrusted to assume the role of a *Gatekeeper* for improving the process and quality of developing a new business regulation.
- b) The Malaysia Productivity Corporation (MPC) is responsible for the implementation on the NPDIR and in particular will:
 - Develop guidelines and programmes for the implementation of the NPDIR;
 - Ensure capacity building programmes for regulators are available;
 - Assist NDPC in assessing RIS;
 - Provide guidance and assistance to regulators in RIA and preparation of RIS;
 - Conduct periodic reviews of progress made and submitting reports to NDPC; and
 - Promoting transparency of RIS.
- c) The National Institute of Public Administration (INTAN) is responsible for providing training on RIA.
- d) The Attorney General's Chambers (AGC) is responsible for offering legal advice to the Cabinet or any Minister. This advice includes matters relating to the regulatory quality of the proposal which should be detailed in the RIS. This will be relation to legal compliance of the proposal to constitutional matters.
- e) Government agencies such as Ministries, departments, statutory bodies and regulatory commissions, that are responsible for developing, maintaining and enforcing regulatory programmes, are responsible for meeting the Regulatory Process Management Requirements. These requirements include producing RIS, conducting consultation and submitting RIS in accordance with the guidelines provided by MPC.
- f) Government agencies are also responsible for appointing Regulatory Coordinators (RCs) and notify the appointment for MPC. As of May 2014, a total of 216 RCs from 107 ministries and agencies have registered with MPC. They were invited to the Awareness Program on 1 October 2013 and several series of trainings have been designed with assistance from OECD organized in December 2013 and 2014 to enhance their competency and knowledge of RCs.

1.2 Strategy and program for improving regulatory practices

There were a number of initiatives to embed good regulatory practices in Malaysia. MPC has been implementing the Modernising Business Regulation Project since March 2011. This has included modernising business licenses and reducing the number of business licenses by 52% across 23 ministries. Regulatory reviews of specific sectors such as health-care (hospitals), construction permits, tourism and education have also been conducted and are still underway.

MPC through Focus Group on Business Process Re-engineering in Business Licensing (FGBPR) under PEMUDAH is undertaking Modernising Business Licensing (MBL) projects which help to facilitate ministries, agencies and local authorities at federal and state level.

As of January 2014, 717 licenses were re-engineered or simplified and composited into 448 business licenses at the Federal level. 9 licenses were abolished while 14 are in progress for abolishment. Upon completion of this initiative will result in compliance cost savings of RM729.2million. At state level, 1627 licenses were re-engineered or simplified and composited into 541 business licenses.

More recently, efforts have also begun to implement good regulatory practices in the *Regulatory Design* within the Malaysian regulatory system. On 25 April 2012, a circular requiring online public consultation was approved. This aimed to systemise public consultation within the regulation-making system and implement more systemic regulatory reforms.

To ensure the quality of new and existing regulations, ministries and agencies are required to comply with the **Good Regulatory Practices (GRP)** requirements. Public consultation is one of the key regulatory tools promoted to improve transparency, efficiency and effectiveness of regulations. It will improve compliance and reduce enforcement costs for both the government and the businesses. A policy has been developed for GRP, namely the “**National Policy on the Development and Implementation of Regulations**” (NPDIR). GRP handbooks have been published (the “Best Practice Regulation Handbook” and “Quick Reference Best Practice Regulation Handbook”) as guidance for ministries and agencies to undertake Regulatory Impact Analysis (RIA).

The NPDIR sets out the regulatory policy and principles for Malaysia to manage the regulatory environment and ensure regulatory quality through adherence to the defined Regulatory Process Management Requirements. The Circular on NPDIR issued by the Chief Secretary to the Government of Malaysia on 15 July 2013 formalised the requirement of undertaking RIA to be adhered by all ministries and agencies. Under this Policy, all Federal Government regulators must undertake RIA and present a Regulatory Impact Statement (RIS) to MPC for assessment in the creation of all new regulations or review of existing regulations that relate to or impact businesses, investments and trade.

Among the program for improving regulatory practices are:

- (i) Create awareness and educate key stakeholders and regulators on regulatory transparency in the policy-making process;
- (ii) Provide capacity building and hands on training for ministries and agencies, assessors and Regulatory Coordinators in the regulatory process for the application of Regulatory Impact Analysis (RIA);

- (iii) Implement RIA Pilot projects with selected Ministries;
- (iv) Develop systems, procedures and processes to operationalise the RIS process; and
- (v) Initiation and development of other Good Regulatory Practice in Malaysia related to the RIA programme of work.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in areas committed at the 2011 AELM

Malaysia's regulatory environment compares well among other developing economies, although it still lags behind some developed economies in the region.

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		Annual Regulatory Proposal Plan (2013 -2015) of all ministries and agencies will be incorporated in Annual Regulatory Report which will be produced by end of 2014
Has the government published a set of good regulatory principles applicable across the government?	✓		Improvement on publishing a set of good regulatory principles was applied across the government. The principles are proportionate, accountable, transparent, efficient, targeted and consistent.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		The government-wide program is managed and overseen by the Special Taskforce to Facilitate Business (PEMUDAH) and National Development Planning Committee (NDPC)
Does the government systematically review regulations for cost and effectiveness?	✓		
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		Regulatory reviews covers impact on trade and cooperation is done together with Malaysian Competition Commission (MyCC)

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		Definition of problem is part of RIA process put into place
Does the impact analysis or other			

justification include a range of reasonable options for solving the problem?	✓		
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		Part of RIA process requires consideration on other alternatives and options
How are [trade friendly] alternatives to regulation assessed?	✓		Through consultation and engagement with other stakeholders and interested parties

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		It is currently being practised as in case of review on construction permit and water commission.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		Formalised Guidelines for Standardization of Public Consultation Procedures will be published by end of 2014 to provide systematic reference for ministries and agencies in carrying out adequate public consultation exercises.
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		It is done as a requirement. The National Policy on the Development and Implementation of Regulations (NPDIR) state very clearly that these requirements of publishing the draft for public comments should be made available for a minimum of 30 days

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

To ensure the quality of new and existing regulations, Ministries and agencies need to comply with Good Regulatory Practice (GRP) and fulfilling the adequacy criteria which emphasizes on transparency and accountability. This is consistent with international development and practice of regulatory coherence. Consequently, there is a need to standardise regulatory and rule-making process within the government and ultimately modernise business regulations in Malaysia.

Efforts to promote RIA among Ministries and Agencies are done through pilot projects. The three Ministries/Agencies currently participating in the pilot project are Ministry of International Trade and Industry (MITI), National Water Services Commission (SPAN); and Federal Agricultural Marketing Authority (FAMA). These Ministries/Agencies were given specific training and guidance to carry out the RIA process. Engagements and collaboration with *Organisation for Economic*

Cooperation and Development (OECD) to provide supports, advices and technical assistance in implementing GRP are also in place.

Pilot project agencies have also undertaken public consultation to invite public to comment on issues raised throughout the consultation process. Surveys are also done online through their webpage. The results from these RIA pilot projects are used as case studies to provide benchmarks, best practices and feedback to continuously improve further the best practice regulation handbook and RIA application process.

The Regulatory Impact Statement (RIS) Portal (<http://ris.mpc.gov.my/>) has also been developed and will be used as a repository and reference for all regulators, stakeholders and interested parties. Regulators will publish their draft of RIS on their website and also RIS portal for comment before adoption.

As of May 2014, a total of 21 Regulatory Notification Forms has been received from 11 ministries & agencies. Regulatory Notification is a standard form filled by regulators when they notify MPC on regulatory changes they wish to undertake.

3. Experiences of APEC economies (case studies)

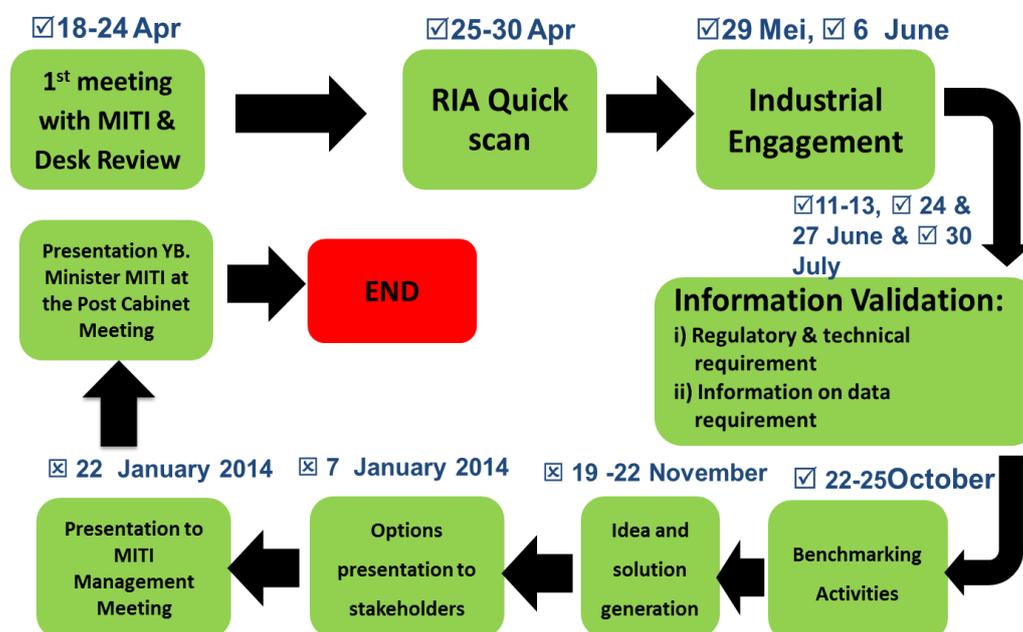
Malaysia's first pilot project was the review of the **Strategic Trade Act (STA) 2010**. The main issue identified in the STA was that trade in strategic items cannot be regulated effectively due to the limitations in the existing regulatory framework in the STA and its subsidiary legislations.

This pilot project was targeted at enhancing Malaysia's image as a secure trading nation not only through a robust legal framework but also through its practical implementation and enforcement. Towards this end, some of the solutions identified through GRP for the STA include the reduction in documentation for transit and transshipment permits, inclusion of a voluntary disclosure clause and introduction of administrative or compoundable penalties. The redefinition of brokering, which is an activity controlled under the STA, was also proposed.

Following the first pilot project, the **Industrial Coordination Act (ICA) 1975** was also highlighted as a set of regulations requiring review by MITI. Complaints had been surfacing regarding the relevancy of the ICA with the current economic environment, its impediment to business expansion and the long and cumbersome process of obtaining Manufacturing Licenses (MLs).

The study was undertaken using the RIA methodology in line with the requirements specified in the GRP handbooks. The review team consists of officers from MITI, MPC and Malaysian Investment Development Authority (MIDA), who have conducted a series of discussions and extensive literature review in this study. Engagements were carried out with the business community, associations, regulators (ministries and agencies), and consultants on the industry subject matters, and also involved studies of best practices of other economies.

Below is a flow chart illustrating how the review team applied the RIA methodology in its review of the ICA.



After the engagements, the team explored several possible options for solving the issues of the ICA. The options were whether to maintain status quo, amend the ICA, replace the ICA with a new Act or repeal the ICA. After weighing the costs and benefits of each option, the team settled on the “amend” option - to keep the ICA regulations up to date, and eliminate duplicated, overlapping or obsolete rules, thus reducing the burden on businesses and increasing transparency and accountability.

This is an example of how shortcomings in existing regulations can be systematically improved under GRP. These review exercises are borne out of the recognition that a burdensome licensing and regulatory environment has a substantial effect on the behaviour and performance of companies including SMEs. New start-ups, in particular, require assistance with specific issues, especially on the distortion and restrictions in the licensing and regulatory environment. Therefore, the role of GRP is evidently vital in ensuring quality regulations and, consequently, achieving higher national competitiveness.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

The regulatory environment in Malaysia has ample room for improvements and it is expected that recent initiatives undertaken by the authorities such as those led by PEMUDAH, may have a positive impact. Among the challenges are as follows:

- a) Explicit policy support for the regulatory reform agenda, targets and evaluation mechanisms is essential. Ministries and agencies need to adopt a consistent approach to the rule-making process and employ new policy tools, such as regulatory alternatives, consultation mechanisms and Regulatory Impact Analysis (RIA).
- b) RIA should be adopted at the highest political levels and ministries should incorporate explicit and measurable regulatory quality standards in their internal process.
- c) The context in which governments work to improve regulatory quality is complex and remains fragmented, therefore some form of central mechanism is needed and coordination among existing bodies that scattered across government need to be improved.
- d) The use of information and communication technologies (ICT) as a tool to promote transparency therefore dissemination of regulations and providing online access to the information should be unrestricted
- e) Enhancement should be made to ministries' capacity to apply and enforce regulations. Issues on inadequate resources or lack monitoring and enforcement strategies should be addressed and taken into greater concern to improve the effectiveness of RIA programmes in the future.

4.2 Priority for future reform in individual economies

- a. To encourage GRP implementation as one of the ministry's corporate wide long term strategy. It should be embedded in Key Performance Indicators of every ministry and in corporate strategic priorities and future work programmes;
- b. To strengthen the cooperation and coordination among ministries and agencies in efforts to integrate RIA with the policy-making process, beginning as early as possible. Assistance and guidance to ministries and agencies will be provided to plan and manage their regulatory changes, develop a standardised systems and processes within the ministries and adequate capacity building for them to manage regulatory processes; and
- c. To develop monitoring, evaluation and communications programmes in ensuring effective compliance to the defined requirements in policy making strategy.
- d. To have a standardised Guideline on Public Consultation in providing the guidance principles and the requirements for carrying out a public consultation exercise adequately.

5. Conclusions

The initiatives of GRP had proven that unnecessary rules and compliance costs can be removed and thus the speed and ease of delivery can be improved.

This will substantially reduce the regulatory burden to business by improving the quality of existing regulations and ensuring the quality of new regulations. This is a reform initiative that emphasizes on transparency and accountability through public consultation and engagement with stakeholders and affected parties.

Regulations should be developed in an open and transparent fashion. Public consultation is one

of the key regulatory tools promoted to improve transparency, efficiency and effectiveness of regulation. Consultation improves the quality of rules and regulations; improves compliance and reduce enforcement costs for both government and business communities.

Mexico

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

Regulatory Policy in Mexico

Mexico has been committed to regulatory reform since the late 1980s, when the Unit for Economic Deregulation (UDE) was created within the Ministry of Trade and Industrial Development (today, the Ministry of Economy) with a mandate to deregulate key economic sectors. By the year 2000, the Mexican government had recognised that regulatory reform should be a continuous and permanent activity. To this end, an amendment to the Federal Law of Administrative Procedure (LFPA) was approved by Congress, institutionalising the commitment of the Federal government to regulatory reform.

As a result of the LFPA amendment in 2000, the Federal Commission for Regulatory Improvement (COFEMER) was created as a technically autonomous body of the Ministry of Economy (oversight body), but with legal provisions to review existing and new regulations and advocate for reforms for the whole government. The LFPA defines COFEMER's powers and mandate: to promote transparency in the development and enforcement of regulations, ensuring that they generate benefits that outweigh its costs and the maximum benefit to the society. The COFEMER performs the functions of (i) coordination and supervision, (ii) challenge and scrutiny, (iii) training, advice and technical support for better regulation.

COFEMER has the following attributions (Art. 69-E, LFPA):

- I. Review the national regulatory framework, diagnose its application and prepare for their proposal to the Federal Executive, legislative and administrative projects and programs to improve the regulation in specific economic sector or activities;
- II. Revised regulatory drafts referred to article 69-H and the their regulatory impact assessments;
- III. Managing the Federal Registry of Formalities and Services;
- IV. Review the regulatory improvement programmes of line ministries and regulators of the federal government;
- V. Provide technical advice on matters of regulatory improvement to the line ministries and regulators of the federal government as well as states and municipalities that request it, and enter into agreements for the purpose;

- VI. Enter into inter-institutional agreements on regulatory improvement in the terms of the Law of Treaties;
- VII. Enact, publish and submit to the Congress an annual report about the performance of the duties of the Commission and the progress of the regulatory improvement programmes of the line ministries and regulators of the federal government.

Leading COFEMER is a General Director who is appointed by the President. COFEMER has 5 General Coordinators responsible of promoting regulatory reform within the various federal agencies. Additionally, COFEMER has within its structure expert groups to analyse the regulation of various sectors such as energy, telecommunications, transportation, health, environment, financial, commercial, national security.

The RIA is a mechanism, implemented by the federal executive branch, to improve regulation. All RIAs, along with draft proposals are made public through COFEMER's website, starting the process of public consultation. Public consultation helps to obtain substantive information and knowledge from stakeholders and industry professionals, and other private institutions so as to make an orderly analysis of federal draft regulation.

COFEMER recently (2010) reformed the RIA system to align with OECD best practice. It has included competition assessment and risk assessment. It also has put in place an ex post RIA which is mandatory for technical standards. All of these improvements are established in a published agreement and are legally binding.

The ministries and governmental bodies in Mexico have an obligation to submit drafts regulation to COFEMER with its respective RIA, to be reviewed and submitted to public consultation. As many of these regulations affect sensitive sectors, the consultation with key stakeholders is very important. This procedure is named **Regulatory Improvement Process. The revision made by COFEMER is mandatory however its resolutions and recommendations are not binding.**

Another mechanism to implement the regulatory policy in Mexico, are the biennial regulatory improvement programmes (PMR). These programmes must be made by all federal government organizations to which they applied the Title Third "A" of the LFPA. The PMR consists of indicating those regulations that will have to be modified, deleted or issued for the first time by all federal government areas. Also, the PMR contemplate that regulatory areas disclose the formalities as well as the administrative burden to be eliminated, simplified, modified or issued. Biennial programs that have been developed in recent years can be consulted at the following link: <http://www.cofemer.gob.mx/contenido.aspx?contenido=185>

Regulatory Reform Policy at the subnational level

One of the faculties of COFEMER is to provide technical advice on matters of regulatory improvement to states and municipalities that request it, and enter into agreements for this

purpose.

To do this, in 2002, COFEMER created a Simplification Program named “Rapid Business Start-up System” (SARE). SARE is a permanent program that promotes, in a joint manner with state and municipal authorities, the establishment and start-up of new businesses in 72 hours (comparable to the best practices in this subject in OECD countries). SARE is a one stop shop in which all relevant federal, state and municipal procedures (7-9, depending of the city in which the business intends to open) can be fulfilled. Nowadays, September, 2014 there are 247 SARE offices working throughout the country.

The domestic program of regulatory reform was expanded in 2013 to all states and municipalities. A **Common Agenda for Regulatory Improvement for states and municipalities** was signed by the 32 federal entities, COFEMER and The Mexican Association of Secretaries of Economic Development (AMSDE). The Common Agenda provides to the states and municipalities a full regulatory governance system. The agenda consist in 21 topics, explain in the following lines:

I. Institutional Scope

Regulatory Improvement Rules

1. Include regulatory reform rules in local legislation, promoting as the first option to take, include it at the constitutional and legal level, followed by an executive rulings level. The rules seek to develop the minimum elements required for compliance, and to observe standards of competitiveness, productivity, improved welfare, efficiency, and transparency in the development and implementation of regulations and, therefore, within the scope of the procedures and services .

Public Instance for Regulatory Improvement

2. Promote the creation of a public authority for the implementation and supervision of regulatory reform in the states and their municipalities.

Joint Council with government and private participation

3. Form a joint council with government and private participation for analysis, discussion and support of proposals for regulatory reform in the states and their municipalities, as well as promoting its continuous operation.

Regulatory Impact Assessments

4. Implement systems, methodologies and procedures for the implementation of regulatory impact assessments at the administrative level, both ex-ante and ex-post, in order to measure, as applicable, benefits, costs and potential risks of existing regulation or that is to be issued, as well as identify areas of opportunity that promote competition, transparency and citizen participation through formal public consultation processes.

Periodic diagnosis about public policy in Regulatory Improvement

5. Conduct periodic assessments on the public policy of regulatory reform and its

comparative advantages among the states. Also promote the development of incentives to promote market competition at the subnational level, as well as nationally on the subject.

II. Formalities (procedures, permits, licenses, information obligations)

State and municipal registries of procedures and services

6. Integrate and strengthen local and municipal registries of procedures and services, according to the guidelines, structure and characteristics promoted by the Federal Government, in order to promote proper alignment and consistency with regard to the information contained in the technical procedures and services of the three levels of government.

Simplification, improvement and administrative burden reduction

7. Prioritize simplification, improvement and, where appropriate, reducing the administrative burden of procedures and services related to economic processes that add the most value to the productive activity, according to the parameters established by the "COFEMER" together with the "AMSDE", and based on the Standard Cost Model developed by the Organization for Economic Cooperation and Development (OECD) and adapted in Mexico by the "COFEMER".

One Stop Shops and transactional electronic portals

8. Encourage the use of Stop Shops and transactional electronic portals to simplify the implementation of procedures and services, and develop and allow interaction with other portals and systems of the three branches of government, preferably through the portal www.gob.mx in order to provide the public and its service companies that integrate all levels that apply.

Open electronic platforms for integrally conducting transactions and services

9. Ensure the use of open electronic platforms that allow the integral completion of the procedures and services in the three levels of government, especially those related to higher incidence processes for productivity and business start-up, which must allow interested persons to complete all of the processes and formalities necessary from start to finish, from a citizen-oriented approach of the type of Business Process Management (BPM).

III. Systems for Rapid Business Startup and Ease of Doing Business

Opening and Registering a Business

Regulatory simplification for opening and registration of a company

10. Promote the simplification in the register of a business by a reduction in the number of procedures and days that a citizen requires to obtain resolutions or answers from the appropriate authorities, either through installing a one stop shop or through the use of electronic websites.

Create physical business service centers for investors, ensuring the development of

facilities and adequate signaling. Also have call centers for entrepreneurs as well as giving citizens the opportunity to perform all procedures and formalities with the appropriate authorities through remote means and with a view of processes from start to finish.

Opening of the Fast Business Startup System (SARE) in municipalities

11. Ensure the opening of SARE modules in municipalities by their economic activity, their population status and, when the remaining time of their administration is convenient and, where appropriate, states. Also encourage institutional maintaining of existing systems and create monitoring mechanisms to ensure that they meet the minimum requirements that the "COFEMER" verifies and validates the granting of such certification.

Instruments of coordination between the SARE, gob.mx and tuempresa.gob.mx

12. Promote to corresponding instances the appropriate instruments of coordination between local electronic portals, SARE modules or dependencies related to starting a business, with electronic portals gob.mx and tuempresa.gob.mx.

