





## Applying RIA in Sri Lanka: Opportunities and Challenges

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### Outline of presentation

- Objectives of IPS/CRC study
- Why RIA?
- Status of RIA in Sri Lanka (results of scoping exercise)
- Implementation of RIA: problems & prospects
- Agenda for the future



### Objectives of the IPS/CRC study


- PHASE 1
- RIA scoping (reference point: definitions and questionnaires developed by Kirkpatrick/Parker/Lee & OECD Best Practice Guidelines)
- PHASE 2
- RIA capacity building in Sri Lanka – fine tuning instruments
- RIA implementation – planned “pilots” (TRC, PUCSL)



### A note on “good’ (regulatory) governance....


- *“democracy...will be best attained when all persons alike share in the government to the utmost.”*

*Aristotle 322 B.C.*



### Why RIA: essentials of regulatory governance

- Legitimacy (the acceptance and credibility of the institution in the eyes of the regulated)
- Transparency (clear rules, open policy process)
- Security (legal enforcement, property rights, consistent application of rules in the regulatory state)
- Efficiency (low-cost rules, timely decisions)
- Expertise (“dynamic” – as opposed to “static”, reflexive, regulatory skills)



### Why RIA: tool for better regulatory governance?

- Open, consultative approach enhances legitimacy and trust
- Analysis and decision-making transparent at every stage, reduces potential for regulatory capture
- Consideration of costs and benefits provides a basis for finding the most efficient solution for a particular regulatory need; improves institutional accountability
- The use of RIA over a period of time helps to build up regulatory capacity

## Status of RIA in Sri Lanka....

- RIA undertaken *ex-ante* in some cases (NOT *ex-post*)
- Proportion of RIA in econ, social, environmental regulation – divergence of views
- No formal CBA/quantification
- No RIA guidelines/documents
- Consultation is not required by law; undertaken after detailed proposals have been made (generally to meet donor requirements); views of participants in process not made public
- No awareness of OECD guidelines

## Status of RIA in Sri Lanka....

- Benchmarking used extensively (some form of *ex-post* RIA) – price and quality decisions at TRC & PUCSL
- Inherent problems of choice of benchmark (CBA/shadow pricing must be preferred option – benchmarking 3<sup>rd</sup> best) e.g. of fines set for not meeting USO obligations points to need for empirical analysis
- No systematic process – too much leeway in hands of Commissioners (issues of transparency, accountability, regulatory capture)

## Regulatory environment in Sri Lanka

- Assessment criteria: workable independence, transparency, accountability, legitimacy, balancing consumer and investor demands
- Trifurcation of policy, regulation and operations clear only in telecom sector; no published policy document on government-wide regulatory reform
- No systematic process to assess real impacts that policies may have on different agents in the economy
- Decisions largely driven by foreign consultants/donors – little local stakeholder input
- Justification – speed of reform and lack of local expertise
- Result – arbitrary decision-making, regulatory capture

## Implementation of RIA: problems & prospects

- Opportunities
- Tool for better regulatory governance
- Holistic approach to policy process in general and regulatory reform in particular
- Reduction of cost (contrary to view of some policy makers....) – costliness of judicial process
- Ability to tackle econ, social and envt. regulations

## Implementation of RIA: problems & prospects

- Challenges
- Prioritization of speed of reform over long-term efficacy (political electoral cycle, donors)
- Rent-seeking behavior
- Fear of change (current planners, “insiders” in the regulatory game)
- Data constraints (Shadow pricing? Qualitative indicators?)
- Lack of expertise on RIA methodology


## Agenda for the future

- Developing a RIA “model” for Sri Lanka
- Political buy-in: building profile of RIA at the highest levels of government (integrate with policy process)
- Stake-holder acceptance
- Capacity building: hands-on training on RIA methodology and fine-tuning instruments for use in Sri Lankan context
- Evaluating “pilot” case implementation to draw lessons for other cases



## Generic RIA structure

- A continuous process in 3 phases:
- Initial RIA – prepared immediately after policy idea is generated. Includes pros and cons of alternatives.
- Partial RIA – initial RIA + greater depth of consultation with stakeholders
- Full RIA – builds upon the information and analysis of partial RIA and the complete consultation process



## OECD Checklist for regulatory quality

- Is the problem correctly defined?
- Is government action justified?
- Is regulation the best form of government action?
- Is there a legal basis for regulation?
- What is the appropriate level (or levels) of government for this action?
- Do the benefits of regulation justify the costs?
- Is the distribution of effects across society transparent?
- Is the regulation clear, consistent, comprehensible and accessible to users?
- Have all interested parties had the opportunity to present their views?
- How will compliance be achieved?