Digitization and interconnectivity between notaries and brokers

13. Promote to corresponding instances the technical and formal viability of digitization and networking of notaries and brokers in the states.

Building Permit Process

Process Simplification

14. Promote appropriate instances to use tools to simplify the processes for obtaining building permits.

Urban development plans and land use digitizing

15. Promote to corresponding instances appropriate urban development plans and land use scanning through georeferenced maps.

Express License for low-risk records

16. Promote mechanisms for granting Express Licenses for buildings of low-risk and impact.

Registry of Property and Commerce

Simplification of the legal framework

17. Encourage appropriate instances to simplify the legal framework, by reducing paperwork and number of days to respond to citizenship in their registration processes.

Digitizing the Public Registry of Property and Cadastral Offices

18. Promote the scanning of the Public Registry of the Property in the Federal States and, where appropriate, Cadastral Offices.

Public Purchases Process

Online register for government providers

19. Promote corresponding instances to consolidate an online register for government providers.

Simplification of public purchases processes

20. Promote the simplification of existing requirements in the processes of public purchases

of the States. For this purpose, the "COFEMER" could measure the administrative burden of such processes and present their diagnosis for consideration of the involved authorities.

Litigation and Contract Matters

Quality of processes and judicial institutions in mercantile and business topics

21. Analyze, according to the strategies of dialogue and consensus of each state, agendas for the quality of judicial institutions and processes, on contracts of a commercial nature, which are linked to business development, based on local assessments, as well as international experience.

Institutions to oversee training and capacity building programmes for rule makers and regulators

COFEMER gives permanent training to public servants of different levels of government on regulatory improvement and competitiveness studies and, more specifically, on RIA and public consultation tools and methodologies, and also for administrative burden reduction activities.

At the federal level, with the entry into force of the new Regulatory Impact Assessment (RIA) (High Impact and Moderate Impact with competition and risk assessment) and in order to ensure the correct implementation of the new system COFEMER has been conducting training sessions for public servants from 53 ministries and decentralized agencies of the Federal Public Administration (APF).

At the subnational level, COFEMER also provides training on the following issues:

- Review of the local regulatory framework, diagnose its application and develop project proposals for legislative and administrative measures to improve regulation in specific economic sectors or activities.
- Design, implementation and evaluation of regulatory improvement programs
- Creation of state and municipal records of formal procedures and services.
- Development and implementation of methodologies to prepare Regulatory Impact Assessment (RIA) and for the review and public consultation of draft normative acts.
- Implementation of System for fast business opening (SARE).
Certification of the operation and functioning of SARE modules at municipal level through the Recognition and Operation Program (PROSARE).
Enhancement of the local process for dealing with construction permits.
Implementation of the Simplification Program (SIMPLIFICA) in order to ease the compliance of formalities and services.
- Creation of state and municipal councils in the area of regulatory improvement.

Finally, in 2012 COFEMER in collaboration with the **Latin American Network of Regulatory Improvement and Competitiveness (LATIN_REG)** launched the first Diploma in Regulation,

which lasts 60 hours divided into 4 modules, were registered more than a 14 thousand participants, among whom were officials of the federal public administration, various local and international participants, specially from Latin America and members of the private sector.

1.2 Strategy and program for improving regulatory practices

Mexico has embedded the GRP strategy into its legal system. In order to accomplish its mandate COFEMER has improved its policies and tools along the years, based on international experience and good regulatory practices mainly established by the OECD, from which Mexico is a member, and in this sense, the COFEMER participates in the Bureau of the Regulatory Policy Committee. In this sense, Mexico recognizes the need for regulatory reform to enhance, support and facilitate economic objectives, like international trade, economic growth, employment, competitiveness, investment and productivity.

Here are the most important tools implemented by Mexico from 2000 until today, via COFEMER regarding Regulatory Reform Policy:

1. ***Use of Regulatory Impact Assessments.*** Including recent implementation of analysis of regulatory impact on competition and risk analysis.
2. ***Generalized Public Consultation.*** All the regulatory proposals submitted to COFEMER are publicly available on COFEMER's website and the regulatory agencies must provide feedback. www.cofemer.gob.mx
3. ***Regulatory Impact Calculator.*** This tool determines the impact of the regulatory proposals, whether it is high or moderate.
4. ***Ex post RIA.*** This regulatory tool aims to evaluate the results and compliance of the objectives of existing regulations.
5. ***Quality Management System of Regulatory Impact Assessments.*** The purpose of it is to measure the quality of all the RIAs submitted by the line ministries and the regulators to the COFEMER.
6. ***Federal Registry of Formalities and Services.*** It is an online inventory managed by the COFEMER which contains all the federal requirements, formats and forms (i.e. licenses, permits, and services).
7. ***Regulatory Improvement Programs (PMR).*** They are a planning tool for the future actions to be taken in the regulatory matter as the emission of new regulation, deregulation and administrative simplification.
8. ***Regulatory guillotine and measurement of administrative burdens through the Standard Cost Model (SCM).*** This helps identify and reduce the administrative burdens arising from federal regulation.
9. ***Development of sub-national Regulatory Improvement.*** COFEMER gives technical advice to the federal states and municipalities. By September, 2014, in Mexico 25 of the 32 states have a State Regulatory Improvement Act, that means the 80% of the states of

Mexico count with a explicitly regulatory improvement Policy in their regulatory framework.

10. **International Regulatory Cooperation program:** Mexico via COFEMER has an intensive program to cooperate with other economies and multilateral organisms like APEC and OECD in order to share and interchange its experiences and regulatory improvement tools via technical cooperation, as well as, improved the regulation through harmonization programs and similar actions. More recently, COFEMER has been working to push the adoption of the good regulatory practices into trade agreements.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		✓	There is an obligation for an annual plan on Technical Standards and for all regulatory measures every two years.
Has the government published a set of good regulatory principles applicable across the government?	✓		Several Manuals and Guidelines for RIA, Administrative Burden Reduction and Regulatory Reform at the subnational level, among other topics.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		Art. 69-D and E, LFPA.
Does the government systematically review regulations for cost and effectiveness?	✓		Art. 69-E and H, LFPA.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		RIA with competition assessment RIA Manual

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		RIA Manual & Regulatory impact assessment Guide: Methods and Methodologies.
Does the impact analysis or other justification include a range of reasonable options for solving the	✓		RIA Manual & Regulatory impact assessment Guide:

problem?			Methods and Methodologies.
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		RIA Manual & Regulatory impact assessment Guide: Methods and Methodologies.
How are [trade friendly] alternatives to regulation assessed?	✓		RIA Manual & Regulatory impact assessment Guide: Methods and Methodologies.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2&texto=
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2&texto=
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2&texto=

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

RIA Electronic System for Federal Government:

Mexico has an electronic system named COFEMERMIR system, which contains all RIA's and similar formats as well as the regulatory drafts since 2000 to date. The system is completely public, with the exception of some regulatory drafts that may not be temporarily public, provided that it is justified that its publicity may result in adverse effects to the purposes to be achieved by the regulation issuance.

The main characteristics of the COFEMERMIR system are:

1. It can be accessed online

2. It is open to the general public. Anyone can comment the regulatory drafts and its RIA. The comments must be taken into account in COFEMER resolutions.
3. It is a means by which the regulatory agency, the oversight body (COFEMER) and the stakeholders interested interact around the regulatory proposal.
4. It provides the maximum publicity to the regulatory proposal, since it is published in the moment it is received by COFEMER, also COFEMER's resolutions are equally published.
5. It includes an electronic expedient for each regulatory project submitted to COFEMER's review.
6. The electronic expedient may include the following:
 - a. The RIA and its regulatory proposal.
 - b. Comments from the stakeholders and from other government areas.
 - c. COFEMER's resolutions and opinions.
 - d. Replies to COFEMER's resolutions and opinions from the regulatory areas (regulators)
 - e. In some cases, new versions of the regulatory proposal
 - f. Federal Competition Commission's opinions, when appropriate
 - g. Documents related to the regulatory project, among others

Website: COFEMER MIR

<http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2&texto>

Example of electronic file:

http://207.248.177.30/regulaciones/scd_expediente_3.asp?ID=10/0577/220612

The Federal Registry of Formalities and Services is an online inventory of all formalities required by federal governmental bodies. It is an important tool for enterprises and citizens; in principle, any formality which is not included in the Registry cannot be applied. Furthermore, each formality should be applied as indicated in the Registry. This raises public awareness of procedural requirements, promoting transparency in any formality process by making the information public to citizens in advance.

<http://207.248.177.30/BuscadorTramites/BuscadorGeneralHomoclave.asp?texto=>

(2) Prospective regulatory planning including forward-looking regulatory agendas

Mexican law establishes the development of **Biennial Regulatory Improvement Programmes** (PMR). These programmes must be made by all federal government organizations to which they applied the Title Third "A" of the LFPA. The PMR consists of indicating those regulations that will have to be modified, deleted or issued for the first time by all federal government areas. Also, the

PMR contemplate that regulatory areas disclose the formalities as well as the administrative burden to be eliminated, simplified, modified or issued.

One of COFEMER's main attributions requires a constant revision of the regulatory framework. The Article 69-D, LFPA, requires departments and agencies decentralized federal government submit a Regulatory Reform Program, to COFEMER at least every two years.

Biennial programs that have been developed in recent years can be consulted at the following link: <http://www.cofemer.gob.mx/contenido.aspx?contenido=185>

In the 2011-2012 Mexico Biennial Regulatory Program, Mexico adopted for the first time a goal to cut 25% of the administrative burdens from federal government formalities. The method of review was the regulatory guillotine approach using the Standard Cost Model to track costs.

The Standard Cost Model is a regulatory impact assessment methodology used to estimate administrative costs faced by businesses and citizens that are generated by regulations imposed by governments. This model provides a simple and consistent method that can be used by anyone responsible for managing and improving regulation to implement the analysis, review and improve its regulatory collection.

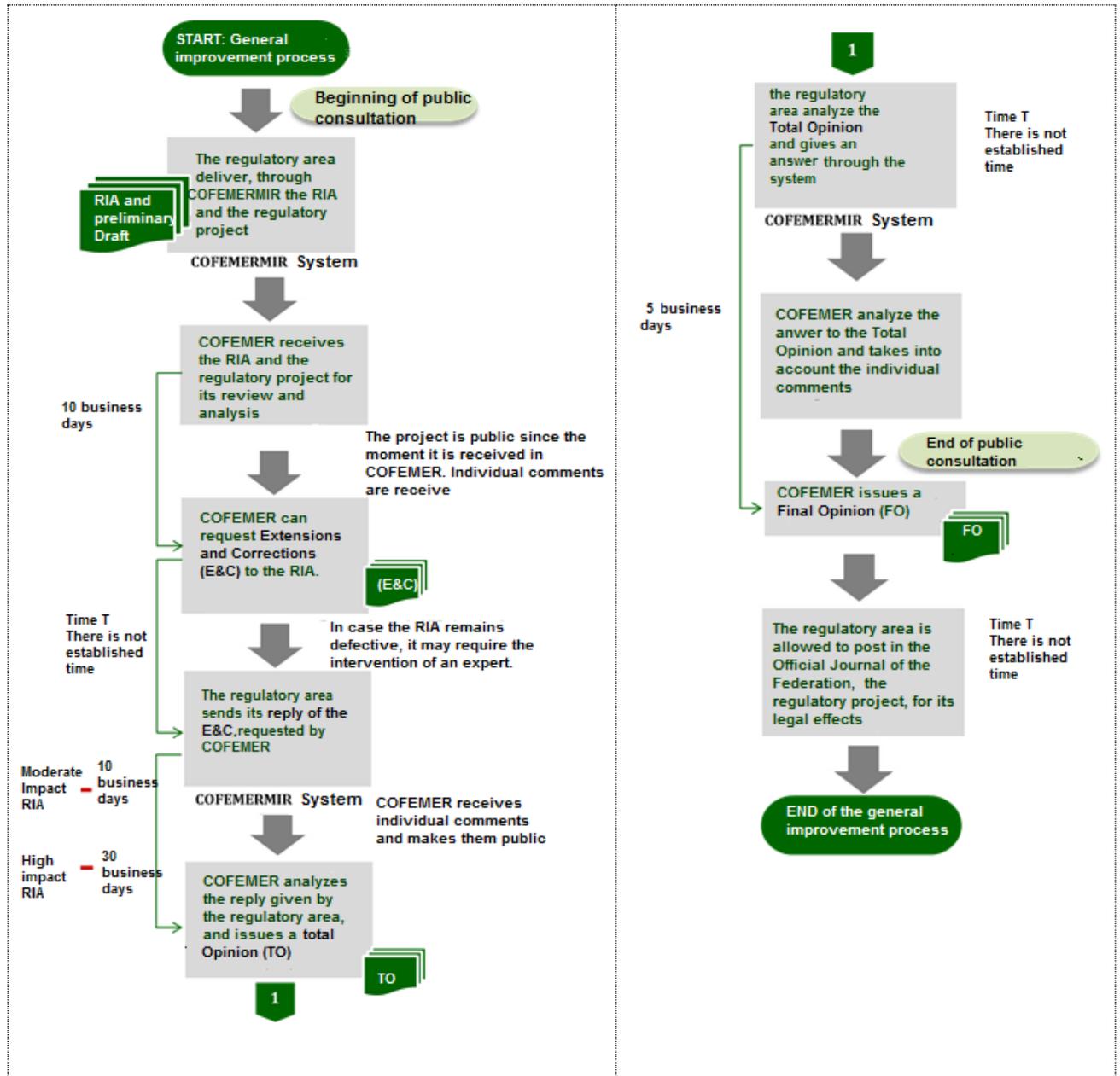
(3) Reviews of existing regulations

Mexico has adopted a legal mandate to review the regulatory stock and flow. To do the first action, see information given in question "2. *Prospective regulatory planning including forward-looking regulatory agendas*".

To review regulatory flow, Mexico has the Regulatory Improvement Process and use the RIA which shall include the following items:

- I. Problem definition and regulatory objectives
- II. Identification of possible regulatory alternatives,
- III. Impact of the regulation (administrative burden, regulatory actions, cost benefit analysis, competition assessment, risk assessments, the latter two where applicable)
- IV. Compliance and enforcement of the proposal
- V. Evaluation of the proposal
- VI. Public consultation
- VII. Annexes

General Regulatory Improvement Process



First, the regulator should answer some questions in order to determine the impact of regulatory proposal should be. It could be high impact or moderate impact. A High Impact RIA has 20 questions divided into 7 sections, while a moderate impact RIA has 14 questions divided into the same 7 sections. The main difference between both types of RIA lies in the extent and depth of the RIA and in the information that agencies must identify in it. For example, in addition to the requirements of the moderate impact RIA, the high impact RIA requests the description of the way in which the problem is regulated in other countries and/or in the international best practices on the matter, it includes a brief risk analysis, and it obtains the net present value of the regulation's benefits and costs. We will list next the questions of both RIA questionnaires:

Moderate Impact RIA	High Impact RIA
<p>I. DEFINITION OF THE REGULATION'S PROBLEM AND GENERAL OBJECTIVES</p> <p>a. Describe the proposed regulations general objectives.</p> <p>b. Describe the problem or situation that causes the government intervention through the proposed regulation.</p> <p>c. Indicate the type of legal instrument proposed. Also, point out if there are current legal dispositions directly applicable to the proposal's problem, enumerate them and explain why they are inadequate to attend the identified problem.</p>	<p>I. DEFINITION OF THE REGULATION'S PROBLEM AND GENERAL OBJECTIVES</p> <p>a. Describe the proposed regulations general objectives.</p> <p>b. Describe the problem or situation that causes the government intervention through the proposed regulation.</p> <p>c. Indicate the type of legal instrument proposed. Also, point out if there are current legal dispositions directly applicable to the proposal's problem, enumerate them and explain why they are inadequate to attend the identified problem.</p>
<p>II. IDENTIFICATION OF POSSIBLE ALTERNATIVES TO REGULATION</p> <p>a. Point out and compare the alternatives that might solve the problem that was evaluated, including the option of not issuing the regulation. Also, indicate, for each of the considered alternatives, the costs and benefits estimations implied in their instrumentation.</p> <p>b. Justify the reasons why the proposed regulation is considered the best option to attend the identified problem.</p>	<p>II. IDENTIFICATION OF POSSIBLE ALTERNATIVES TO REGULATION</p> <p>a. Point out and compare the alternatives that might solve the problem that was evaluated, including the option of not issuing the regulation. Also, indicate, for each of the considered alternatives, the costs and benefits estimations implied in their instrumentation.</p> <p>b. Justify the reasons why the proposed regulation is considered the best option to attend the identified problem.</p> <p>c. Describe how the problem is regulated in other countries and/or in the international best practices on the matter.</p>
<p>III. REGULATION'S IMPACT</p> <p>a. Does the proposed regulation creates, modifies or eliminates formalities?</p> <p>b. Choose the dispositions, obligations and/or actions different to the formalities that correspond to the proposal</p> <p>c. Does the proposed regulation consider schemes that affect in a different way any economic agents' o sectors?</p> <p>d. Provide the costs and benefits estimations implied by the regulation for every individual or group:</p> <p><i>i. COSTS</i></p> <ul style="list-style-type: none"> • Group or industry affected by the regulation • Describe and estimate the costs <p><i>ii. BENEFITS</i></p>	<p>III. REGULATION'S IMPACT</p> <p>a. Does the proposed regulation include dispositions on human, animal or vegetable health, security, labor, environment or consumer protection?</p> <p>b. Does the proposed regulation creates, modifies or eliminates formalities?</p> <p>c. Choose the dispositions, obligations and/or actions different to the formalities that correspond to the proposal.</p> <p>d. What would be the effects of the regulation on the markets' competition and free concurrence, as well as on national and international trade?</p> <p>e. What would be the proposed regulation's effects on the prices, quality and availability of goods and services for the consumer?</p> <p>f. Does the proposed regulation consider schemes that affect in a different way any economic agents or sectors? (For example, SMEs).</p> <p>g. Provide the costs and benefits estimations implied by the regulation for every individual or group:</p>

<ul style="list-style-type: none"> • Group or industry benefited by the regulation • Describe and estimate the benefits <p>e. Justify that the regulation's benefits outweigh its costs.</p>	<p><i>i. COSTS</i></p> <ul style="list-style-type: none"> • Group or industry affected by the regulation • Describe the costs implied by the proposed regulation • Provide the monetized estimation of the costs implied by the regulation. • Cost • Years • Number of people that assume the cost • Discount Rate <p><i>ii. BENEFITS</i></p> <ul style="list-style-type: none"> • Group or industry benefited by the regulation • Describe the benefits that the proposed regulation implies • Provide the monetized estimation of the benefits implied by the regulation • Benefits • Years • Number of people that assume the cost • Discount Rate <p>h. Justify that the regulation's benefits outweigh its costs.</p>
<p>IV. COMPLIANCE AND IMPLEMENTATION OF THE PROPOSAL</p> <p>a. Describe through which way or mechanisms the regulation will be implemented (Include public resources).</p>	<p>IV. COMPLIANCE AND IMPLEMENTATION OF THE PROPOSAL</p> <p>a. Describe through which way or mechanisms the regulation will be implemented (Include public resources).</p> <p>b. Describe the verification and surveillance schemes, as well as the sanctions that ensure the regulation compliance.</p>
<p>V. PROPOSAL ASSESSMENT</p> <p>a. Describe the way or means which the regulation's objective achievement will be evaluated.</p>	<p>V. PROPOSAL ASSESSMENT</p> <p>a. Describe the way or means which the regulation's objective achievement will be evaluated.</p>
<p>VI. PUBLIC CONSULTATION</p> <p>a. Were the interested subjects and/or groups consulted for the elaboration of the regulation?</p>	<p>VI. PUBLIC CONSULTATION</p> <p>a. Were the interested subjects and/or groups consulted for the elaboration of the regulation?</p>

b. Indicate the proposals included in the regulation as a result of the consultations.	b. Indicate the proposals included in the regulation as a result of the consultations.
VII. ANNEX a. Append the electronic versions of the documents consulted or elaborated to design the regulation.	VII. ANEX a. Append the electronic versions of the documents consulted or elaborated to design the regulation.

Source: COFEMER

The previous table shows the differences between Moderate Impact and High Impact RIAs. The latter requests more information, particularly on the cost-benefit analysis. In this sense, while the moderate impact RIA broadly requests the costs and benefits identification and monetization, the high impact RIA includes a calculator that allows obtaining the net present value of the regulation. To this end, the RIA form asks for the discount rate (currently August, 2014, the standard rate used is 10%, as established by the Ministry of Finance and Public Credit¹), the evaluation horizon, the number of regulated (whether affected or benefited) and the cost or benefit monetization, as applicable. Moreover, the following figure shows the RIA forms applicable to those regulatory drafts with compliance costs, and which use is determined by the regulatory impact calculator, including the reforms to the RIA Manual implemented in 2012:

High Impact RIA	Moderate Impact RIA
<ol style="list-style-type: none"> 1 High Impact RIA 2 High Impact RIA with Competition Assessment 3 High Impact RIA with risk assessment High Impact RIA with competition and risk assessment 	<ol style="list-style-type: none"> 1 Moderate Impact RIA 2 Moderate Impact RIA with Competition Assessment

3. Experiences of APEC economies (case studies)

Implementing Good Regulatory Practices in México: Successful Cases

3.1 Transparency in the creation of regulation. (MIR website)

¹ Circular 400.1.410.14.009, 13 January, 2014

Mexico has a website in which all regulatory proposals from the Federal Government could be reviewed. The website provides free access and contains the regulatory proposals since 2000, each regulatory proposal submitted to COFEMER's review are organized in an electronic expedient (for more details see question 2.2 (1))

For each regulatory proposal, the electronic expedient contains a Regulatory Impact Assessment (RIA, MIR in Spanish) or the applicable template, the draft regulation, COFEMER²'s resolutions, the stakeholders comments on RIA, and the responses of the regulators towards the recommendations made by COFEMER and the stakeholders.

Website	http://www.cofemer.gob.mx/BuscadorAnteproyectos/busqueda.aspx?estatus=2&texto=
Search engine of the draft regulatory proposal	
Example of a regulatory document in electronic form	http://207.248.177.30/regulaciones/scd_expediente_3.asp?ID=13/0813/270313

3.2 The Application of the Regulatory Impact Assessment using a pre-established format.

Since 2001, México has encouraged the employment and practice of the regulatory impact assessment; this effort has been done through an online format which must be responded by the regulatory agencies when the regulation proposals create compliance costs for the stakeholders.

The online format has increased the acceptance and implementation of RIA by the regulators. The most important benefits of the use of an online RIA format are:

- ✓ Homogeneity and standardization of the analyzed fields for each regulatory proposal.
- ✓ Easy to understand and communicate to the regulators.
- ✓ Reduces the time it takes to elaborate a RIA.
- ✓ Focus on the elements of interest in the analysis, for example: identification of the problem, regulatory objectives, analysis of alternatives, identification of administrative burdens, identification of regulatory actions, quantification of the costs and benefits, consideration of the significant comments on the public consultation made by the regulatory agencies, among others.
- ✓ Due that the response to the RIA is online; this mechanism allows regulators to send the information to the oversight body, in real time, through an authorized key for the

² Federal Commission on Regulatory Improvement, acronyms in Spanish.

use of the officer in charge of the regulatory improvement into the ministry or regulatory agency. .

3.3 Regulatory Impact Calculator

In the year 2010, with the purpose of differentiate the impact on regulation and request differentiated RIA questionnaires, México has developed an electronic tool that evaluates and categorizes the potential impact of the regulations with cost of compliance; this tool divide the impact of the regulation on high and moderate.

The calculator includes ten questions, these focuses on analyze for each draft regulation the following features: the appropriate economic sector and process, the number of agents that need to comply with the regulation, the legal instrument whereby the regulation will be issued, among others. In addition to these questions, Mexico developed an econometric model by which the system determines what type of RIA format corresponds to each regulatory project with compliance costs.

The difference between High impact RIA and moderate impact RIA lies in the number of questions that comprises, 20 questions in high impact and 14 in moderate impact. As well, high impact RIA requires a comprehensive analysis in comparison with moderate impact RIA.

Among the benefits on the use of differentiate RIA, the following can be found:

- ✓ A wider acceptance of the RIA between regulators.
- ✓ Efficient use of government resources.
- ✓ More attention on high impact projects (targeting resources)

3.4 Sub national Regulatory Improvement: Example - Colima State

Since 2002, COFEMER has taken actions to introduce the regulatory improvement policy at the sub national level. The sub national Doing Business indicator for México was issued for the first time since 2006, and it has been an important catalyst and supporter to the introduction of the regulatory improvement policy at the sub national level in México.

The indicator generates the necessary incentives for governors and mayors commit to make significant reforms in their internal processes in order to climb in the indicator, specifically the easy open business indicator.

This allowed COFEMER, as a regulatory improvement sponsor agency, launched successfully the Rapid Business Start-Up System (SARE, acronyms in Spanish) as well as the Recognition and Operation Program (PROSARE) in order to support the local governments to improved their score in the sub national Doing Business indicator.

The SARE allows entrepreneurs and businesses to be legally established in less than 72 hours by attending Federal, State and Municipal formalities at one stop shop. This diminishes the burden of formalities and offices to be visited by entrepreneurs, benefiting the establishment of legal

businesses. PROSARE aims to certificate all those well-functioning SARE modules or restore those that have cease operations.

- ✓ ***From the year 2002 to the year 2014, COFEMER has installed the system in 247 municipalities, these represents the 60% of the national GDP.***

The state of Colima illustrates a successful example with respect to the introduction of regulatory improvement in a subnational level; the next table illustrates, for the period 2006-2014, the level of progress presented by the indicator. There was a reduction from 66 to 7 days in the time it takes a business to be opened, also was a reduction in the formalities from 9 to 7. Finally, the state moved to 2nd place up from 24th place.

		Place	Proceedings	Days
2006	Aguascalientes (Aguascalientes)	1	8	32
	Colima (Colima)	ND	ND	ND
2007	Aguascalientes (Aguascalientes)	1	8	12
	Colima (Colima)	24	9	66
2009	Guanajuato (Celaya)	1	8	12
	Colima (Colima)	27	9	57
2012	Guanajuato (Celaya)	1	6	7
	Colima (Colima)	6	6	
2014	Guanajuato (Celaya)	1	6	7
	Colima (Colima)	2	6	6.5

Source: Doing Business, Reports/subnational level/Mexico

These results have increased the impulse of the regulatory improvement policy at the subnational level and allows to transit through another important issues of the policy, as example:

- ✓ In 25 of 32 states have been established an explicit regulatory improvement policy through the creation of a local law in the matter.
- ✓ A regulatory improvement body or department has been established in the 32 federative entities.
- ✓ In 9 of 32 federative entities, the local regulations apply and operate RIA.
- ✓ In 32 federative entities has been implemented a State Registry of Formalities and Services.
- ✓ There is a Regulatory Improvement Council in 23 of 32 federative entities, the council comprises the participation of the public, private, and social sectors.

3.5 Public Consultation – Example Agave

The Federal Law of Administrative Procedure (LFPA, acronyms in Spanish) establishes, in an implicit way, the public consultation of the draft regulations, and, in an explicit way, the fact that the comments from the stakeholders must be considered during the revision of regulation proposals.

Since 2000, Public Consultation has been established in Mexico for draft regulations elaborated by Federal Government Agencies. There have been many successful examples on the use of this instrument.

A recent case, which is worth mentioning, is the draft regulation called “Declaration by which the use of the agave brand for tequila, mezcal and bacanora is regulated”³, the case shows the efficiency of the review of regulation and the public consultation process in México.

The draft regulation was reviewed by COFEMER in October 2011 and consisted of granting the exclusive exploitation of the brand agave to the products that possess designation of origin certificate in tequila, mezcal and bacanora products.

With this regulation, the producers of tequila, mezcal and bacanora that did not have the designation of origin certificate could not use the brand in their packaging or as the identification symbol of the alcoholic drink. The prohibition would also apply to the publicity and commercial information. And for these products (it would apply to sotol and pulque products) only on the description of the raw material used in the elaboration process, the term agavacea could be used..

During the improvement regulation process in COFEMER, was generated a big discussion in which 147 comments for and against were received by COFEMER. Likewise, the competence authority in México spoke out against the regulation proposed, saying that **the regulation would create severe distortions in the production markets, in the distribution and in the commercialization of alcoholic drinks that where elaborated with agave, and also mentioned that this situation would create monopolistic practices.**

Even though the recommendations and opinions of the regulation improvement authority are not mandatory, the process of analysis and the public consultation generates a great public pressure, which motivated the emission of the first mandatory opinion by the competition authority in January 2012, in relation to the regulation proposal. The mandatory opinion contains the obligation for the regulatory agency **to not publish the regulation** because the regulation could affect the process of free competition.

For more information, see the electronic document of the regulation draft:

http://207.248.177.30/regulaciones/scd_expediente_3.asp?ID=08/0116/171011

³ *Declaratoria por la que se regula el uso de la marca agave en tequila, mezcal y bacanora*

3.6 Measurement of Administrative Burdens

In 2010, the Federal Commission for Regulatory Improvement (COFEMER) carried out a major effort to measure the costs that regulations imposed over citizens and enterprises. Mexico used the Standard Cost Model (SCM) which was originally developed by the Ministry of Finance of the Netherlands and has been used as the reference methodology in different OECD countries to measure administrative burdens and promote programs to them.

Mexico, made an adaptation of the SMC, the Mexican model additionally to measure the administrative burden, measures the opportunity cost that businesses and citizens face during the time they submit the application to the authority until they take the corresponding resolution.

In the first measurement made by Mexico, the SMC was applied to the information obligations (4,649 formalities) contained in the Federal Register of Formalities and Services. The register is an Information Technology tool that concentrates all the formalities and federal services. As a result of this measurement, the procedures represent an equivalent of 4.8% of the national GDP.

In the last years, COFEMER has coordinated diverse efforts in the field of deregulation and administrative simplification with the use of this tool.

The federal administration 2012-2018 has the goal to reduce the Federal procedures burden by 25%.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

STRONGEST

- Mexico has a formal policy on better regulation established in the Federal Law of Administrative Procedure (LFPA)
- Ministries and agencies of the federal public administration have specific obligations for the better regulation policy.
- Mexico has now been applying RIA for more than a decade and it recently reformed the impact assessment system to align it with OECD best practice.
- Bold steps have been taken to strengthen and broaden RIA.
- Mexico has robust practices in transparency and consultation in the rule making process.
- International best practice has been adopted in the programme to reduce administrative burdens.
- Complementary administrative simplification strategies have been priorities for the Mexican government.

WEAKEST

- The institutional framework for regulatory improvement in Mexico is complemented with the Regulatory Improvement Council, which is expected to serve as the political arm and exercises “soft power” for the benefit of the policy on regulatory improvement. In the last five years, the council has only had a couple of sessions, which indicates that it is not being employed to its full potential.
- Mexico should embrace a “whole-of-government” culture for regulatory improvement policy.
- In order to achieve the “whole-of-government” culture for regulatory improvement policy, the institutional design of the COFEMER must be strengthened.
- The advocacy function is a key element to achieve a “whole-of-government” culture for regulatory improvement policy. Mexico should consider the creation of a citizen-based agency external to the government that would unilaterally advocate for regulatory reform.
- The legislative power is an essential element of regulatory governance and, as such, it should take measures to adopt a culture of regulatory quality.
- Include the management of tax procedures and all regulation and formalities from decentralised entities as part of the regulatory improvement programme.
- Consultation should be enhanced and be made systematic from the early stages of regulatory development, in order to advance in the whole-of-government approach to regulatory improvement.
- The quality and accountability of RIA analysis could be improved further.
- Consolidate and advance the policy of reducing the cost of regulation.
- Ensure the effectiveness of administrative simplification strategies.

4.2 Priority for future reform in individual economies

- a. Improve the Public Consultation Process making it more accessible and specific.
- b. Regulatory Reform at the Subnational Level. It’s being implemented in the Common Agenda.
- c. Reduce administrative burdens, one in by one out schemes
- d. Capacity Building for measuring regulatory impacts
Institutionalize and consolidate the efforts in BPR through negotiating commitments with our business partners by Trade Agreements. It’s already in place (Trans-Pacific Partnership (TPP) and Pacific Alliance)

New Zealand

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

The Treasury is responsible for managing and monitoring the regulatory management system. We report to both the Minister of Finance and the Minister for Regulatory Reform who share the ministerial responsibility for the regulatory reform portfolio. Our system role is complemented by the Ministry of Business Innovation and Employment's focus on the impact of regulation on firms.

We have had some form of regulatory impact analysis (RIA) requirement on the flow of regulation since 1998. The RIA system has developed and evolved over time. It now has broad coverage and is widely accepted by departments, and expected by Ministers. The best departments have incorporated RIA into their standard policy approach, both improving the quality of their advice and reducing the compliance burden of the regulatory impact statement (RIS) process. The Treasury offers both ad hoc assistance and formal training to departments to help lift capability.

1.2 Strategy and program for improving regulatory practices

New Zealand has an integrated regulatory reform strategy driven from the centre of the state sector by the Treasury—in partnership with lead (specialist) policy agencies. The development of this system is characterised by experimentation and learning. Working in consultation with departments, we try things to see if they work and adjust as we go to improve effectiveness. There is an on-going challenge to strike the right balance between developing an effective stock management system while managing the compliance costs we impose on departments.

The strategy spans three elements:

- Independent assessment of the adequacy of economically significant regulatory proposals against the government expected standards for regulatory impact analysis (RIA) and statements (RISs). RISs that identify significant impacts or risks are independently assessed by the Treasury's Regulatory Impact Analysis Team (RIAT), while all others are independently assessed by quality assurance (QA) staff within agencies—with support and training from RIAT.
- Responsibility for advising on and coordinating a prioritised regulatory review work programme. This requires collaboration and consultation across government, led by the centre.
- Strategic oversight of the regulatory quality system. This includes strengthening the

regulatory quality management system and promoting the expectations for regulatory stewardship so that agencies develop and maintain systems for managing the proposed and existing regulation they administer.

RIA has been and remains the most important tool for encouraging regulatory and policy agencies to meet public expectations for transparency and non-discrimination, and to pursue business expectations of minimal interference, competitive-neutrality, open markets, international obligations, and prevention/elimination of unjustified trade barriers. However, RIA is of limited assistance in reforming legacy problems with regulation.

We are currently working on implementing a legislative disclosure regime (<http://www.treasury.govt.nz/publications/guidance/regulatory/index.htm#disclosure>). The disclosure regime supports aspects of the Regulatory Quality Management system by requiring disclosure of key quality assurance information and significant or unusual features relating to new legislative initiatives. The disclosure regime is currently an administrative requirement.

Formal regulatory stock management requirements are a more recent development. Since the Treasury gained the regulatory management oversight function in 2008, we have begun to build a stock management system which now consists of:

- Expectations for regulatory stewardship
(<http://www.treasury.govt.nz/publications/guidance/regulatory/index.htm#stewardship>)
- Best Practice Regulation assessments of key regulatory regimes
(<http://www.treasury.govt.nz/economy/regulation/bestpractice>)
- Regulatory scanning of existing legislative instruments on a systematic and ongoing basis (<http://www.treasury.govt.nz/publications/guidance/regulatory>)
- Annual regulatory plans of expected new regulation, or review of existing regulation
(<http://www.treasury.govt.nz/publications/guidance/regulatory>)
- Regulatory Review Programme
(<http://www.treasury.govt.nz/economy/regulation/programme>)
- Omnibus Reform Bills.

The flow (RIA) and stock mechanisms are all led by the Treasury. All rely on information and operational management by lead agencies with policy expertise and relationships with key stakeholders.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		✓	There is 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. A consolidated plan is prepared for Government Ministers by agencies with the Treasury. The plan is used to facilitate prioritisation and coordination of policy. A number of Ministers and departments do, however, publish work programmes (for instance the Tax Policy Work Programme, http://taxpolicy.ird.govt.nz/work-programme , and the Land Transport Rules Programme, http://www.nzta.govt.nz/resources/rules/about/rules-in-progress.html) and, departments' Statements of Intent and Output Plans may also contain details of some planned regulation.
Has the government published a set of good regulatory principles applicable across the government?	✓		Expectations for Regulatory Stewardship (for regulatory agencies) and Best Practice Regulation Principles (criteria for assessing regulatory regimes)
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		The Treasury is responsible for strategic co-ordination of the regulatory management system. This includes redesigning and strengthening the system to support the government's objectives.
Does the government systematically review regulations for cost and effectiveness?	✓		The regulatory management 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. The Government has 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.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		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. <u>All</u> material impacts are required to be considered.

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		<p>The <u>New Zealand RIA Handbook</u> explicitly requires problem definition and baseline analysis <u>before</u> 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 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.</p>
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		<p>The <u>New Zealand RIA Handbook</u> requires identification of “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 impact analysis must enable options 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 <u>net</u> 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"> • 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). • Key assumptions underlying estimates of net benefits. For example, the assumptions around expected compliance rates.
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts,	✓		<p>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</p>

both negative and positive?			<p>assessed.</p> <p>The <u>New Zealand RIA Handbook</u> contains a general 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>
How are [trade friendly] alternatives to regulation assessed?	✓		<p>The <u>New Zealand RIA Handbook</u> requires that trade authorities be consulted when actions have potential trade impacts, with the expectation that alternative trade-affecting options be explored. 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.</p> <p>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> <p>The Ministry of Business, Innovation and Employment (MBIE) is to be consulted on proposals that may impact on businesses, particularly those that impose compliance costs and direct costs.</p>

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		<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 <u>New Zealand RIA Handbook</u> states that undertaking consultation during the policy development process can result in better quality regulatory proposals that are more likely to achieve their objectives.</p> <p>Standards are set for good consultation practices:</p> <ul style="list-style-type: none"> • Continuous • Timely • Targeted • Appropriate and accessible • Transparent • Clear • Co-ordinated <p>To help ensure that the regulatory process is open and transparent,</p>

		<p>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"> • being lodged on the responsible department's website, and on the Treasury website; • including a link to the RIS in the press statement announcing any new policy for which a RIS is required; • a link in the Explanatory Note to bills when they are introduced to Parliament. Bills are publicly available once introduced to Parliament.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓	<p>Part Three of the New Zealand RIA Handbook sets out guidance for efficient and effective consultation.</p> <p>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 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"> • Explain who has been consulted and what form the consultation took. • 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). • If there was no limited or no consultation undertaken, include the reasons why. <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>
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓	<p>The QA criteria, in Part Five of the New Zealand 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</p>

			<p>been published.</p> <p>Officials' reports to Parliamentary Select Committees on Bills typically summarize issues that have arisen through public consultation and what has been done to address them, see for example: http://taxpolicy.ird.govt.nz/sites/default/files/2014-or-arearm.pdf .</p> <p>Departments are also increasingly publishing summaries of submissions, see for example: http://transport.govt.nz/assets/Import/Documents/VLR-analysis-and-summary-of-Submissions.pdf.</p>
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2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

In meeting the commitment to ensure that regulatory information is "...comprehensible and accessible to users both inside and outside government, and to domestic as well as foreign parties..."¹ New Zealand adopts an approach that has regulatory information readily accessible on-line, and organised in ways that enable it to be easily found by stakeholders.

We have found that a single channel does not guarantee that external parties can readily find or be alerted to relevant information, in particular if there is a high volume of information being made available. Accessibility is the underlying virtue we try to target, and multiple channels hold intuitive and organisational advantages over a single channel in New Zealand's circumstances, particularly for ongoing innovation and responsiveness to change and given New Zealand is a unitary state.

These multiple channels include <http://www.legislation.govt.nz/>, which contains all primary (Acts) and secondary (regulations, Orders in Council) legislation and some tertiary instruments, and proposed primary legislation (Bills). Background material, consultation documents, RISs, tertiary instruments and proposed secondary legislation (draft regulations) are generally available from the websites of relevant policy or regulatory agencies.

The Ministry of Business, Innovation and Employment operates a Regulatory Information portal that provides information about legislation and regulations that apply to businesses, products and services that are sold or offered in New Zealand to help businesses, exporters, importers, intermediaries and local producers understand the regulatory environment governing a range of products and services.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The Treasury requires an annual regulatory plan for every appropriate Ministerial portfolio. This plan sets out the Minister's intended regulatory activity for the year. The plan collects information

¹ APEC-OECD Integrated Checklist on Regulatory Reform, A6.

on what is driving the regulation, what the expected cost impact is, and expected timing of Cabinet decisions. This information helps us to better understand what is driving the creation of new regulation, and to forecast likely pressure points in the regulatory system.

For the biggest regulatory departments, we require a Departmental Regulatory Plan. This is a statement of the department's planned regulatory review activity over the next two to three years and is designed to provide a stronger link between regulatory scanning and plans. (<http://www.treasury.govt.nz/publications/guidance/regulatory/planning>)

These documents are not required to be published, but individual Ministers and agencies are encouraged to publish or share substantive elements of their plans with stakeholders in order to assist engagement and prepare for upcoming consultations.

(3) Reviews of existing regulations

Departments are required to put in place systems for on-going scanning of their existing regulation to identify unnecessary, ineffective or excessively costly regulation. Initially, scanning work focused on documenting departments' approaches to regulatory scanning, identifying the existing stock of regulation administered by each department, and undertaking a high-level scan of all regulation. In the three years it has been in place, scanning has increased departments awareness of the volume and cumulative effects of regulation. Departments are also using scanning to identify opportunities for regulatory improvement, review and revocation.

The Treasury has avoided tools that only focus only on the costs of regulation (such as deregulation programs or sunset clauses), instead encouraging agencies to take responsibility for their regulatory regimes and undertake periodic reviews in collaboration with central agencies and stakeholders. These reviews have been tailored to the relevant regimes, the regulatory objectives, and expectations of stakeholders.

High-profile reviews that have the potential to significantly affect economic activity are subject to more oversight by central agencies and by Ministers. The Regulatory Review Programme includes the Government's most significant regulatory reviews and is one of the measures that ensures the stock of regulation is regularly reviewed. To date, seventeen reviews have been completed and six are currently on the programme. The reviews are monitored by the Economic Growth and Infrastructure Cabinet Committee.

(<http://www.treasury.govt.nz/economy/regulation/programme>)

3. Experiences of APEC economies (case studies)

The Best Practice Regulation model was developed by the Treasury to provide a "common language" across regulatory regimes. This model is intended to enable better debate about regulatory systems, helping Government and industry to work together in assessing the

performance of New Zealand's regulation.

Best Practice Regulation has two parts:

- A set of principles against which regulation can be assessed. These principles are promulgated, as appropriate, through other aspects of the regulatory quality management system
- A Treasury-led assessment of the regulatory stock at regime level providing a snapshot of the health of our regulatory system as a whole.

The Best Practice principles are not novel, but based on OECD, UK, Australian and World Bank principles. But the assessment approach is experimental. We have carried out one full round of Best Practice Assessments—an assessment of regulatory regimes against the principles was conducted in 2011 and updated with further information in 2012. The assessment was preliminary, identifying areas where further analysis may be warranted, and highlighting work that is underway. We will continue to grow our understanding of regulatory best practice through the evolution of the principles, the cycle of assessments, and resulting cross-agency and public discussion.

(<http://www.treasury.govt.nz/economy/regulation/bestpractice>)

There have been challenges applying the fairly generic best-practice model horizontally across all regulatory regimes. Each regime has a particular philosophy and regulatory approach that is sometimes aimed at multiple objectives and different sorts of activities. For meaningful assessments of regimes, close consideration with sector and regulatory specialist experts has been required, which is difficult to coordinate from a central agency while ensuring practitioners buy in to the process. The potential for negative assessment to be recorded by one agency against another may limit collaboration and information-sharing—which risks undermining the objectives of regulatory quality and reform. The Treasury is therefore looking at how the assessment can provide a meaningful snapshot of the health of regimes while still eliciting the sorts of indicators of regime performance.

In March 2013, Cabinet agreed to the expectation that departments will act as stewards of the regulations they administer, including that regulatory proposals be subject to impact analysis, implementation planning, monitoring and review. The expectations for regulatory stewardship outline at a high level Cabinet's expectations for how government departments should be designing and implementing regulatory regimes, and their stewardship role in administering those regimes. We collect information about how departments assess they are meeting the expectations through the production of 'system reports' which seek to probe departmental regulatory systems.

Cabinet has formally stated that it expects departments, in exercising their stewardship role over government regulation, will:

- monitor, and thoroughly assess at appropriate intervals, the performance and condition of their regulatory regimes to ensure they are, and will remain, fit for purpose;
- be able to clearly articulate what those regimes are trying to achieve, what types of costs

and other impacts they may impose, and what factors pose the greatest risks to good regulatory performance;

- have processes to use this information to identify and evaluate, and where appropriate report or act on, problems, vulnerabilities and opportunities for improvement in the design and operation of those regimes;
- for the above purposes, maintain an up-to-date database of the legislative instruments for which they have policy responsibility, with oversight roles clearly assigned within the department;
- not propose regulatory change without:
 - clearly identifying the policy or operational problem it needs to address, and undertaking impact analysis to provide assurance that the case for the proposed change is robust, and
 - careful implementation planning, including ensuring that implementation needs inform policy, and providing for appropriate review arrangements;
- maintain a transparent, risk-based compliance and enforcement strategy, including providing accessible, timely information and support to help regulated entities understand and meet their regulatory requirements; and
- ensure that where regulatory functions are undertaken outside departments, appropriate monitoring and accountability arrangements are maintained, which reflect the above expectations.

For the purposes of these expectations a “regulatory regime” covers all elements required to make regulation function, including (but not limited to):

- statutory and non-statutory instruments,
- supporting capabilities and functions (policy, back-office, enforcement and service delivery), and
- organisational culture.

We expect that the expectations themselves will be reviewed annually and adjusted or extended as appropriate. Treasury, working with the Department of Prime Minister and Cabinet and the State Services Commission, will be responsible for that review process, along with guidance and training. Reporting will be integrated as far as possible with existing agency reporting and central agency oversight arrangements, and develop over time alongside the expectations.

This has so far led to encouraging results from agencies. References to the expectations appear in guidance material for assisting policy and regulatory analysts, and a culture of ‘ownership’ is developing where agencies plan for reviewing their operations to ensure regulation they administer is fit-for-purpose.

We are currently implementing a new regulatory disclosure regime for when new primary or secondary regulation is proposed in Parliament. The disclosure regime supports aspects of the Regulatory Quality Management system by requiring disclosure of key quality assurance information and significant or unusual features relating to new legislative initiatives. Current

government policy is to implement this proposal administratively alongside the passage of a legislative requirement. (<http://www.treasury.govt.nz/economy/regulation/inforeleases>)

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

New Zealand has already adopted many of the GRP recommendations in the APEC/OECD Checklist. There is political consensus for a moderate regulatory quality management system that treats regulation as one option among potential alternative policy options, and tries to incorporate the harder-to-quantify longer-term benefits of regulatory settings and options into analysis. This means that a focus on red-tape or de-regulation agendas are weaker at delivering effective regulatory systems that deliver on regulatory objectives—particularly those aimed at certainty, risk, safety, and security.

Given New Zealand's stage of designing and implementing a regulatory quality management system, the strongest tools build a culture of good regulatory practice, and encourage state actors to take responsibility for regulatory regimes. The flow-oriented tools in New Zealand (especially RIA) are fairly well-established, but stock policies that review existing regulation are still at a relatively early stage of development. The regulatory expectations are likely to be the strongest driver of encouraging the existing tools to be applied at the level of the regulatory system that will have the most impact for trade openness and competitive forces to enable productivity improvements.

4.2 Priority for future reform in individual economies

There are no formal priority areas of reform—beyond embedding existing tools in the system and providing guidance to agencies with responsibilities for regulatory stewardship. Guidance and on-going collaboration by the Treasury as a central agency to support agencies to apply these tools in a regular, systematic way will represent an evolution and extension of the current toolkit. As noted above, the existing system is a product of experimentation and gradual evolution, so existing tools will continue to be reviewed and tweaked—particularly with the objective of ensuring administrative compliance by agencies and regulators (e.g. for reporting on regulatory priorities) does not distract from the core work of managing and operating the regulatory regimes themselves.

The method of conducting best practice regulatory assessments against the principles will be closely observed by all stakeholders in coming months. A review of the new disclosure requirements and the level of transparency and engagement that they have encouraged will begin shortly. The way in which regulatory plans are put together and communicated between agencies and Cabinet Ministers is being reviewed in order to explore design options and informational requirements that may enable clearer prioritisation of regulatory policy work across regimes.

The best way of assessing agencies' adherence to the regulatory expectations will be explored

with agencies themselves, since a lot of performance reporting occurs under state sector processes that are broader than just regulation. Government departments operate within the Public Sector Management system governed by the State Sector Act and the Public Finance Act. A recent initiative in this system has been the Performance Improvement Framework (<http://www.ssc.govt.nz/pif>) which aims to measure, and recommend improvements to, departmental performance. This includes specific measurement of a department's regulatory function.

Peru

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

i) Mechanisms or bodies to enable internal coordination of rulemaking activity

The body that enables internal coordination among the different sectors of the Peruvian Government at the Executive Branch is the Presidency of the Cabinet (PCM). The PCM has two main mechanisms of promoting internal coordination of rulemaking: (i): the Cabinet; and, (ii) the Commission of Vice Ministerial Coordination (CCV).

The two mechanisms mentioned above facilitate the generation of recommendations on multisectoral issues of high national interest or that affect the Peruvian Government's general policy. Indeed, the objective of these two mechanisms is to facilitate cooperation and intersectoral collaboration among the Executive Branch (Reference: Ministerial Resolution N° 251-2013-PCM and Supreme Decree N° 063-2007-PCM).

ii) Institutions to oversee regulatory impact assessment (RIA) and public consultation mechanism

• Regulatory Impact Assessment (RIA)

The Legislative Decree N° 183, modified by Legislative Decree N° 325, establishes that the Ministry of Economy and Finance (MEF) is in charge of the national economic activity harmonization. In this line, according to Article 23.1°, subsection a) of Law N° 29568 (Executive Branch Law), are general functions of the Ministries: *"formulate, plan, direct, coordinate, implement, monitor and evaluate the national and sectoral policy under its jurisdiction, applicable at all levels of government"*.

Thereby, to facilitate compliance with national and international regulations, the MEF (through the General Directorate of International Economic Affairs, Competition and Productivity) has the task of *"improve processes for issuing legal provisions, in order to ensure that they are consistent with the efficient allocation of productive resources and to do not constitute obstacles to competition and market performance"* (Supreme Decree No. 117-2014-EF). In other words, the Ministry of Economy and Finance has the function of promote and oversee regulatory reform initiatives at a cross-government level as the RIA.

• Public Consultation Mechanism

It is responsibility of the Ministry of Justice and Human Rights oversee the Public Consultation

mechanism. Indeed, according to the Supreme Decree N° 001-2009-JUS, is mandatory that the public entities publish the draft or project of their regulations within a period not less than thirty (30) days before the date of entry into force, with certain cases as exception. During the time of pre-publication of the regulations, the Peruvian public entities allow interested persons to provide comments on the proposed measures.

In addition, because of the Law N° 29158, the Executive Branch is able to create Advisory Commissions in which could participate professionals, specialists and representatives of civil society, of recognized ability and experience. These bodies must evaluate and propose alternative solutions to the reports of the Executive Branch and these solutions or proposals have to be considered within the sectoral decisions.

iii) Coordination mechanisms between national and sub-national level of governments to promote regulatory coherence

It is not implemented a mechanism per se between national and sub-national level of governments that oversees regulatory coherence. However, in the way that the national and sectoral policies have to pursue the national interests, the Executive Branch creates coordination mechanisms with regional and local governments (Reference: Law N° 29158). Some measures that have been implemented to ensure this commitment are the creation of the Advisory Commissions in the Executive Branch (Reference: Law N° 29158); and the requirement of the presence of representatives of local and regional governments in the Board of National Council on Competitiveness of the Ministry of Economy and Finance (Reference: Supreme Decree N° 024-2002-PCM).

iv) Institutions to oversee training and capacity building programmes for rule makers and regulators

As it was explained before, the General Directorate of International Economic Affairs, Competition and Productivity of the Ministry of Economy and Finance has the function of propose measures to improve the processes of issuing legal provisions (Reference: Supreme Decree N° 117-2014-EF). In this sense, this General Directorate develops training and capacity building among the public servants of the Peruvian Government. It is important to mention that this General Directorate has implemented some workshops in order to improve the regulatory production process in other public entities. For example, there have been imparted workshops financially funded by APEC and other RIA pilot programs, specifically, with the Ministry of Production and the Ministry of Health.

1.2 Strategy and program for improving regulatory practices

Peru's regulatory reform began as part of the institutional reforms in the early 1990s, and was largely free market, competition and free trade¹ based, focused on setting up clear rules on markets. Since that moment, the Peruvian regulatory policy has enhanced GRP key elements,

¹ Political Constitution of Peru (articles 58°, 59° and 61°), Legislative Decree N° 668, Ministerial Resolution N° 005-2006-EF/15, Legislative Decree N° 1034, Legislative Decree N° 1044, among others.

such as transparency, administrative simplification and public consultation.

In particular, during the last years, Peru has increasingly examined the need for a governmental broader strategy to integrate good regulatory practices into the Peruvian regulatory system. Even though, no explicit national strategy on GRP has been adopted yet, components of the practices recommended by APEC and OECD are integrated into administrative reform and regulatory simplification (described in the second question of section 2.1 (1) of this report).

The Free Trade Agreements (FTA) as well as some international organisations as the World Trade Organisation and the Andean Community guide a regulatory view based on market openness and trade principles. In that sense, the participation of Peru in these mechanisms ensure the compliance of these recommended regulatory practices (article 55° of the Political Constitution of Peru).

Finally, it is important to mention that Peru is participating actively in the negotiations of two key agreements, where the economies are not only focusing on tariff and non-tariff barriers, but also on settle down GRP. Indeed, Peru is participating in the Trans-Pacific Partnership (TPP) and the Pacific Alliance (Chile, Colombia, Mexico and Peru), negotiating a Chapter about Regulatory Coherence/Regulatory Improvement. In both negotiations, the economies are reaffirming their commitment to the use of GRP in the process of planning, designing, issuing, implementing, and reviewing regulatory measures in order to facilitate the achievement of policy objectives, and in efforts across governments to enhance regulatory cooperation in order to further those objectives and promote international trade, economic growth, among others.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		✓	No. The Peruvian Government does not publish an annual legislative or regulatory plan.
Has the government published a set of good regulatory principles applicable across the government?	✓		The Peruvian Government does not publish explicitly a set of good regulatory principles across all the government, but some recommended practices are applied at national level because of some national legislations, such as: <ul style="list-style-type: none"> • Principle of transparency (Supreme Decree N° 001-2009-JUS). • Principle of consultation (Supreme Decree N° 008-2006-

			<p>JUS and Supreme Decree N° 001-2009-JUS).</p> <ul style="list-style-type: none"> • Principle of efficiency (Supreme Decree N° 008-2006-JUS). • Principle of administrative simplification (Law N° 29477). • Principle of coordination (Law N° 29158). • Principle of free-market competition (Article 61°, Political Constitution of Peru). • Principle of protection of private initiative (Article 58°, Political Constitution of Peru). <p>In addition, it is important to highlight that the Ministry of Economy and Finance has implemented explicitly a set of good regulatory principles for the elaboration and revision of its norms (Ministerial Resolution N° 639-2006-EF/67), strictly in concordance with the standards requested by APEC and OECD: necessity, effectiveness, proportionality, transparency and consistency.</p>
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		<p>Yes, but at the Executive Branch level.</p> <p>Indeed, the Ministry of Economy and Finance has the mandate of promote regulatory reform initiatives at a cross-government level because it is in charge of the national economic activity harmonization (Legislative Decree N° 183, modified by Legislative Decree N° 325). In this line, the General Directorate of International Economic Affairs, Competition and Productivity of this Ministry has the function of "<i>propose measures to improve the processes of issuing legal provisions, to the effect that they are consistent with the efficient allocation of productive resources in order that they do not constitute barriers to competition and that affect the performance of the markets</i>" (Supreme Decree N° 117-2014-EF).</p> <p>Also, the Ministry of Justice and Human Rights and the Presidency of the Cabinet have competences in order to support the Ministry of Economy and Finance on a government wide program of regulatory reform.</p>
Does the government systematically review regulations for cost and effectiveness?	✓		<p>Peru does not have a program that systematically reviews regulations for cost and effectiveness, but some related actions have been taken on this matter:</p> <p>1. The requirement of some standards in the elaboration of regulations is a manner of ensure efficient outputs:</p> <ul style="list-style-type: none"> • Administrative simplification programs have been

			<p>implemented at all levels of government, through administrative simplifications, reorganization of public institutions' internal processes, and improving transparency of administrative procedures. A clear example is the enactment of the Legislative Decree N° 1029 – “<i>Law that modifies the General Administrative Procedure</i>”, which has as main objective the requirements simplification, the elimination of bureaucratic barriers and the reduction of time procedures.</p> <ul style="list-style-type: none"> • The Ministry of Justice and Human Rights enacted the Supreme Decree N° 008-2006-JUS, which establishes the general content of the legal dispositions aimed by the Public Sector .The Supreme Decree mentioned set asis mandatory that every Executive Branch' regulation includes a Cost-Benefit Analysis that quantifies the impacts and effects of the policy proposal. <p>2. An extensive program of review and elimination of unneeded regulations has been carried out through several channels, such as:</p> <ul style="list-style-type: none"> • In concordance with the Article 8 of the Law N° 29477, a consolidation process of the Peruvian regulatory framework among public institutions and the derogation of outdated or unnecessary legal dispositions started. The Peruvian Congress has done extensive legal dispositions' “debugging” and achieve to eliminate more than 14,000 regulations(Laws N° 29477, 29563, 29629 and 29744). On the other hand, the Executive Branch has eliminated around 6,000 regulations in the first stage of its process (Supreme Decree N° 005-2013-JUS) and the second stage has already started (Supreme Decree N° 118-2013-PCM). • In addition, in concordance with the Law N° 28335, the Elimination of Bureaucratic Barriers Commission of the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) is in charge of the identification and publication of illegal and irrational barriers settled by the sub central government administration, in order to be taken as reference by these public institutions and eliminate them. The last publication was in March 2013 (see, http://www.indecopi.gob.pe/0/modulos/par/PAR_ListarAr
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			<p>chivos.aspx?PFL=3&GRU=185&VALTEM=0)</p> <ul style="list-style-type: none"> It is important to highlight that the Peruvian Government revised or enacted 86 laws to implement the Free Trade Agreement (FTA) with the United States. The Minister of Foreign Trade and Tourism concluded that the 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.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		<p>Because of the Peruvian Political Constitution, trade and competition issues are well reflected and integrated within the Peruvian regulatory reviews (Reference: articles 58°, 59°, 61° and 63° of the Political Constitution). Also, the Legislative Decree N° 668 dictates measures to ensure free trade as essential key for the economic development of the country, such as the elimination of all tariff barriers or restrictions for the import and export of goods and services.</p> <p>In addition, the INDECOPI is in charge of monitoring enacted legislation to preserve free and fair competition conditions. This entity have several commissions linked to promote competition and trade into the markets' regulatory systems:</p> <ul style="list-style-type: none"> Anti-dumping and Countervailing Duties Commission Defense of Free Competition Commission Elimination of Bureaucratic Barriers Commission Overseeing of Unfair Competition Commission Standardization and Non-tariff Barriers Surveillance Commission <p>These bodies 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>

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		The Supreme Decree N° 008-2006-JUS establishes the general content of the legal dispositions aimed by the Public Sector. In particular, that Supreme Decree establishes three main aspects that these legal dispositions must include: (i) the full explanation of the necessity for implementing the rule proposal (including, legal

		<p>scrub and legislative benchmarking), (ii) the Cost-Benefit Analysis; and (iii) the consultation process followed by the entity of the Executive Branch. This is an effort to accompany the bills with enough information on how the project seeks to achieve the policy objectives and to provide a minimum analysis of policies costs.</p> <p>Unfortunately, there is no clear standard of analysis or any established model. Hence, 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 evaluations 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.</p> <p>Worth to mention that, at the Executive Branch, only the Ministry of Economy and Finance has approved a methodology and guidelines on this matter.</p>
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓	<p>Yes, but only applied to the legal dispositions aimed by the Ministry of Economy and Finance.</p> <p>The Ministry of Economy and Finance has implemented a RIA in its production of legal dispositions because of Ministerial Resolution N° 639-2006-EF/67. Those impact analysis include the comparison between the possibility of achieving the public policy objectives without changing in the legal framework and some alternatives that vary it.</p> <p>There are basic principles that are considered in the selection of the most adequate alternative: the degree of efficiency in the allocation of resources or production factors in the economy and the effects of the alternatives on the welfare of the population through its impacts on consumers, enterprises and the Government.</p>
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major	✓	<p>Yes, but only applied to the legal dispositions aimed by the Ministry of Economy and Finance.</p> <p>The Ministry of Economy and Finance has implemented a RIA in its production of legal dispositions because of Ministerial</p>

impacts, both negative and positive?			Resolution N° 639-2006-EF/67. The evaluation of alternatives involves the contrast of quantifiable and non-quantifiable costs and benefits of each policy alternative and global balance between them. After this process, it is require a description of the main legal and economic characteristics of the chosen regulatory alternative as well as the selected mechanisms for its implementation and the obligation of monitoring the draft standard.
How are [trade friendly] alternatives to regulation assessed?	✓		<p>Considering only the RIA assessed by the Ministry of Economy and Finance (Ministerial Resolution N° 639-2006-EF/67), the identification of the effects includes explicitly those related on competition in the markets, domestic and international trade. It is also important to mention that the transparency process not discriminates between stakeholders so trade officials have an opportunity to see the RIA and draft legal documents.</p> <p>Moreover, because of Peruvian Political Constitution and Legislative Decree N° 668, the Public Sector must integrate free trade issues within the production of all new legal dispositions.</p>

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		<p>Yes, only the proposed legal documents. A RIA system is not implemented yet in Peru.</p> <p>The Supreme Decree N° 001-2009-JUS establishes the dispositions related to the publication of legal dispositions and regulatory proposals of the Executive Branch. Transparency measures include pre-publication of projects, laws, and decisions to be adopted, in order to receive suggestions from interested parties and stakeholders.</p>
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to	✓		<p>Yes.</p> <p>The Supreme Decree N° 001-2009-JUS establishes that public entities have to publish the draft measures (regulatory proposals) in the official gazette <i>El Peruano</i>, on their institutional electronic websites or by any additional mean, within a period not less than 30 days before entry into force. These entities allow comments made by interested persons on the proposed measures.</p>

improved regulatory outcomes?			<p>On the other hand, the organization of public hearings is a requirement to the Executive Branch in order to ensure effective involvement of stakeholders and other levels of government, so they can express their views (Supreme Decree N° 008-2006-JUS). However, there are no standardized methods or minimum quality standards for public consultation.</p> <p>Moreover, through the CCV is ensure the participation of other public institutions in the regulatory process of an Executive Branch entity.</p>
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?		✓	<p>In Peru, there is not implemented yet a formal channel on how public institutions must give feedback to stakeholders after consultation process. However, many public institutions have a strong commitment with the main stakeholders on their sectors, so they keep communicate when an important regulatory proposal is on evaluation.</p>

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

Each entity of the Peruvian Government that elaborates regulations must publish the drafts on those legal projects in their own web pages within a period not less than thirty (30) days before the date of their entry into force, except in certain cases² (article 14° of Supreme Decree N° 001-2009-JUS). Also, this is applied to final regulations.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The Peruvian Government does not publish a forward-looking regulatory agenda.

(3) Reviews of existing regulations

In Peru, there is wide range of public bodies that review existing regulations to make them less burdensome, such as:

- The General Directorate of International Economic Affairs, Competition and Productivity of the Ministry of Economy and Finance, which is in charge of "*propose measures to improve the processes of issuing legal provisions, to the effect that they are consistent with the efficient allocation of productive resources in order that they do not constitute barriers to competition and that affect the performance of the markets* " (Normative Reference:

² The legal dispositions produced by the Congress and the Judicial Branch; the Emergency Decrees and the Legislatives Decrees; and every legal disposition whose publication is considered to be impracticable, unnecessary or contrary to the safety or the public interest.

Supreme Decree No. 117-2014-EF).

- The Monitoring Investment Specialized Team of the Ministry of Economy and Finance, which identifies problems and constraints that affect the implementation of investments and propose solutions for them. Also, this Specialized Team is in charge of proposing modifications on the regulatory frameworks and administrative procedures due to facilitate the efficient execution of investment projects (Normative reference: Supreme Decree N° 104-2013-EF).
- The Secretariat of Public Management of the Presidency of Cabinet, which is in charge of the operation and organization of the State, administrative simplification, ethics and transparency in concordance with the standards of modernization, rationalization, decentralization of Government, internal control, and the code of ethics of public service (Normative reference: Supreme Decree N° 063-2007-PCM).
- The Elimination of Bureaucratic Barriers Commission of INDECOPI, which identifies and eliminates rules and regulations of Public Administration entities which constitute bureaucratic barriers that irrationally limit or restrict access or permanence of economic agents in the market; and contributes to simplify the administrative process through a subsequent control of rules and regulations in favor of citizens (Normative reference: Legislative Decree N° 1033).
- The National Competitiveness Council (CNC, in Spanish), under the Ministry of Economy and Finance, detects barriers in markets and defines strategic national priorities, as well as, promotes and monitors cross reforms among the different sectors and levels of the Government (Normative reference: Supreme Decree N° 024-2002-PCM).

3. Experiences of APEC economies (case studies)

As part of competences gave it to the Ministry of Economy and Finance by the Legislative Decree N° 183, the Decree Law N° 25909 and the Decree Law N° 25629, this Ministry participated on the project: "*Capacity building of Colombia and Peru to improve the regulatory impact analysis (RIA) as a key element of economic growth to improve and facilitate international trade*" (part of program Canada-Americas Trade Related Technical Assistance). The project objective was to improve the elaboration and design of projects or proposals of Technical Regulations (PRT) incorporating the RIA methodology and taking into account the principles of good quality regulatory practices of the Organization for Economic Cooperation and Development (OECD). In addition, the project also intended to reflect Peru's commitments with the World Trade Organization and the Andean Community during the development of PRTs.

In this line, the project, with the support of the consultancy firm Jacobs, Córdova & Associates, focused on training a technical group of the Ministry of Production (PRODUCE) in the implementation of the RIA tool for the development of two PRTs: PRT of Gas Appliances and PRT on Wires and Conductors. Also as part of the project, three workshops for state officials were

developed on how to conduct a RIA methodology and its importance for the development of technical regulations; as well as the development of a methodological guide where is explain the steps to be followed for the implementation of a RIA in Technical Barriers to Trade issues.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

Strongest areas:

- Public entities of the Executive Branch fulfil all the requirements of transparency (high level of compliance). In particular, they keep updated their websites and they publish on time their regulatory proposals for comments of stakeholder.
- There is a General Directorate at the Ministry of Economy and Finance that is in charge of disseminating GRPs on all the Executive Branch, such as the use of RIA methodology. This could be a solid platform to go forward with the implementation / consolidation / improvement of GRPs in the future.
- There is a complete and efficient expost control of regulations, in order to preserve fundamental principles like free market, free and fair competition and free trade. The main institutions are: the Ministry of Economy and Finance, the CNC, INDECOPI, among others.
- Since the structural reforms held during the 90s, the Executive Branch has put a lot of emphasis on the administrative simplification, reducing bureaucratic barriers, time and cost of procedures. For this purpose, the Secretariat of Public Management of the Presidency of Cabinet watches out that public entities incorporate administrative simplification in their annual plans and monitors the progress.
- Recently, the Peruvian Government, trough the Ministry of Justice and Human Rights, has launched a Legislative Technique Guide for the elaboration of normative projects of the Executive Branch. This Guide is the first document that compiles all the criteria needed for a correct and uniform draft proposal. (Reference: Directorial Resolution N° 003-2013-JUS/DGDOJ).
- The Peruvian Government is conscious of the importance of GRPs for economic growth and social welfare that is why Peru is participating in two important agreements, the TPP and the Pacific Alliance, where a chapter of Regulatory Coherence / Regulatory Improvement is on negotiation. The commitments that will be derived from the negotiation of these chapters are going to facilitate a better implementation and improvement of GRPs in Peru.

Weakest areas:

- Lack of a guide on RIA and explicit rulemaking process for all public entities at the Executive Branch. So far, RIA is only applied to the Ministry of Economy and Finance.
- Low level of knowledge and skills of public servants in order to applied tools such as RIA. There is a huge pending task on training public servants that are directly and indirectly related to the elaboration of regulatory measures.
- The implementation of GRPs has only been concentrated at the central level of Government; there is a pending agenda on spread those GRPs to the regional and local levels of Government and the Congress.
- Even though, the Executive Branch and the Congress have debugged unnecessary legal dispositions, still some normative dispositions pending to be reviewed, especially those of lower legislative range than law.

4.2 Priority for future reform in individual economies

1. Elaboration of a single regulatory guide to be applied to all public institutions that propose regulatory measures, which includes formal procedures on how to propose and evaluate regulations, the principles and guidelines that must be take into account, and RIA templates.
2. Launch a global training program on GRPs (such as, RIA) for public servants of all levels of Government.
3. Strength and improve the public consultation procedures, enhancing public active consultation (not only publish the regulatory drafts but also that public entities ensure back and forward consultation).
4. Finish the negotiations of the Regulatory Coherence / Regulatory Improvement chapters of the TPP and Pacific Alliance. After that, put into practice all the commitments derived from the negotiations.

The Philippines

Developments in Good Regulatory Practices

1. Overview of the Institutional Framework to Oversee Good Regulatory Practices

A well- designed and appropriate regulation can promote competitive and well functioning markets, and stronger, sustainable economic performance for economies in the region. Having a good rule or regulation brings about improvement in the regulatory environment such as lower regulatory costs and more robust competition in the Philippine economy. This also creates a high level of confidence from foreign investors and entices them to participate and invest in various domestic economic activities.

1.1 Institutions to Oversee Good Regulatory Practices

The government seeks to strengthen the business climate and improve its economy's competitiveness by putting in place a business-enabling regulatory environment that supports doing business in the Philippines. A priority is to reduce and prevent regulatory burden brought about by unnecessary/ excessive regulation which adds to the cost of compliance by individuals and business, and of enforcement by government. However, there is no central body that that reviews the appropriateness and impact of existing or future regulations in government. Regulatory reviews are undertaken by agencies responsible for specific sectors.

Efforts are now being pursued to institutionalize regulatory impact assessment (RIA) in government to improve regulatory governance. The RIA program is being piloted in the Department of Tourism (DOT) and the Department of Labor and Employment (DOLE) with the assistance from the Asian Development Bank. The RIA pilot program is focused on developing a RIA regime based on regulatory best practice principles that suit local circumstances. The RIA program is planned to be progressively rolled out across other departments in 2015 and the establishment of an office for regulatory best practice is being considered.

1.2 Strategy and Program for Improving Regulatory Practices

The RIA program of the DOT covers all its attached agencies.⁹ In implementing a RIA regime in the tourism industry, the DOT aims to carefully assess and evaluate proposed new regulations and processes. Proposed regulations and processes undergo assessments that employ cost benefit analysis of all feasible options including non-regulation and status quo. A RIA Technical Working Group reviews that draft proposals prior to submission to the DOT Secretary. Extensive consultations are undertaken with concerned groups to define the problem and its magnitude and

⁹ Tourism Infrastructure and Enterprise Zone Authority; Tourism Promotion Board; Duty Free Philippines Corporation; Intramuros Administration; National Parks Development Committee; Nayong Pilipino Foundation; Philippine Retirement Authority; and the Philippine Commission on Scuba Diving.

policy options for implementation. Advance notices of consultation are posted in the DOT website. When rule/regulation is finalized and approved for release, the DOT requires the Regulatory Impact Statements (RIS) to be published in the DOT website, together with other approved regulations of the department. The DOT is expected to implement standardized categories for hotels in the Philippines by September.

The DOT has also conducted workshops on preliminary impact assessment and the RIA guidelines to develop the capacity of DOT personnel in handling RIA. Advocacy and awareness seminars on the RIA were also conducted for non-DOT stakeholders in Cebu (for Visayas) and Davao (for Mindanao).

In the long run, the DOT will aim to focus on reforming the stock of existing rules and regulations to rationalize the regulatory environment.

The DOLE issued Administrative Order No. 29, series of 2012 creating the RIA Committee composed of various bureaus and attached agencies, to implement the ADB assisted RIA project. Ten (10) RIAs in 10 policy areas were identified. These are overseas employment, security of tenure, productivity, employment insurance, apprenticeship, public employment service office, Magna Carta for Seafarers, private recruitment and placement agency, special program for employment of students and Article 40 of the Labor Code (positive list). Task teams were constituted to undertake the RIA process for each priority area. Two key policies that have undergone RIS are the regulations concerning the security of tenure and the apprenticeship law. The DOLE also conducted capacity development, advocacy and public awareness, and regulatory reviews, among others.

2. Application of Good Regulatory Practices in APEC Economies

2.1 Progress in Applications of GRPs in the Areas Committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments, if any
Does the government publish at least annually a regulatory/legislative plan?		✓	Not applicable
Has the government published a set of good regulatory principles applicable across the government?		✓	Not applicable
Does the government have the capacity to manage a government-wide program of regulatory reform?		✓	Not applicable
Does the government systematically review regulations for cost and effectiveness?		✓	Not applicable
Are trade and competition principles integrated into regulatory reviews and analysis?		✓	Not applicable

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments, if any
Does the RIA or other explanatory document define the problem to be solved?	✓		Part of the DOT Preliminary Impact Assessment (PIA), the first stage of RIA, is the "Description of the Problem," with explanation on its significance and risks and presentation of evidence or pieces of evidence. In this stage of RIA, consultation with tourism stakeholders is a prerequisite to assess the magnitude/significance of the problem per stakeholder group. A justification of the need for government action is also necessary in the assessment.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		Part of the impact assessment is the analysis of available options. DOT obliges proponents/RIA writers to explore how other countries address the problem within their jurisdictions. Both non- and semi-regulatory options are also required to be analysed, with a review of existing regulations. All of the options must have a description of key features, risks, and viability.
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		In assessing the impacts of policy options, it is necessary that all possible impact on each stakeholder group whether in business, community or government, as well as indication of significance/magnitude of each expected impact are discussed in the RIA. Impact to be considered for each stakeholder group include economic, competition, international agreements, compliance and administrative, social, and environmental.
How are [trade-friendly] alternatives to regulation assessed?	✓		Consultation with business communities that will be directly affected by a particular policy are undertaken. The consultation serves as a venue for these business communities to present the benefits of policies that will facilitate trade. One of the principles followed in the DOT RIA Program is to guarantee that the regulation does not restrict competition, unless the benefits from the restriction outweigh the costs or there is no other available means to achieve the policy objectives.

(3) Public Consultation Mechanism

	Yes	No	Comments, if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		An advance copy of the RIA is required before consultation. This is to ensure that stakeholders have adequate level of knowledge on the issue before participating in the consultation wherein their comments or recommendations are sought.
Are plainly written, clear and concise draft measures made available for public comment, with adequate time for review so that stakeholders and	✓		The DOT RIA Program, as stated in the DOT Manual on the RIA System, also requires publication of all RIS documents and approved regulations for public access and availability. The public will be allowed to comment to ensure that all relevant inputs are

governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?			gathered.
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		The DOT is formulating the feedback mechanism after every consultation, which will include, among others, an explanation on how the stakeholders' inputs are incorporated in the proposed regulation.

2.2 Implementation of GRPs in the Areas Extended at the 2013 AELM

(1) Single on-line locations for regulatory information

There is no single portal where regulatory information from different agencies is available. However, all government agencies, local government units and government controlled corporations, particularly those providing front line services, i.e., issuance of permits and licenses, etc, are required to post their procedures online and in their workplace through their Citizen's Charter. The Philippines is also pursuing efforts to establish the Philippine National Trade Repository (PNTR) as part of its strategy to facilitate trade. The PNTR is a website that would provide comprehensive information on tariff and non-tariff measures, including regulatory procedures and processes, applied to goods. The target date for the establishment of the PNTR is on December 2014.

(2) Prospective regulatory planning

DOT plans to come up with a program outlining 10 regulations – planned and existing – that will undergo RIA. The policies includes, among others, accreditation of tourism enterprises such as accommodation and tour facilities; accreditation of sports scuba diving establishment by the Philippine Scuba Commission; and the grant of visas, privileges, clearances, permits, etc. to foreign retirees; accreditation of ecotourism spots, among others. The DOT is also looking at updating, revising or repealing sunset policies as part of the DOT's RIA program.

Capacity-building initiatives are slated to prepare the DOT and its attached agencies as well as the local government units and other stakeholders on the RIA program. The DOT is set to publish, launch and post in its website the DOT RIA Guidelines and Primer for its employees.

(3) Reviews of existing regulations (refer to B3 in APEC OECD checklist for details).

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3. Experiences of APEC Economies (case studies)

The RIA programs in the DOT and DOLE are still in the initial stages.

4. Challenges and Priorities for Future Reform

4.1 Challenges for the Philippines

Based on the current experience of the DOT and the DOLE, the following challenges were identified:

- (a) Difference in the level of skills and knowledge in analysis of impacts from regulations in both government and business;
- (b) Weak coordination across departments/agencies in the development and assessment of laws and regulations; and
- (c) Weak interface between government and business in regulatory development and implementation (i.e., poor consultation practices and access to regulatory information).

4.2 Priority for Future Reform in individual economies

The Philippines shall continue its efforts towards improving transparency, strengthening institutions, improving regulations and encouraging citizen participation to reach its goal of inclusive and sustained growth and poverty reduction. It will continue to adapt best regulatory practices/principles that best suit local circumstances as well as undertake capacity building, and advocacy and awareness programs on the RIA.

The Russian Federation

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

The Russian Federation is interested in boosting productivity, competitiveness, modernization of the economy, and enhancing its the efficiency and transparency throughout proper and unburdened regulation and wider, and more active participation of interested citizens in decision-making processes related to regulatory area.

To this end in 2010 the Ministry of Economic Development of the Russian Federation began introducing the new institution such as Regulatory Impact Assessment (hereinafter referred to as the RIA).

Promotion of the RIA is a part of state efforts aimed at implementing structure reforms in the Russian Federation that nowadays are promoting in different economic areas.

The RIA is a part of the Russia's individual ANSSR plan that is aligned with the framework and guidelines set out in the Conception of long-term socio-economic development of the Russian Federation till 2020.

Throughout 2010 – 2013 this institution has been actively developing, as a result of which by now a new model of departmental rule-making has been shaped in general, being based on comprehensive analysis of proposed regulatory solutions by federal executive agencies – developers of draft regulatory acts.

Principal directions and objectives of the RIA Institution development in 2012 – 2013 were defined by the Decree of the President of the Russian Federation dated May 7, 2012 No. 601 "On principal directions of public governance system improvement", which served as the guideline for measures of organisational and normative support of the RIA procedure. This document established the timing of all measures, and compliance with such timing is continuously monitored by the Government.

1.2 Strategy and program for improving regulatory practices

The key directions of the RIA Institution development in Russia from the moment of its enactment have been as follows:

- implementation of the procedure for assessment of regulatory decisions by developers themselves, starting at the earliest stage of their development;

- expansion of assessment scope;
- dissemination of RIA procedures over regulatory acts of regional and municipal level;
- building of public discussion procedures on the basis of involvement of representatives of professional communities;
- improved culture of lawmaking, development of appropriate competences of governmental authorities and their officials;
- revision of existing legislation in part of regulatory acts that are outdated and do not comply with objectives of business climate improvement.

Key achievements:

The Regulation of the Government of the Russian Federation dated December 17, 2012 No. 1318 was adopted "On the procedure of assessment of regulatory impact from draft regulatory acts, draft amendments to draft federal laws and draft decisions of the Council of the Eurasian Economic Commission by federal executive agencies, and also on amendments to certain acts of the Government of the Russian Federation", which expanded the scope of assessment, strengthened the RIA model, in which the federal executive agencies - developers of draft regulatory acts in the scope of RIA - perform the assessment independently. Since July 1, 2013 the Regulation became operative.

The methodological base for implementation of the Regulation No. 1318 has been prepared: the Decree of the Ministry of Economic Development of the Russian Federation dated May 27, 2013 No. 290 was adopted "On approval of the summary report form on completion of regulatory impact assessment, the form of the opinion on regulatory impact assessment, methodology of regulatory impact assessment".

The Federal Law dated July 2, 2013 No. 176-FL "On making amendments to the Federal Law "On general principles of organisation of legislative (representative) and executive governmental authorities of the constituent territories (CTs) of the Russian Federation" and the Federal Law "On general principles of organisation of local self-government in the Russian Federation" were adopted on issues of regulatory impact assessment from draft regulatory acts and expertise of regulatory acts".

The official website has been launched for RIA procedures and disclosure of information on development of draft regulatory acts – www.regulation.gov.ru. The functionally similar websites were devised for constituent territories of the Russian Federation.

The number of prepared opinions on assessment of regulatory impact of the draft act from the moment of introduction of the RIA procedure in Russia at the federal level has exceeded 2300 official conclusions on beginning 2014 (34% of which were estimated as "negative").

In 82 constituent territories of the Russian Federation the executive agencies responsible for the procedure have been assigned, and the regulatory acts have been approved, which establish the procedure of assessment of regulatory impact from draft acts.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		
Has the government published a set of good regulatory principles applicable across the government?		✓	At the present, the Russian Federation is considering possibilities of the implementation of such approaches.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		The government of the Russian Federation is fulfilling structure reforms under the Decree of the President of the Russian Federation “ On main direction of improvement of the system of the state administration” № 601, 07.05.2012.
Does the government systematically review regulations for cost and effectiveness?	✓		According to the Decree of the Government of the Russian Federation № 633, 29.07.2011, the Ministry of economic development conducts expertise of active normative acts of the federal bodies of executive power (on the basis of semi-annual plans, formed accordingly to proposals of business community)
Are trade and competition principles integrated into regulatory reviews and analysis?		✓	At the present, the Russian Federation is analyzing international experience of implementation of this issue

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		According to the Decree of the Government of the Russian Federation № 1318, 17.12.2012, such a data should be included into the Consolidated Report of the RIA
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		According to the Decree of the Government of the Russian Federation № 1318, 17.12.2012, such a data should be included into the Consolidated Report of the RIA
Does the impact assessment include a reasonable selection of a preferred	✓		-

option, based on the potential major impacts, both negative and positive?			
How are [trade friendly] alternatives to regulation assessed?		✓	At the present, the Russian Federation is analyzing international experience of implementation of this issue

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		The text of a proposed legal document as well as consolidated data of received proposals are published in the specific internet portal - regulation.gov.ru. This portal is used for different purposes, including such as the conduction of the RIA,.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		Every interested person may register his/her self in the portal - regulation.gov.ru where he/she may leave comments and proposals on proposed legal documents
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		All comments and proposals received by a schedule date are collected into Consolidated report (with the indication of their record keeping or reasons of their refusal), which is published in the portal - regulation.gov.ru

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

The official website has been launched for the RIA procedures and disclosure of information on development of draft regulatory acts – www.regulation.gov.ru. The functionally similar websites were devised for constituent territories of the Russian Federation.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The main objectives of regulation quality improvement in Russia in years to come include finalisation of lawmaking mechanisms that make it possible to comprehensively assess quality of regulatory decisions at the stage of their development and to monitor achievement of the stated effects of the implemented regulation in process of its functioning. The specified mechanisms will be improved on the basis of transparency and freedom of access for all stakeholders to the

process of regulatory decisions development .

Nowadays the approaches and timing for achievement of short-term objectives have already been defined.

To enable state and municipal officials to use best lawmaking practices, there is a variety of training events, being held and planned, both for federal state officials and employees of regional authorities, which will be held by the Ministry of Economic Development of the Russian Federation as the responsible body for promotion of new institutions in the Russian Federation.

Development of specialised training and upgrading programs for state and municipal officials has started on issues of the RIA organisation and performance, expertise of operating acts, public consultations. The implementation of the specified programs is planned for 2014.

(3) Reviews of existing regulations

Currently the Ministry of Justice of the Russian Federation is analysing law-enforcement practice of operating regulatory acts. The Ministry of economic development also conducts expertise of active normative acts of the federal bodies of executive power (on the basis of semi-annual plans, formed accordingly to proposals of business community). One of the most important objectives for 2014 is to complete the RIA procedure by introduction of newly adopted regulation monitoring (ex-post analysis), allow to estimate impact of new regulation adoption at the new level, and to use federal agencies' regulatory acts in the regime of legal experiment.

3. Experiences of APEC economies (case studies)

The Russian Federation plans to introduce a complex system for specified procedures quality assessment, both at the federal and regional levels of public governance. One of the results from using such system of procedural quality assessment will be the opportunity to use state authorities and state officials (KPI) work quality on the basis quality analysis of legal regulation that they develop.

4. Challenges and priorities for future reform

In slightly longer term it will be necessary to develop and implement the concept of state regulation based on clear definition of requirements to regulatory acts and their content; wide application of different procedures of public discussion, including the RIA; mandatory use of monitoring of actual impact of regulation which makes it possible to clearly relate actual results of regulatory acts realisation to the stated objectives of regulation; wide usage of legal experiment, usage of practice of adoption of a new regulatory act instead of the operating one, other up-to-date regulatory practices.

Singapore

Developments in Good Regulatory Practices

The main objectives of regulatory reform in Singapore are to reduce the cost and burden of regulation on stakeholders, including businesses and the public, while safeguarding public interest and ensuring that our regulatory environment remains conducive to businesses.

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

There are two key government platforms responsible for improving the quality of government regulations and removing outdated or unnecessary regulations:

(i) Smart Regulation Committee

The Smart Regulation Committee (SRC) is set up within the Singapore Public Service to promote good regulation practices within the Government and proactively review rules and regulations. The SRC is currently chaired by the Permanent Secretary of the Ministry of Social and Family Development (MSF) and the Second Permanent Secretary of the Ministry of Trade & Industry (MTI). Its members are senior civil servants from various ministries and statutory boards.

The SRC evolved from the Rules Review Panel (RRP) which was set up in 2002 to oversee the rules review process within the public sector.

- a. The original RRP stipulated that all existing rules enforced by public sector agencies had to be reviewed every three to five years. RRP had a mandate to establish effective and responsive regulatory regimes throughout the public service. It adopted a proactive approach to the reviewing of rules through examining the rationale behind the existence of these rules.
- b. In 2005, the RRP was reconstituted as the Smart Regulation Committee (SRC) with a broader mandate to shift the mindset of the Public Service from being merely a regulator to that of a facilitator, so as to develop a regulatory regime that is friendly to business and investment.

The SRC seeks to get agencies within the Singapore Government to change their mindset, adopt less of a “regulator-centric” approach and shift to one that is more “customer or citizen-centric”. As part of this, the SRC carries out the following:-

- a. Promote efforts to encourage government officers to think in terms of the desired outcomes when developing or reviewing regulations, and the risks that they are trying to manage. Once they are clear about the outcomes and risks, it is likely that the options for improving current rules and regulations will also be clearer.
- b. Bring together all the lessons learnt from agencies involved in regulation making, extract the principles, identify what is transferable and then disseminate these ideas throughout the Government. Agencies which do well in regulatory reform are invited to share their best practices with the others, thereby creating a positive reinforcing loop between regulatory review and increasing smart regulation mindshare among public officers.

(ii) Pro-Enterprise Panel

The Pro-Enterprise Panel (PEP) was formed in August 2000 to actively solicit feedback on rules and regulations that hinder businesses and impede entrepreneurship. The PEP is chaired by the Head of Civil Service and comprises of mainly business representatives from the private sector. Acting on feedback from the public, the PEP engages agencies to review rules and regulations, so that Singapore businesses spend less time, effort, and money in meeting regulatory requirements for their operations.

The PEP ensures that a full review is conducted for every regulatory feedback or suggestion received. If any agency rejects a suggestion, the PEP will examine the agency's rationale and may ask the agency to substantiate its position for the rejection if the initial reply was found to be unsatisfactory. The PEP also ensures that the reasons behind the agency's decision are explained clearly to the suggestor, and that alternative solutions are provided where possible. Since its inception, the PEP has received over 1,800 suggestions and more than half of these have resulted in regulatory or rules changes.

In addition to acting as a feedback channel, the PEP also carries out the annual Pro-Enterprise Ranking (PER) survey across 26 regulatory agencies. The survey benchmarks government agencies on their business-friendliness by analyzing the perceptions and expectations of more than 4,000 businesses that have interacted with them.

1.2 Strategy and program for improving regulatory practices

Singapore's regulatory environment is guided by the following:

- a. To foster self regulation and market discipline as far as possible;
- b. New regulations should take into account the views of citizens, enterprises and the community, potential implications for existing regulations and allow for co-creation of ideas and solutions;

- c. The cost of regulation should be weighed against its intended benefit and the consequences of non-compliance;
- d. Regulations should adopt a risk-management approach instead of a zero-tolerance approach; and
- e. Regulations should facilitate a competitive and innovative business climate.

Singapore does not have a formal Regulatory Impact Analysis framework as it is a small economy with a well-connected government, making it easy to quickly evaluate policy impact and connect with the relevant stakeholders to gather feedback. The Government is receptive to feedback, and relies on its stakeholders to act as its eyes and ears in identifying areas of regulation which may require review and reform. For major projects, careful cost-benefit analysis, evaluation of stakeholder impact and thorough public consultation are carried out.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

Singapore seeks to apply good regulatory practices wherever possible. **Exhibit 1** provides an update of Singapore's progress in relation to the APEC Good Regulatory Practices framework.

Exhibit 1: Update of Singapore's progress for the APEC Good Regulatory Practices (GRP) framework

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		√	The Singapore Government does not publish an annual regulatory/ legislative plan.
Has the government published a set of good regulatory principles applicable across the government?	√		Regulations are developed on the basis that: <ul style="list-style-type: none"> - We should foster self regulation and market discipline as far as possible; - New regulations should take into account the views of citizens, enterprises and the community, potential implications for existing regulations and allow for co-creation of ideas and solutions; - The cost of regulation should be weighed against its intended benefit and the consequences of non-

	Yes	No	Comments if any
			<p>compliance;</p> <ul style="list-style-type: none"> - Regulations should adopt a risk-management approach instead of a zero-tolerance approach; and - Regulations should facilitate a competitive and innovative climate.
Does the government have a capacity to manage a government-wide program of regulatory reform?	√		<p>The Smart Regulation Committee (SRC) is set up within the Singapore Government with the primary aim to foster 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.</p> <p>The SRC is chaired by the Permanent Secretary of the Ministry of Social and Family Development (MSF). The Second Permanent Secretary of the Ministry of Trade and Industry is the Duty Chairman, while the rest of the members are senior civil servants from various ministries and statutory boards.</p>
Does the government systematically review regulations for cost and effectiveness?	√		<p>The SRC emphasizes the need for rules and regulations to be constantly reviewed, such that their continued relevance can be assessed.</p> <p>In addition, Singapore has another programme for regulatory review, the Pro-Enterprise Panel (PEP, www.pep.gov.sg) 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 PEP is chaired by the Head of Civil Service and comprises of mainly business leaders from the private sector. Acting on feedback from the public, the PEP</p>

	Yes	No	Comments if any
			engages ministries and government agencies to review rules and regulations, so that our businesses spend less time, effort, and money in meeting regulatory requirements for their operations.
Are trade and competition principles integrated into regulatory reviews and analysis?	√		<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 agencies 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.¹ These guidelines provide advice for businesses and contribute to a fairer and more competitive business climate for enterprises.</p>

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?		√	<p>Ex ante 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.</p> <p>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. 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.</p>
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	√		Singapore’s SRC guidelines recommending responsive regulatory designs and consideration of stakeholders’ views are meant to generate the information needed to make the right regulatory decisions.

¹ More details on the guidelines on Competition Impact Assessment for Government Agencies can be found here. <http://app.ccs.gov.sg/Legislation.aspx>

	Yes	No	Comments if any
			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 choices." (CCS Guidelines on Competition Impact Assessment for Government Agencies, 2008)
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	√		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.
How are [trade friendly] alternatives to regulation assessed?	√		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.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	√		<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, town halls and e-consultation via a central web portal.</p> <p>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</p>

	Yes	No	Comments if any
			<p>followed by a 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.</p> <p>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>
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	√		<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. The public can give their feedback on policy formulations through various means, including letters, emails and online submissions. 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>
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	√		<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>

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations

Updates on regulations can be accessed by the public via Singapore's Electronic Gazette (<http://www.egazette.com.sg>). For more information on government regulations, assistance programmes and e-services, businesses can visit the EnterpriseOne portal (www.enterpriseone.gov.sg). One of the key services of this portal is the Online Business Licensing Service (OBLs), which is a one-stop e-service to apply or renew business licences.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The Singapore Government announces forward-looking plans at its annual Budget and Committee of Supply (COS) debate in Parliament. This allows all stakeholders to be informed of the upcoming changes to rules and regulations by the different Ministries in Singapore and to take the necessary steps to accommodate the changes.

(3) Reviews of existing regulations

In addition to the SRC and PEP channels, the Singapore Government has the following in place as part of its efforts to ensure that its regulatory frameworks stay relevant:

a. Public consultations conducted with key stakeholders

The Singapore Government recognises the value of public consultation, and adopts various tools to conduct pre-policy consultation exercises. They include focus groups, surveys, feedback forums, stakeholder engagements, town halls and e-consultation via a central web portal.

For key legislative amendments, agencies conduct a two-stage public consultation process, i.e. an initial round of general feedback from the public is followed by a draft bill put up for public consultation. Businesses and key stakeholders are able to provide feedback on areas of concern. Following the public engagements, many agencies produce Public Consultation Documents, outlining the background, problems, areas that they are seeking views on and the options considered. Besides distribution of the Documents to key stakeholders for comments, the Documents are published online on the agencies' websites as well as a central e-consultation portal. The public can give feedback on policy formulations through various means, including letters, emails and online submissions.

b. Tools available to guide review of existing regulations

Singapore adopts a risk management approach in designing regulation, which entails focusing resources on high-risk areas while at the same time, reducing the administrative burden for business stakeholders in the lower risk areas.

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

c. *Red tape preventive measures*

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

3. Experiences of successful applications of Good Regulatory Practices in Singapore

The following are examples of success stories demonstrating the outcomes of Good Regulatory Practices in Singapore:

- a. Case study 1: Retrospective review of regulations regarding Film Distribution Licenses². Under the Firms Act, a license is required for businesses which distribute the videos locally. A security deposit of S\$20,000 to S\$30,000 would be required from businesses for the application of the license. In 2013, the Pro-Enterprise Panel (PEP) received a suggestion to remove the security deposit for businesses/ organisations which distribute videos locally, regardless if the distribution is carried out for profit or otherwise. MDA assessed that the security deposit requirement made business cost higher and smaller businesses found it a strain to maintain the security deposit. Given this, MDA announced the waiver of security deposit and sent letters to licensees and commenced refunds of security deposits to qualifying licensees. More than 95% of the film and video licensees will qualify for the security deposit waiver/refund, which will help mitigate costs for the licensees. The waiving of the security deposit was well received by various distributors, such as InnoForm Media.
- b. Case study 2: One-stop online filing of submissions by companies to the Government. The Ministry of Finance (MOF) and the Infocomm Development Authority (IDA) of Singapore acted on a suggestion to develop a single on-line directory of forms to facilitate the ease

² The full details can be found in the following link:

<http://www.mti.gov.sg/ProEnterprisePanel/Pages/Suggestion.aspx?pep.itemid=2286&pep.list=0>

of document submission by businesses to the Government³. This led to the development of a guide that informs agencies of best practices in developing websites and e-services that are easy for customers to use. Specifically, it requires agencies to list the e-Services and forms prominently on their websites, as well as to give a brief description, upfront, of each e-service and the information that users need to submit in the e-service. This is expected to boost productivity by helping businesses save time and manpower cost required to complete various submissions. Several one-stop platforms have also been developed to make it easier for businesses to obtain information as well as perform various transactions within the Government. This includes the Online Business Licensing Service, which was described in section 2.2.

4. Challenges and priorities for future reform

Like other regulatory regimes the world over, as a result of increased globalisation, technological advancements, as well as a more informed and educated citizenry, Singapore's regulators increasingly have to grapple with far more complexity than before, including new products and services, new companies and industries, and new ways of doing business.

Singapore will continue fostering the mindset of a facilitator in its government agencies so that they would be more mindful of the implications of their rules on businesses. The goal is to ensure that Singapore's regulations stay relevant and effective, and facilitate a competitive and innovative business environment in which businesses can thrive.

³ The full details can be found in the following link:

<http://www.mti.gov.sg/ProEnterprisePanel/Pages/Suggestion.aspx?pep.itemid=2233&pep.list=0>

Chinese Taipei

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

In order to achieve the goal of instituting good regulatory practices in Chinese Taipei, relevant regulations have been set by Articles 154 and 155 of the Administrative Procedure Act and the Matters Requiring Attention in the Law Making Process of Central Government Agencies and the Matters Requiring Attention by Subsidiary Agencies of the Cabinet in Submitting Draft Laws for Review by the Cabinet.

- (1) When a government agency is drafting a law or regulation that touches on the powers or responsibilities of another government agency, it must confer with the other agency; and when necessary, it must also consult the opinions of experts and scholars, or convene public hearings.
- (2) When a law or regulation is made, amended, or repealed, related laws and regulations must also be reviewed, and amended or repealed correspondingly as to eliminate inconsistencies, redundancies, and contradictions of law.
- (3) Draft laws require a complete and thorough assessment of all facets of their impact (including costs, benefits, and human rights and gender impact; for bills involving tax expenditures, tax expenditure assessments are to be conducted pursuant to the Matters Requiring Attention in the Conduct of the Tax Expenditure Assessment Process).
- (4) Laws, regulations, and directions formulated by central government agencies should all be published in the government gazette website (<http://gazette.nat.gov.tw/egFront/index.jsp>) unless urgent circumstances make it impossible to provide advance public notice.

1.1 Institutions to oversee good regulatory practices



- **The Cabinet:** The Cabinet includes a Legal Affairs Committee, which is responsible for the examination and study of draft laws submitted by various government agencies, the interpretation of points of contention in administrative laws and regulations, and the coordination of the law-making process. Agency draft laws must receive Cabinet approval,

and then be submitted to the Legislature for deliberations. Only after being passed through these deliberations do they officially come into effect.

- **National Development Council (NDC):** The NDC serves as an inter-agency coordination unit on matters of regulatory reforms, systematically examining and reviewing suggestions provided by domestic and foreign industrial and commercial organizations, coordinating the work of various agencies on the international harmonization of laws and regulations, and making timely public reports on the results of its work. In addition, the NDC will collaborate with the Directorate-General of Personnel Administration to regularly train civil servants in the skills needed to conduct Regulatory Impact Assessments (RIA) in order to improve the general quality of our legal work.
- **Ministry of Justice (MOJ):** The MOJ established the Laws & Regulations Database website to serve as a single nationwide website for information on laws and regulations, and has also opened the Forum on Announced Draft Laws and Regulations to provide the public with a channel for expressing views on the country's drafting of legislation.
- **Executive agencies:** Most executive agencies have internal legal affairs units, which assist with the formulation of laws and regulations in order to avoid conflicts with other legislation, and also facilitate agencies' loosening of laws and regulations by analysing the relevant issues.

1.2 Strategy and program for improving regulatory practices

Chinese Taipei is actively working to enhance Good Regulatory Practice (GRP) in order to increase the transparency of laws and regulations. The implementation of RIA in particular is key to advancing the regulatory quality, and we will augment the content of RIA reports from domestic agencies and enhance the skills of personnel responsible for such assessments; at the same time, we will continue to take stock of suggestions from chambers of commerce and industrial and commercial organizations, loosening regulations through consultation and internal coordination, strengthening the application of GRP tools.

➤ **Strengthening the implementation of RIA**

In September 2012, Chinese Taipei listed RIA, a core component of GRP, as part of the government's "Economic Power-UP Plan." The major points of this work item under the plan are as follows:

- (1) The National Development Council (NDC) is to regularly collect and review suggestions on business regulations from all sectors, convene inter-agency coordination meetings, and publicize the results of its work to the public.
- (2) Each central government agency is to set up a proactive review mechanism, and to make regulatory adjustment proposals for compilation and reporting to the Cabinet.
- (3) Strengthening, publicizing and providing guidance on the RIA process to improve the quality of each agency's RIA, to serve as the basis for the formulation of major government policies and related laws and regulations.

➤ **Enhancing RIA capabilities**

On April 30, 2014, Chinese Taipei held the two-day Conference on Regulatory Impact Analysis, inviting experts from countries including New Zealand, Belgium, Australia, and South Korea to share their experience in RIA implementation, to discuss with government officials in attendance the current difficulties and responses in implementing RIA, and to suggest directions for improvements.

Chinese Taipei will follow up by compiling a RIA operating manual and regular training will be carried out by the Directorate-General of Personnel Administration to build public servants' RIA ability and strengthen the legislative quality and structural reform of various agencies.

➤ **Strengthening fair competition and trade-facilitative practices**

(1) Advancing fair competition

As Chinese Taipei's agency in charge of fair competition, the Fair Trade Commission actively studies amendments to the Fair Trade Act and related laws, works to establish fairness and transparency in the enforcement of these laws, and coordinates between related agencies in reviewing regulations which impede competition in order to uphold and further advance free competition in the country, while also providing concrete recommendations on competition policies.

(2) Implementing trade facilitation

The Bureau of Foreign Trade, Ministry of Economic Affairs is responsible for trade administration, and coordinates with related agencies in reviewing regulations on the import and export of goods. Under the necessary controls, and following the principles of giving equal weight to both trade regulation and facilitation, electronic license and simplification of documents and procedures for import and export certificates have been introduced to reduce regulatory impact on trade.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in application of GRPs in the areas committed to at the 2011 AELM

APEC economies' progress of GRPs in the following three areas has been monitored by the 2011 Baseline Study on Good Regulatory Practices and the 2013 Progress Report.

Chinese Taipei's marking of the boxes and explanations on some items are as follows:

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?		▲	<p>1. Chinese Taipei has established the Government Project Management Network (GPMnet) single-window website, allowing agencies to fill out reports on annual administrative plans and the status of their implementation, and the public to submit queries.</p> <p>2. Executive agencies submit major bills of a time-</p>

			<p>sensitive and urgent nature to the Legislature to request priority in deliberation and passage prior to the beginning of each of the two legislative sessions each year.</p> <p>3. The names of bills currently under examination and list of bills sent by the Cabinet to the Legislature for deliberation can be searched on the Cabinet website.</p>
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?	✓		
Does the government systematically review regulations for cost and effectiveness?	✓		
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		
How are [trade friendly] alternatives to regulation assessed?	✓		To take the Bureau of Standards, Metrology & Inspection as an example, when the bureau lists a particular product as an item for mandatory inspection, an assessment on technical barriers to trade is conducted, with assessment subjects including (1) ensuring that there is no discrimination against traded products; (2) transparency of working processes (3) no impact on trade resulting from onerous requirements, and (4) adoption of international standards to the degree possible.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?		▲	Although Chinese Taipei does not require executive agencies to respond to opinions received during public consultation, all agencies will, as a general rule, give replies to public comments and publish these on their websites, for the completeness of the consultation process.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM**(1) Single on-line locations for regulatory information**➤ **Progress of Legislature examination of bills**

To meet administrative needs, executive agencies all submit major bills of a time-sensitive and urgent nature to the Legislature to request priority in deliberation and passage prior to the beginning of each of the two legislative sessions each year. Bills for which amendments are submitted by agencies subordinate to the central government are all announced along with the aforementioned major bills in the “bill progress” section of the website of the central government (http://www.ey.gov.tw/Content_List.aspx?n=03A584AEDA0DFA18), with progress updates made promptly for public queries.

➤ **Single website for regulatory information**

The Laws & Regulations Database (<http://law.moj.gov.tw/>) established by the Ministry of Justice (MOJ) publishes laws, directions, and administrative regulations planned for revision by the central and local governments. The MOJ also formulated the National Standards for the Handling of Laws and Regulations by Computer, which stipulate how the law and regulations-making process is conducted by all agencies in order to ensure the effective management of the progress of laws and regulations; some local governments have also established websites that publish information on the progress and main points of local legislative proposals. For example, Taipei City Government has set up such a website for inquiries about laws and regulations under formulation by the city government (at <http://www.laws.taipei.gov.tw/flowchart/wfNewsList.aspx>).

Laws & Regulations Database

- (a) As a single website for nationwide regulatory information, this website has become a web portal linking legislative database managed by both the central and local governments, and provides information on laws, directions, and administrative regulations, as well as advance notice of draft legislation. It effectively advances the immediate, complete, and accurate publication of legislation, and takes different user communities into account by providing legislation query services to the public in separate Chinese, English, youth, and PDA versions.
- (b) This website introduces public participation into the law-making process, giving stakeholders the opportunity to express their views and allowing agencies to collect and respond to the views of the public. The Forum on Announced Draft Laws and Regulations has been established for agencies to announce draft legislation, serving as a channel for the public to express their views in order to broaden public participation in Chinese Taipei's planning and formulation of laws and regulations. Agencies must collect and consider views from the public in formulating legislation.

(2) Prospective regulatory planning including forward-looking regulatory agendas

- (a) In accordance with the Matters Requiring Attention by Subsidiary Agencies of the Cabinet in Submitting Draft Laws for Review by the Cabinet, when an agency is planning a bill, it must first decide on policy goals, and then determine feasible methods. In order to establish forward-looking policy planning and a sound project management system, Chinese Taipei set up the Government Project Management Network (GPMnet, <http://gpmnet.nat.gov.tw/gpmnet20/login.aspx>), for agencies to complete reports on annual administrative plans and the status of their implementation. The NDC also regularly follows and reviews work results, and uses assessment results to determine whether a project has achieved its set goals and performance, as the basis for whether the project is to continue to be implemented as planned or to be revised.
- (b) The Legislature has the power to decide by resolution upon statutory bills; there are two legislative sessions each year. To meet administrative needs, executive agencies all submit major bills of a time-sensitive and urgent nature to the Legislature to request priority in deliberation and passage prior to the beginning of each of the two sessions each year.

(3) Reviews of existing regulations

➤ Internal coordination mechanism

Chinese Taipei has established a review mechanism for existing laws and regulations, with the NDC regularly collecting regulatory suggestions from all sectors and convening inter-agency meetings to review the collected suggestions, advancing the coordination of regulatory reforms to reduce restrictions on the businesses.

➤ Proactive review mechanisms

(a) Central government

Principally at the beginning of each year, agencies are to examine and report the laws and regulations planned to be formulated, amended, or repealed during the coming year; subsequently, agency legal affairs units are to compile and formulate agencies' annual legislative plans, include them in annual performance assessments, and re-examine and

make appropriate adjustments to them at mid-year.

(b) Local governments

Local governments conduct affairs over which there is local autonomy according to the principle of vertical separation of powers rooted in the Constitution. The Taipei City Government agencies, for example, conduct annual reviews of the legislation and administrative directions for which they are responsible to determine whether they violate central government statutes, principles of the administrative law, or international human rights conventions, then formulate regulatory plans with schedules for submission by October 31 each year. After approval by the City Government, the plans come under the supervision of the Department of Legal Affairs. And by January 31 each year, the agencies should report the results of the implementation of the previous year's regulatory plans.

3. Experiences (Case Studies)

➤ **Case 1: Internal Coordination of rulemaking**

In order to develop a sound legal environment for Chinese Taipei's closer integration into the regional economy, the NDC has been more proactive in inter-agency regulatory coordination, comprehensively taking stock of suggestions raised by foreign chambers of commerce and industrial and commercial organizations, and consulting with the chambers of commerce to confirm that each suggestion is either "already dealt with," "undesirable for immediate actions" or "calling for a coordination meeting".

As of May 2014, the NDC has convened 18 discussions and coordinating meetings on government response to suggestions on issues involving a wide range of industries or which the chambers of commerce believe to be of great importance, providing an inter-agency platform for direct communication between chamber members and government agencies. Prior to these meetings, the Regulatory Reform Center of the NDC also analyzed the recommendations and agencies' initial response and, with respect to issues that the two sides have a relatively wide difference of opinion on, "a third party opinion" based on the center's viewpoint has been put forward for further consultation.

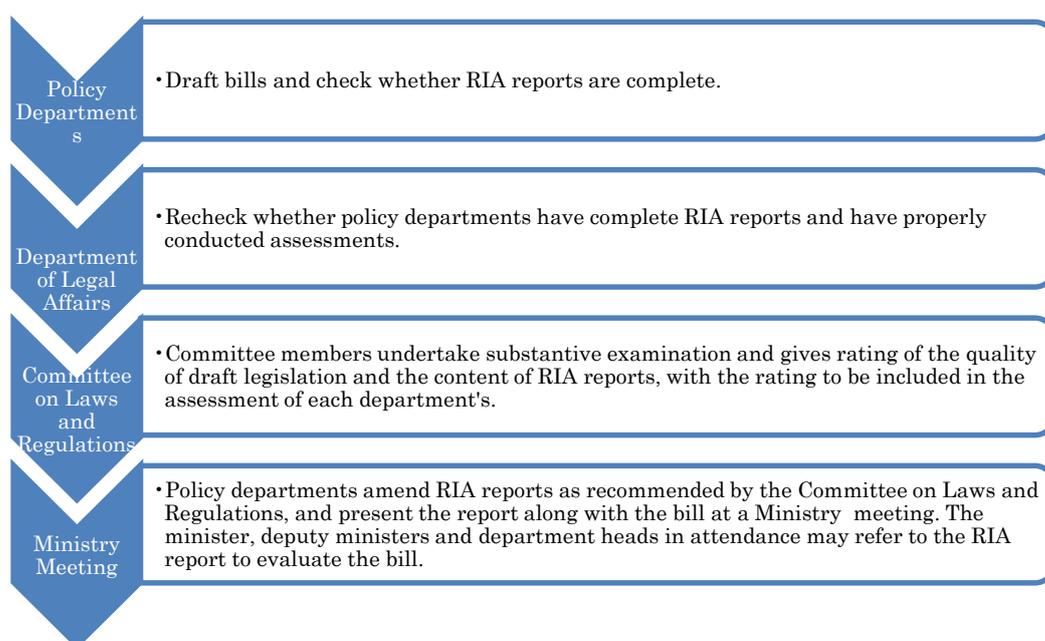
Concrete results of negotiations in 2014 include relaxing food labelling provisions, and establishing a drug patent database for the implementation of a patent linkage system. Chinese Taipei is currently working to accelerate the harmonization of domestic laws and regulations with international practices in order to establish a trade and investment-friendly legal environment.

➤ **Case 2: The Regulatory Impact Assessment (RIA) process**

As RIA helps government agencies to see the complete picture of the impact of legislation, and to obtain complete policy assessment information in order to improve the quality of decision-making, Chinese Taipei's Ministry of Education has established its specific RIA process. In addition to announcing a standard RIA statement format, which it has placed on

its website for consultation by government agencies and other interested parties, it has incorporated RIA implementation into performance assessments of subordinate departments to strengthen RIA implementation. The RIA process is designed to minimize undesirable impact and compliance cost of new regulations or regulatory changes.

The Ministry of Education's regulatory impact assessment process is as follows:



➤ **Case 3: Public Consultation Mechanism**

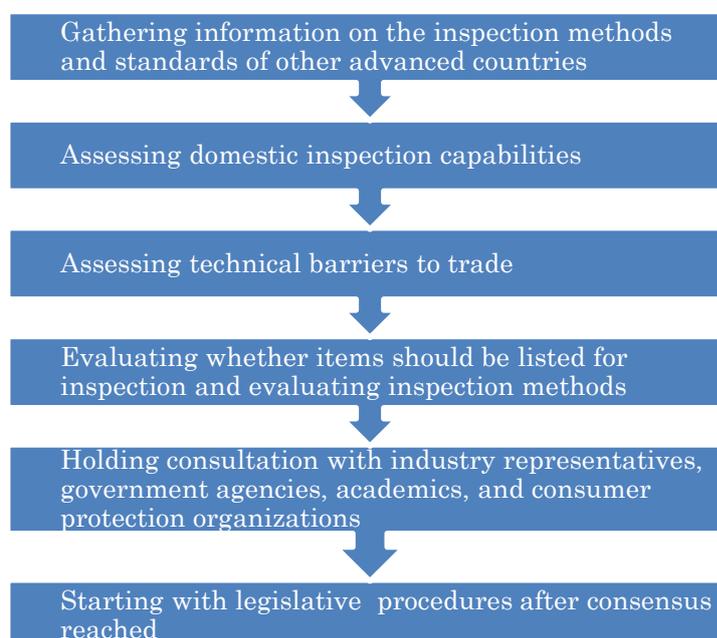
In conducting license issuing for mobile broadband business, the National Communications Commission convened informational meetings at various stages to consult stakeholders for their views, ensuring that the regulations formulated were comprehensive and appropriate. The Regulations for Administration of Mobile Broadband Businesses were drawn up through the following process:

- (1) Online consultation for licensing planning:** In November 2012, a document openly soliciting views on the mobile broadband licensing plan was released and put online, explaining plans related to 4G licensing and calling for relevant opinions; with the results collected, a total of 10 companies and institutions submitted written opinions.
- (2) Licensing plan informational meetings:** On November 30, 2012 and February 4, 2013, open informational meetings were convened, and a broad range of opinions collected from the attendees, including on the method for flexible phased payment of licensees, the preparatory period, etc., helping set the preliminary licensing principles.
- (3) Informational meeting on legislative draft planning:** An open informational meeting on the planning principles for the preliminary draft was held on March 22, 2013.

- (4) **Prior announcement of draft legislation:** On March 29, 2013, a prior announcement of the draft was administered (published on April 3 in government gazette).
- (5) **Informational meeting on draft legislation:** April 10, 2013, a draft legislation informational meeting was held, and views solicited.
- (6) **Completion of formulation of legislation:** Legislation was promulgated and took effect on May 8, 2013.

➤ **Case 4: The application of GRP**

The Bureau of Standards, Metrology & Inspection, Ministry of Economic Affairs, (BSMI) the agency with authority over the Standards Act, the Commodity Inspection Act, and other laws, has established the following procedures for related activities:



For example: In May 2013, the BSMI listed the product “3C lithium batteries, power bank and battery charger” as being subject to mandatory commodity inspection. From the time of the prior announcement of the listing to the date the listing officially taking effect, a 9-month adjustment period was provided, with the handling process complying with the Commodity Inspection Act and related WTO/TBT regulations. The process was as follows:

- (1) With the Department of Consumer Protection having purchased samples in the marketplace and conducted inspections which determine there was a potential danger of fire or explosion, the BSMI initiated an internal study.
- (2) July 26, 2013: An advance notice of the listing of the product as being subject to mandatory commodity inspection was published, and a deliberative meeting with the industry association and related businesses was convened, and the suggestions of experts and other relevant persons were adopted to amend the relevant inspection regulations.
- (3) August 8, 2013: In accordance with WTO procedures, the Secretariat of the WTO was

notified of the WTO/TBT notice that the product would be subject to mandatory inspection, and a comment period of at least 60 days provided.

(4) November 20, 2013: The regulations related to the listing of the product as subject to mandatory inspection were officially announced.

(5) May 1, 2014: Regulations officially went into effect.

4. Challenges and priorities for future reform

➤ Strengthening the implementation of RIA

RIA involves cost-benefit analysis and other economic calculations, the operating cost of which is significant; for legislative bills which are time-sensitive, rule makers may lack sufficient time to perform cost-benefit analysis, including both quantitative and non-quantitative assessments. Furthermore, as Chinese Taipei has not yet established a dedicated agency to evaluate RIA statements as in advanced countries, it currently lacks powerful review criteria and mechanism to determine whether RIA statements are adequate. In addition to assisting agencies to improve RIA procedures and reports, Chinese Taipei will enhance the capabilities of public servants, including both policy-drafting and legal affairs staff, by the following means:

- (a) Differentiating assessment and review procedures required according to the differing nature of regulations to increase the efficiency of bill deliberation;
- (b) Developing quantitative analytical practices suiting domestic circumstances for cost-benefit analysis, a core component of RIA.
- (c) Establishing an interagency information platform, allowing for the sharing of technical analytical data between agencies to improve the quality of RIA.

➤ Public consultation

Although it is already stipulated in Chinese Taipei's Administrative Procedure Act and related letters and directions that advance notification procedures are to be applied to rule making, there is room to extend the advance notice period for draft regulations in order to improve public consultation during the policy planning phase.

➤ Advancing the harmonization of regulations with international standards

Financial and economic regulations that meet the changing needs of the modern economy are central to national competitiveness. A rigid regulatory system prevents domestic business environment from being into line with international standards, making it impossible for the economy to stay globally connected. Chinese Taipei will adopt smart regulation, to be more in line with international standards on the one hand, and to better overall well-being, on the other. Chinese Taipei will continue to pursue regulatory reforms and closer integration into the international trade system, making it more convenient for enterprises to do business.

Thailand

Development in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

As a member of APEC, Thailand has recognized the importance of Good Regulatory Practices (GRP) which is the initial stage for quality regulations. In accordance with the Royal Decree on Submission of the Matter to the Cabinet and the Rules and Procedure for Cabinet's meeting to be considered by the Council of Ministers B.E 2548, all government agencies are required to conduct the Regulatory Impact Assessment (RIA), known as "checklist", before submitting any draft law to the Council of Ministers. Since then the checklist, has been annexed as a part of the Regulation on Criteria and Procedure for Submission of the Matter to the Cabinet of B.E 2548

In term of institutional framework, there is no institution that has formal responsibility for coordinating and providing oversight of the Implementation of regulatory policy in Thailand. However the RIA statements which are prepared and attached to the draft law will initially be examined by the Secretariat of the Cabinet and in the case where the draft laws is approved by the Cabinet, the Office of Council of State (OCS), a principle agency responsible for drafting and reviewing legislation will also re-examine both validity and accuracy of the checklist. It can be seen that various government agencies have responsibility for developing tools and ensuring regulatory quality. These include the Office of the Council of State and the Secretariat of the Cabinet.

1.2 Strategy and program for improving regulatory practices

Thailand does not have an explicit strategy and program for improving regulatory practices. However, some government agencies have applied GRP in the technical regulation in order to achieve clarity, understandability, practicability, consistency with international standard, transparency and elimination of trade barrier. Moreover, in ASEAN context, ASEAN Good Regulatory Practice (GRP) Guide was adopted with an objective of providing country members GRP guide in the preparation, compliance to and review of technical regulations. Furthermore, the Eleventh National Economic and Social Development Plan as the strategy and program for economic and social development in Thailand, which is adopted for years 2012 to 2016, has stipulated a strategy for law amendment including the economic laws, rules and regulations in other aspects. In relation to GRP, National Economic and Social Development Plan has provided that

(1) Amend laws, rules and regulations on business, trade and investment. Obstacles to conducting business and investment that are within the bureaucratic process should be reduced. Law amendment will also aim to facilitate investment in information and for research and

development in science and technology. New legislations should be enacted to support free trade and economic integration at the subregional and regional levels. Laws, regulations and rules on trade should be revised to prevent market monopolies, and

(2) Strengthen law enforcement to be transparent and accountable through a publicly accepted process in order to respond to demands for social responsibility and conformity to international standards.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in application of GRP in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

- Does the government publish at least annually a regulatory/legislative plan?

The Office of Council of State and the Secretariat of the Prime Minister jointly prepare and submit the Legislative Plan in response to the State Administration Plan to the Cabinet for approval. According to section 15 of the Royal Decree on Criteria and Procedures for Good Governance B.E. 2546, the Legislative Plan is composed of details on the legislations which shall be enacted, revised or repealed for compliance with the State Administration Plan, responsible agencies and operation period. This initiative was endorsed by section 76 of the Constitution B.E. 2550 that requires the Cabinet to have the plan to enact the legislations necessarily to the administration of State affairs for the purpose of State administration. The Legislative Plan is intended to ensure that they meet the needs of the country. (*Criteria for Prioritizing the Bills: Thailand's Perspective* by Pakorn Nilprapunt)

- Has the government published a set of good regulatory principles applicable across the government?

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.

The good governance principles were specified in the State Administrative Act B.E. 2534 and were further reinforced in the Royal Decree on Criteria and Procedures for Good Governance B.E. 2546.

The Royal Decree sets out principles in nine areas:

- (1) the concept of good governance,
- (2) responsive Public Administration,
- (3) result-based management,
- (4) effectiveness and value for money administration,
- (5) lessening unnecessary steps of work,
- (6) mission review,
- (7) convenient and favorable public services,

- (8) performance evaluation, and
- (9) miscellaneous section

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

As described above, Thailand does not have integrated institution to supervise regulatory reform. However, the Law Reform Commission (LRC) has been established by the Council of State Act (No. 3) B.E. 2534 as an organization that performs law reform function. The LRC carries out its duties to develop regulatory policy principles, for example, consider and examine all the existing legislation imposing unreasonable trade restriction and submits its opinion to the Council of Ministers for further approval.

- Does the government systematically review regulations for cost and effectiveness?

Although there is no systematic program for regulatory review, the regulatory checklist requires government agencies to assess the overall impact regarding to economic, social, and environmental condition. Furthermore, government agencies are required to review the issue of overlapping of law in order to decrease the inflation of law.

- Are trade and competition principles integrated into regulatory reviews and analysis?

In Thailand, as mentioned earlier, there is a criteria to be considered before enacting the Act or “checklist”, composed of 10 questions. The Regulation on Criteria and Procedure for Submission of the Matter to the Cabinet of B.E 2548 requires the government agencies to conduct the checklist in relation to the proposed legislation. One of the checklist questions is “what are burdens of individual caused by the proposed legislation and Is that legislation value for money?” However, the checklist does not include explicitly the question on trade and competition.

(2) Regulatory Impact Assessment (RIA)

- Does the RIA or other explanatory document define the problem to be solved?

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. The Law Reform Commission 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.”

According to Criteria for Prioritizing the Bills: Thailand’s Perspective by Pakorn Nilprapunt (2011), Law Councilor, Office of the Council of State, at www.lawreform.go.th), 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”.

RIA is a mandatory requirement for all agencies who submit a proposal for legislation to the Cabinet for consideration. The RIA is required under section 14 of Regulation on Criteria and

Procedure for Submission of the Matter to the Cabinet B.E. 2548 which was issued under the Royal Decree on Submission of the Matter to the Cabinet and the Rules and Procedure for Cabinet's Meeting B.E. 2548. The Office of the Council of State has issued a RIA Manual. The objective of the RIA "is not for deregulation, but better regulation. It was made along the same line with the RIA of OECD." (Criteria for Prioritizing the Bills: Thailand's Perspective by Pakorn Nilprapunt (2011), Law Councilor, Office of the Council of State, at www.lawreform.go.th)

In the RIA or checklist, the responsible agencies must clarify the following

- (1) What are the objectives and goals of the mission?
-)2(Who should be responsible for the mission?
-)3(Is legislation required for the achievement of the mission?
-)4(Does the proposed legislation duplicate others?
-)5(What are burdens on individuals caused by the proposed legislation and is that legislation value for money?
-)6(Are responsible agencies ready for the enforcement of the proposed legislation?
-)7(Which agency should be responsible for the proposed legislation?
-)8(What are working process and audit method?
-)9(Is there a guideline for the enactment of subordinate legislation?
-)10(Is there public consultation on the proposed legislation and what are the results and responses?"

- Does the impact analysis or other justification include a range of reasonable options for solving the problem?

The checklist does not include range of reasonable option for solving the problem.

- Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?

The checklist does not include a reasonable selection of a preferred option, based on the potential major impacts both negative and positive.

- How are [trade friendly] alternatives to regulation assessed?

The checklist does not include trade alternative to regulation assessed.

(3) Public Consultation Mechanism

- Is the text of proposed legal documents and RIAs published for comment before adoption?

In Thailand, the government has recognized an importance of developing website known as www.lawamendment.go.th in order to enable public opinion on the proposed legislation. This online mechanism provides a compilation of each government agency and independent organization's proposed legislation as well as sets up a forum where the public can access and comment on the proposed legislation. Additionally, almost government agencies also have a

similar approach to public opinion for the proposed legislation. Mostly of the information including the proposed legislation contained in the websites is provided in Thai language. Moreover, the Office of Council of State, as Thailand's central organization with a responsibility to law-drafting, has also published the proposed legislation in which the examination by the Office of Council of State was completed under the website www.krisdika.go.th and www.lawreform.go.th

- Are plainly written, clear, and concise draft measures made available to public comment with adequate time for review so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcome?

Thailand has no measures that require the proposed legislations to be plainly written, clear and concise for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcome.

- Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?

Thailand's checklist require government agencies proposing a new regulation to conduct the public consultation and also invite all stakeholders including, concerned people, other related government agencies, experts and NGOs taking participation and providing their opinion. All variety comment shall be collected and used for considering in the enacting process.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

In Thailand, the government has recognized an importance of developing website known as www.lawamendment.go.th in order to enable public opinion on the proposed legislation. This online mechanism provides a compilation of each government agency and independent organization's proposed legislation as well as sets up a forum where the public can access and comment on the proposed legislation. Additionally, almost government agencies also have a similar approach to public opinion for the proposed legislation. Mostly of the information including the proposed legislation contained in the websites is provided in Thai language. Moreover, the Office of Council of State, as Thailand's central organization with a responsibility to law-drafting, has also published the legal information online both in Thai and English language as follows:

(i) In Thai language: The Office of Council of State has developed a website known as www.krisdika.go.th to enable the public access to a set of information including the existing legislation, the proposed legislation in which the examination by the Office of Council of State was completed, and the legal opinion provided by the Office of Council of State. Furthermore, this website also provided the pathway for the person with hearing disability and person with visual disability to access the information of existing legislation in Thailand.

(ii) In English language: The Office of Council of State also provides a set of existing legislations translated to English version under the website <http://web.krisdika.go.th/data/outside/outside21/index.htm>. In addition, Foreign Law Bureau under the Office of Council of State has also developed a website known as <http://asean2.zerodns2.com/index.php?lang=en>, which is linked from www.krisdika.go.th to provide the public a set of information on ASEAN. In the same line, almost governmental agencies also publish the proposed legislation online for public opinion.

Moreover, the Office of Council of State publishes a booklet “Council of State: Fact Book” which provides the information on the overview of Bill drafting procedure in Thailand and specifically the involvement of the Office of Council of State in this procedure. The information contained in this booklet is provided in English language.

Therefore, there is the regulatory information provided on online and in print for public access. However, the online location containing this information is fragmented among a number of government agencies. There is no single online location for this information.

(2) Prospective regulatory planning including forward-looking regulatory agendas

In Thailand, the prospective regulatory planning including forward-looking regulatory agenda may be considered from the Legislative Plan and the National Economic and Social Development Plan as follows:

(i) Thailand’s Legislative Plan is the prospective regulatory planning in response to the government’s policy, strategy, objective and measures in the State Administration Plan declared before the parliament. The Office of Council of State and the Secretariat of the Prime Minister jointly prepare and submit this Legislative Plan after the declaration of the State Administration Plan. Moreover, in preparing the Legislative Plan, each government agency will have to notify the Office of Council of State the necessity to request the Parliament to consider the proposed legislations which have not yet been approved, and the necessity to propose the new legislation, amend or repeal the existing legislation they are responsible in response to the State Administration Plan according to regulation 6 of Office of Prime Minister’s Regulation on the Preparation of the State Administration Plan B.E. 2547. This Legislative Plan is composed of details on the proposed legislation; amendment, new enactment or repeal in response to the State Administration Plan, names of responsible agencies and operation period. After the Cabinet’s approval, the responsible government agencies are required to proceed along the line with the Legislative Plan according to section 15 of Royal Decree on Criteria and Procedures for Good Governance B.E. 2546.

(ii) The Eleventh National Economic and Social Development Plan as the strategy and program for economic and social development in Thailand, which is adopted for year 2012 and 2016, has provided the plan to amend the economic laws, rules and regulations for a number of purposes such as reduction of the obstacles to conducting business and investment both inside and outside

the country, development of ecotowns, ecozones and eco-industrial estates, conformity to international standards, strengthening law enforcement to be transparent and accountable through a publicly accepted process and application of a code of conduct for law enforcement that is equitable and unified.

(3) Reviews of existing regulations

In Thailand, the government has recognized an importance of reviewing the existing legislations in order to repeal (i) the legislations which are not suitable or consistent with the present context and (ii) the legislations which are not necessary or overlapping with other legislations, those of which impose burden or restriction on the rights of people beyond reasonableness. Moreover, this review will promote an effective enforcement of law. For example, the Act to Repeal the Legislations Unsuitable to Present Time B.E. 2546, which repealed 47 pieces of legislations which are not suitable and consistent with the present context. Moreover, in B.E. 2555, Law Reform Commission, Office of Council of State proposed the Bill to repeal 9 pieces of legislations which impose the burden and restriction on the rights of people beyond reasonableness. The Bill is now in the process of being proposed by the Office of Secretariat of the Cabinet to the Cabinet. Furthermore, Law Reform Commission proposed the Bill to Repeal Trade Association Act B.E. 2509 that prohibits any person from organizing the trade association unless the permit is obtained. This prohibition imposes the restriction on the right and freedom of people to association in accordance with section 64 of the Constitution. The Bill is now in the process of being proposed by the Office of Secretariat of the Cabinet to the Cabinet.

Additionally, Law Reform Commission, Office of Council of State, inserted the specific provision that requires the government agencies to review their legislations. In B.E. 2557, Law Reform Commission proposed the Bill to Facilitate the Granting Official License and section 6 of this Bill requires that every 5 years the licensing agencies should review the legislations that empower them to grant licenses as to whether those legislations should be repealed, or use alternative measures in replacement of licensing system. The Bill is now in the process of being proposed by the Office of Secretariat of the Cabinet to the Cabinet.

3. Experiences of APEC economies (case studies)

In Thailand, there has been RIA in place as mentioned above. However, Thailand's RIA may needs a reform, particularly, on the issue that the government agencies normally conduct RIA only after the completion of the proposed legislations and the public is allowed to give an opinion only after the completion of the proposed legislations. In comparison to Vietnam, the 2009 Law on Law requires that RIA is conducted at 2 stages: in the annual legislative plan and during the drafting process. Moreover, Vietnam's Law on the Promulgation of Legal Normative Documents requires that the lead drafting agencies/organizations and other concerned agencies/organizations shall be responsible for enabling agencies, organizations, groups and individuals to provide comments on the draft documents and organizing the collection of comments from the direct objects of the legal documents and the comments on the draft documents shall be considered and taken into

account during the process of improving and finalizing the documents. Therefore, in Thailand, there may be a need to reform the process of conducting RIA and the public opinion mechanism.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

After almost 10 years of regulatory review's implementation in Thailand, there has been a growing understanding of the role of RIA. However, the existing ex ante RIA lacks necessary measures to quantify, particularly, the cost and benefit of the affects of regulation. It can be noted that the regulatory review processes in Thailand are not yet fully developed. The integration of measuring and balancing risk brings new challenges to question of methodology. In giving consideration to improving the quality of RIA in Thailand, currently there is an ongoing research study on the regulatory impacts analysis sponsored by the Office of the Council of State. The objective of this research is to improve the RIA process by which it makes and enforces regulation with the aim of ensuring the economic, social and environmental benefits.

4.2 Priority for future reform in individual economies

Thailand has taken steps toward its regulatory review work that began with the checklist and has also moved progressively over the years to integrate the GRP recommended by APEC. However, in the case of Thailand, applying effective GRP requires some considerations. The following issues need to be taken into account in order to improve the effectiveness of GPP in the future. First, GRP requires an appropriate set of institutions to ensure that regulations are successfully put into practice. Second, the use of regulatory review requires a high level of expertise. Last but not least, the implementing GRP is a long-tem process that needs sustained support from policy makers.

United States

Developments in Good Regulatory Practices

1. Overview of the institutional framework to oversee good regulatory practices

1.1 Institutions to oversee good regulatory practices

The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) oversees the development and reform of regulations. The scope of OMB's regulatory oversight is broad, covering agriculture, energy, transportation, information technology, housing, manufacturing, immigration, food safety, health care, public health, occupational safety and health, environmental protection and criminal justice. OIRA's review of agency draft regulations ensures that agencies, to the extent permitted by law, comply with key regulatory principles and that agency rules reflect the President's policies. OIRA also serves to ensure adequate interagency review of draft rules, so that draft rules are coordinated with relevant agencies to avoid inconsistent, incompatible or duplicative policies.

OIRA has long provided guidance to agencies on good regulatory practices. For example, OMB Circular A-4, "Regulatory Analysis," provides technical guidance to agencies on the preparation of regulatory impact assessments of "economically significant" proposed and final regulations. OMB developed the guidelines in 2003 collaboration with the President's Council of Economic Advisers, and revised the proposed guidelines based on public comments, peer review, and interagency review. More recently, OIRA has issued supplemental guidance to agencies, including "Agency Checklist: Regulatory Impact Analysis" (October 28, 2010), "Circular A-4, 'Regulatory Analysis' Frequently Asked Questions (FAQs)" (February 7, 2011), and "Circular A-4, 'Regulatory Impact Analysis: A Primer'" (August 15, 2011).

In addition, OMB's Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," provides guidance to agencies on the use of voluntary consensus standards in regulation and on conformity assessment. In February 2014, OIRA worked with the Office of the United States Trade Representative (USTR) and the National Institute of Standards and Technology (NIST) to develop a comprehensive proposal to update Circular A-119. The proposal included important and timely updates to U.S. policies on how standards and conformity assessment support regulation, procurement, international regulatory cooperation, and other government functions.

1.2 Strategy and program for improving regulatory practices

Executive Order (E.O.) 12866, "Regulatory Planning and Review," was issued in September 1993 by President Clinton and established basic principles governing Federal rulemaking. These principles call on agencies to demonstrate the need for a proposed action (e.g., a market failure)

and its consequences. In deciding whether and how to regulate, E.O. 12866 requires agencies to assess the costs and benefits of available regulatory alternatives (including the alternative of not regulating). Specifically, E.O. 12866 states that, “in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits....” E.O. 12866 further states that, “Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.”

In January 2011, President Obama signed E.O. 13563, “Improving Regulation and Regulatory Review.” E.O. 13563, which reaffirmed E.O. 12866, is designed to ensure that the U.S. regulatory system protects public health, safety, and welfare while also promoting growth, innovation, competitiveness, and job creation. E.O. 13563 makes an unprecedentedly strong commitment to public participation in rulemaking. Before rules are finalized, or even proposed, agencies are directed to use online tools to “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.” Executive Order 13563 also calls for careful analysis of the likely consequences of regulation, including consideration of costs and benefits. In addition, E.O. 13563 called for a historic “look back” at existing significant rules, to see if they should be streamlined, reduced, improved, or even eliminated.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		The U.S. publishes an annual “Regulatory Plan” and a semi-annual “Unified Agenda of Federal Regulatory and Deregulatory Actions.”
Has the government published a set of good regulatory principles applicable across the government?	✓		These principles are set out in Section 1 of E.O. 12866.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		OIRA, as part of OMB and with authorities set out in E.O. 12866, has the capacity to lead and manage regulatory reform efforts such as retrospective review.
Does the government systematically review regulations for cost and effectiveness?	✓		E.O. 12866 provides for such review.

Are trade and competition principles integrated into regulatory reviews and analysis?	✓		Circular A-4 states: "Concerns that new U.S. rules could act as non-tariff barriers to imported goods should be evaluated carefully." To ensure an adequate consideration of regulatory impacts on competition and market openness, OIRA consults with other U.S. agencies with expertise in these areas.
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(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		This is addressed in OMB Circular A-4.
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		This is addressed in OMB Circular A-4.
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		This is addressed in OMB Circular A-4.
How are [trade friendly] alternatives to regulation assessed?	✓		If a draft regulation raises international trade issues, OIRA involves the Office of the U.S. Trade Representative and the U.S. Department of Commerce to ensure that it is not unnecessarily trade restrictive.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		The Administrative Procedure Act (APA) of 1946 requires that agencies go through a notice and comment process open to all members of the public, both U.S. and foreign.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory outcomes?	✓		In the U.S., all affected stakeholders may participate in the design and implementation of new regulations. As noted above, the APA generally requires agencies to publish for public comment all proposed rules in the Federal Register. E.O. 13563 requires

			agencies to “afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally consist of not less than 60 days.”
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		Pursuant to the APA, after an agency publishes a proposed rule in the Federal Register and considers public comments, it publishes the final rule in the Federal Register, making sure that the final regulation is a “logical outgrowth” of the proposal and the public record. The preamble to the final rule includes a summary of the substantive comments the agency received and an explanation of the changes it made (or did not make) to the proposal in response to the comments.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

Regulations.gov is the U.S. government’s website that provides citizens, small businesses, educators, multinational corporations, civic organizations, and all levels of government one-stop Internet access to search, view, download, and submit comments electronically on all rulemakings issued by the federal government. Agencies must ensure that their public regulatory dockets—which include regulatory impact assessments—are electronically accessible and searchable using Regulations.gov and accept electronic submissions via the website.

Regulations.gov is managed by the eRulemaking Program, an interagency program established in 2002 and comprised of more than 30 federal departments and agencies. The mission of the eRulemaking Program is to increase public access to, participation in, and understanding of federal rulemaking and improve agencies’ efficiency and effectiveness in developing rules.

(2) Prospective regulatory planning including forward-looking regulatory agendas

The U.S. publishes a Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda) in the spring and fall each year. The Agenda can be viewed on-line at RegInfo.gov or Regulations.gov. This publication contains a brief description of and schedule for each new regulation that each agency is likely to issue in proposed or final form within the next year. The

Agenda informs the public about those new regulations being developed by the agencies that classified as “significant” under E.O. 12866 and thus subject to formal review by OMB. Agencies also identify upcoming regulations that may have an international trade or investment effect.

(3) Reviews of existing regulations

Executive Order 13563 called for a government-wide review of existing regulations—a “regulatory lookback”—to streamline, modify, or repeal regulations and reduce unnecessary burdens and costs. E.O. 13610 “Identifying and Reducing Regulatory Burdens,” institutionalized retrospective review in the U.S., and made clear that flexibility and removal of unnecessary burdens are essential elements of the Federal rulemaking process, as is the improvement of existing regulations. A particular focus of this initiative is ensuring regulatory flexibility for SMEs and reducing regulatory burdens for everyone. Retrospective review of the stock of regulation also helps ensure that existing regulations continue to promote the safety, health, welfare, and well-being of Americans without imposing unnecessary costs or missing the opportunity to achieve greater net benefits. Executive Order 13610 calls on agencies to report regularly on the progress of their retrospective review activities.

3. Experiences of APEC economies (case studies)

Below are two examples of successful application of GRPs in the U.S.

Retrospective Review of Existing Regulations. As part of the U.S. government’s retrospective review initiative, the Department of Transportation has proposed to rescind a requirement that truck drivers submit and retain driver-vehicle inspection reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies. This change would save tens of millions of hours in red tape per year, for approximately \$1.5 billion in annual red tape reduction.

Single On-Line Locations for Regulatory Information. Regulations.gov recently completed a major redesign, which includes innovative new search tools, social media connections, and better access to regulatory data. The result is a significantly improved website that will help members of the public to engage with agencies and ultimately to improve the content of rules. For example, Regulations.gov now uses Application Programming Interfaces (APIs), which are technical interfaces/tools that allow people to pull regulatory content from Regulations.gov. APIs will help web managers and experts in the applications community fundamentally change the way people are able to interact with public federal regulatory data and content. The first APIs will enable developers to pull data out of Regulations.gov, and in future releases, the site will include APIs for receiving comment submissions from other sites. In addition, the new design has improved sorting and filtering functionality, allowing users to sort by “Comment Due Date” and “newly posted regulations” and filter by “Category” (e.g., “Aerospace and Transportation” and “Food Safety, Health, and Pharmaceutical”).

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

One challenge that the U.S. and other economies face is developing a robust approach to evaluating the impact of regulations on economic growth and other standard indicators of economic activity. Exploring this impact is important, as E.O. 13563 addresses with its clear reference to “economic growth, innovation, competitiveness, and job creation.” At the same time, regulatory impacts on economic growth may be difficult to demonstrate because of other simultaneous changes in the economy. For example, economic growth may be strong while regulatory activity is increasing; even if so, the strength of economic growth may not be caused by such activity. The U.S. continues to investigate the underlying questions concerning the impact of regulations on economic performance. There is currently no clear consensus, and further work is necessary to make it possible to explain the connection between regulatory initiatives and changes in GDP.

4.2 Priority for future reform in individual economies

OIRA plans to work with agencies on several ways to further institutionalize retrospective review as an essential component of U.S. regulatory policy. As part of this effort, OIRA is considering and developing several components that will make regulatory look-back a more systematic priority for agencies.

Viet Nam

Developments in Good Regulatory practices

1. Overview of the institutional framework to oversee good regulatory practices

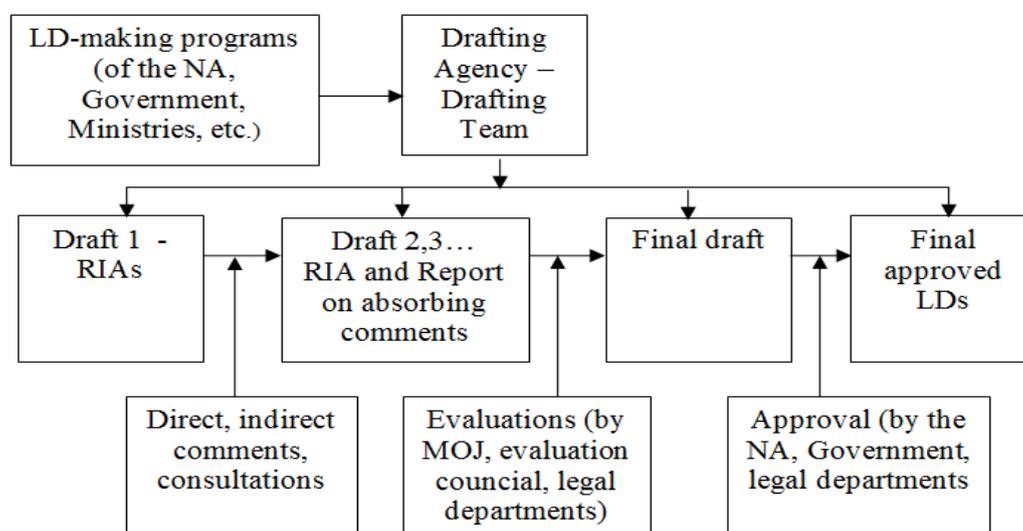
1.1 Institutions to oversee good regulatory practices

Since 1996, the formal policymaking process in Vietnam has been governed by the following Laws: (i) the 1996 Law on the Promulgation of legal normative documents; (ii) the 2002 Law on Amending, and Supplementing To Certain Articles of the 1996 Law on Issuing Legal Normative Documents; and (iii) the 2008 Law on the promulgation of legal normative documents (also known as the 2008 Law on Laws). Together with implementing Government Decree 24/2009/ND-CP, the 2008 Law on Laws and Decree 24 cover all legal documents issued by central level state agencies including ministers' circulars, as well as those of the National Assembly, Government, Prime Minister and all other central agencies, which in turn have resulted in many improvements in the regulatory reform of Vietnam. The most outstanding changes include: (i) the official endorsement of regulatory impact assessments (RIAs) as an important tool to improve the quality of new regulations; (ii) making regulators more responsible for ensuring the consistency of new regulations; (iii) reducing the number of the categories of legal documents; and (iv) improving mandatory public consultation to all new regulation and requiring publication of drafted legal documents on websites within 60 days.

Decree 24/2009/ND-CP gives details on the practical implementation of RIA. Specifically, these include the need to submit a detailed justification of the necessity of any legislative proposal based on results of theoretical and practical study as well as a preliminary impact assessment (pre-RIA). The Decree even provides the list of different types of impacts that should be studied, namely economic, social, environmental and legal impact assessments. The Decree also sets requirement to propose different options in order to determine the optimal one to fulfil set-out objectives of that policy.

The bellow diagram illustrates the general process for legal documents in Vietnam. Transparency is one of the most important aspects of effective regulation process. To increase consultation, legislative proposals (programs), including their pre-RIA are required to be posted on government websites to get comments from the public for 20 days and will be posted on the internet as soon as the legislative agenda is finalized and submitted to the National Assembly for consideration. A draft legal document is to be posted for comments online by drafting agency for at least 60 days in parallel with the consultation with relevant entities (both from the private and governmental sector). Any changes to that draft as well as related comments and report on absorbing comments will also be posted. The final draft then will under the appraisal by Ministry of Justice or in-charge legal departments, depending on levels of the legal documents. At the drafting stage, in-charge agency is required to prepare RIA, which examines likely impacts of proposed legal documents,

as well as any proposals for compliance. The lead agency may utilize research institutes, academics, professionals, scientist and other experts to conduct researches and assist its preparation process.



The implementation of RIA, however, still poses a big challenge in Vietnam. The quality of RIA normally is not as good as expected, and the capacity to review and access RIAs is limited either. In this context, various efforts have been exerted by Vietnam to promote regulatory reform in Vietnam with the support from international donors (namely UNDP, GTZ, USAID/VNCI) as well as domestic agencies (namely Ministry of Justice, Vietnam Chamber of Commerce and Industry, Central Institute for Economic Management). A RIA task force was established within the MOJ to act as a central body to coordinate the implementation of Decree 24 at the beginning stage. Many workshops on capacity building for ministries and non-governmental stakeholders have been conducting, many of them are on regular basis, in order to improve the quality of RIAs as well as capacity to review RIAs, which in turn may lead to more effective policy analysis and policy making.

1.2 Strategy and program for improving regulatory practices

On 18 March 2014, the Government adopted Resolution 19/ND-CP on main tasks and key measures to improve the business environment and competitiveness of the nation, which was initiated based on analysis of the actual weaknesses and shortcomings of the economy in the context of deeper integration. The Resolution clearly points out general 5 objectives and obligations: (i) to pursue economic restructuring and shift economic growth model; (ii) to continue to formulate, revise, amend legal regulations and policies that aim at creating a level and favourable playing field for all entities, protecting investors, ensuring effective allocation of resources for development; (iii) to develop adequate infrastructures to serve modernization, industrialization and international integration; (iv) to implement comprehensive measures toward human resource development; and (v) to improve institutions and policies to encourage investment on science and technology.

In the short-run of 2014-2015, the main focuses of the Resolution include: (i) improve competitiveness; (ii) promote administrative reform; (iii) enhance transparency and accountability. Specifically, expected outputs are: (i) simplify business registration procedures and shorten the process to 6 days at the most; (ii) reform the tax payment procedures, in which the target is to reduce the time needed to pay tax to the average level of ASEAN-6 (171 hours each year); (iii) improve regulations on ownership and protecting investors in compliance with international standards; (iv) make it easier, more equal treatment, more transparent in accessing capital; (v) simplify import - export and customs requirements and procedures, trying to reach the average level of ASEAN-6 (14 days to export, 13 days to import); (vi) speed up bankruptcy process to the maximum of 30 days; and (vii) implement information on operations and financial situation of enterprises in comply with legal regulations and international practices as well as promote transparency.

Depending on mandates and functions, line-ministries, local governments and authorities, relevant Government ministries, provincial people's committees VCCI and associations should consider, initiate and implement appropriate actions to fulfil the stated objectives of the Resolution.

2. Application of good regulatory practices in APEC Economies

2.1 Progress in applications of GRPs in the areas committed at the 2011 AELM

(1) Internal Coordination of Rulemaking Activity

	Yes	No	Comments if any
Does the government publish at least annually a regulatory/legislative plan?	✓		Yes, but the plans are sometimes non-binding. Some regulations may be delayed until subsequent years. As one of the key reasons, many laws were promulgated in the past decades and the Government agencies had to issue regulations guiding the implementation of those laws, under tight resource constraint.
Has the government published a set of good regulatory principles applicable across the government?	✓		Vietnam has the Law on Promulgating Legal Documents (i.e. Law on Law) which sets out these principles.
Does the government have a capacity to manage a government-wide program of regulatory reform?	✓		The Government has capacity to manage and coordinate the programs of regulatory reforms by various agencies, thanks to the Steering Committee for Legal

			Reforms with members from these agencies. However, the work load for legal reforms and issuing new regulations at times goes beyond the resources (time, finance, labour) available.
Does the government systematically review regulations for cost and effectiveness?	✓		The reviews also focus on practical issues in actual implementation of the regulations, which are mostly based on feedbacks and opinions of relevant stakeholders.
Are trade and competition principles integrated into regulatory reviews and analysis?	✓		But the quality of data to support regulatory reviews and analysis is actually a problem.

(2) Regulatory Impact Assessment (RIA)

	Yes	No	Comments if any
Does the RIA or other explanatory document define the problem to be solved?	✓		
Does the impact analysis or other justification include a range of reasonable options for solving the problem?	✓		
Does the impact assessment include a reasonable selection of a preferred option, based on the potential major impacts, both negative and positive?	✓		
How are [trade friendly] alternatives to regulation assessed?	✓		The justification of non-regulating approach may at times be more difficult relative to regulating one.

(3) Public Consultation Mechanism

	Yes	No	Comments if any
Is the text of proposed legal documents and RIAs published for comment before adoption?	✓		Only for laws and major decrees only. These texts are better available for involved Government agencies than the public. Much improved in recent years than the years 2000s.
Are plainly written, clear, and concise draft measures made available for public comment, with adequate time for review, so that stakeholders and governments have a meaningful opportunity to provide input that leads to improved regulatory	✓		Only for laws and major decrees only. Better availability for the public in recent years. Open for public comments and feedbacks. Yet not so good for

outcomes?			
Is feedback given to stakeholders after consultation is completed that explains how comments were taken into account?	✓		For major laws and decrees only. For other regulations, the feedbacks are compiled into a report justifying relevant changes in the content.

2.2 Implementation of GRPs in the areas extended at the 2013 AELM

(1) Single on-line locations for regulatory information

Vietnam already has a single webpage for draft legal documents and related information. The webpage is <http://duthaonline.quochoi.vn>, under the National Assembly, the highest people-represented law-making body in Vietnam. The webpage covers a wide range of information on regulations, including the proposals for new regulations, executive summary, and relevant justifying reports of the drafting agencies. Under authority of the National Assembly, the types of published regulations only comprise of laws, ordinances and resolutions. Specifically, the webpage also lists the agenda for promulgating laws and regulations of the National Assembly in its 5-year term. Also, the relevant Commission of the National Assembly may publish report of its official review on the draft laws and other regulations, focusing on the rationale, scope and contents, as well as procedures and enforcement. In particular, the webpage is highly interactive, as the public can access full-text of the draft regulations and upload comments on the text, after which the drafting agencies provide comments and feedbacks, including acceptance of changes.

Other types of regulations, such as circulars and decisions, appear to be less accessible. The Vietnam Chamber of Commerce and Industry (VCCI) has its own online platform for regulations of these types which are relevant to the business community (<http://www.vibonline.com.vn/>). At the local levels, however, the documents are mostly unavailable on-line due to limited costs to develop local regulatory database, notwithstanding high level of Internet popularization; thus, the only way to access contents of these documents is via the hard copies publicly available at the relevant offices of local agencies.

(2) Prospective regulatory planning including forward-looking regulatory agendas

At the national level, the National Assembly of Vietnam publishes the agenda for promulgating legal documents, mostly covering laws, ordinances and resolutions. Specifically, this agenda covers the forward-looking items of laws, ordinances and resolutions for the whole 5-year term of the National Assembly, the most recent of which is 2011-2016. Depending on the needs and available proposals, the National Assembly may decide at its plenary whether an adjustment of the agenda is necessary.

Based on the promulgated laws, ordinances and resolutions, the Government agencies may be required to develop relevant under-law documents to guide the legal implementation process. The

Government work agenda is then modified to incorporate relevant responsibilities to develop under-law documents, especially on the name of documents, leading agency, cooperating agencies and deadline for completion. Depending on actual progress and remaining issues to be addressed under each of those documents, the leading Government agency may propose to the Government for extension of deadline, or other necessary adjustments. In the preparation process, the leading Government agency have to undertake relevant consultation of other agencies, business association and the people. Depending on their levels, the regulations may need to be published on-line for certain period. For instance, the draft Circulars have to be published on-line for consultation in at least 60 days before submission. The agenda for developing under-law documents is generally accessible to all Government agencies. However, the public stakeholders can access part of the agenda which are incorporated in various Government resolutions.

(3) Reviews of existing regulations

Vietnam is still in a process of continuous institutional and legal reforms. Accordingly, the Government agencies have been involved in various dialogues and consultations among themselves as well as with the business associations and the people about practical issues in implementing regulations. On that basis, the need for adapting regulations or promulgating new ones is then identified.

In principle, the relevant Commissions of the National Assembly are responsible for reviewing regulations. For important laws (such as the Enterprise Law), the dedicated Task Forces will have to monitor the actual implementation and producing (both periodic and ad hoc) review reports. For under-law documents, the Government agencies have to assume to role of producing reviews.

3. Experiences of APEC economies (case studies)

The drafting, implementing and reviewing processes of the unified Enterprise Law 2005 present one of the key successes of GRPs in Vietnam. The Law was promulgated in 2005, but the drafting process before that involved a series of consultation of business community, experts and government agencies. In particular, since the Law was aimed towards establishing a more levelled playing field for enterprises of all ownership forms, the consultation of the business communities played a pivotal role. Via this consultation process, the drafting team could get to know the practical needs and difficulties for the enterprises in the anticipated implementation process. Comments and feedbacks on the draft Law were carefully considered so as to subsequently incorporate relevant changes. Notably, this consultation process was adopted even before the Law on Laws which formalized the need for consultation since 2008.

Even after the Enterprise Law came into effect, the Task Force for Implementing Enterprise Law still maintained an active role in reviewing the actual issues. For instance, the issues with governance of big State business groups, transformation of State-owned enterprises, conditional business areas, etc. were noted and intervened, if possible. Administrative reforms over business registration were also accelerated, thereby saving time for new businesses in making registration,

acquiring seal and tax number. The public consultation process was still promoted, helping identify practical issues in reviewing implementation of the Enterprise Law. On this basis, the National Assembly decided to amend the Enterprise Law and the revised draft version was finalized in the Plenary Meeting of the National Assembly in May 2014. The revised Enterprise Law is expected to be approved by November 2014.

The development process of the Enterprise Law in Vietnam has showcased some important lessons. First, continuous consultation generally played a crucial role, not only in the drafting process but even during implementation of the Law to reduce compliance costs for the business community. Second, responsible bodies need to be established to facilitate the monitoring and review of actual implementation process, at least for important Laws.

4. Challenges and priorities for future reform

4.1 Challenges that individual economies are facing

So far, Vietnam had most important achievements in promoting regulatory impact assessment, public consultations, the prospective regulatory planning and review of existing regulations. Meanwhile, Vietnam still needs further improvements in the areas of internal coordination of rule-making and single on-line location for regulatory information. As an implication, the National Assembly needs to play a more active role in prioritizing items in its agenda for developing laws, ordinances and resolutions. At the same time, the Government agencies need to accelerate the preparation of under-law documents. More efforts (and resources, if possible) should be dedicated to publicizing the regulatory information and forward rule-making agenda at the local levels so that the people can readily keep track of regulatory change.

4.2 Priority for future reform in individual economies

Regulatory reforms continue to be the top priority for Vietnam in the years to come. *First*, as noted above, improvement of internal coordination of rule-making is essential to ensure that future regulatory changes embody significance in the context of Vietnam's resource constraint. More importantly, the coordination also needs to ensure that the newly promulgated laws should be accompanied by relevant under-law documents to ensure practical compliance. *Second*, building capacity for preparing satisfactory RIAs remains an on-going need. *Third*, online database for regulatory information presents another area that needs additional efforts, as they provide a platform for people's improved access to regulatory information. Such online database also lays the foundation for further and more relevant interactions of the people and rule-making bodies which benefits the regulatory change.



**Asia-Pacific
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Prepared or Printed by:

Asia-Pacific Economic Cooperation Secretariat

35 Heng Mui Keng Terrace, Singapore 119616

Telephone: (65) 6891 9600 Facsimile: (65) 6891 9690

Email: info@apec.org Website: www.apec.org