



# Regulatory Impact Analysis: An International Perspective

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# The importance of regulation on the business and society

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Regulation is one of the three core levers for government to manage the economy (along with fiscal and monetary policy)

Devising regulations is rarely straightforward

- technical complexities, uncertainties, political constraints, unintended consequences, collateral damage, excessive cost and not serve policy goals at all

Inherent risks to good regulatory outcomes

- lack of evidence to inform policy development
- rent seeking behaviour on behalf of incumbents,
- use regulation to solve problems for which regulation is not suited
- status quo bias - the reluctance to review and reform policy areas
- Falling through the cracks

Governments have to be alert to the potential for things to go wrong in their regulatory endeavours.

- Loss in economic performance or societal wellbeing
- Adverse political consequences for governments themselves



# What is Good Regulatory Practice (GRP)

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- GRP seeks to improve public sector outcomes by changing the way governments design and deliver regulation.
- GRP focuses upstream (Centre of Government), downstream (ministries and regulators) and outside of government (private sector, citizens, civil society)
- GRP is not a better business agenda. It's about making **markets** work better
- GRP is responsible for some less tangible but equally critical public governance outcomes



# GRP - strategies, institutions, tools and processes

Strategic Approach	Institutions	Management Tools	Governance
Policy Statement	Oversight Body	Regulatory Impact Assessment	Whole of Government
Political Leadership	Advocacy	Public Consultation	International regulatory cooperation
Designated Minister	Ministries/Policy units	Post implementation review	Private and self regulation
	Regulators/Inspectors	Administrative simplification and burden reduction	National/Sub-national interface
	Parliaments/Administrative courts	Enforcement and inspection	



# RIA - Broad international trends

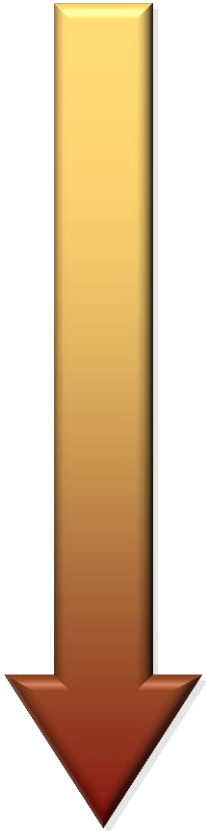
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- RIA is seen as a useful tool in support of more efficient, effective, transparent and accountable policymaking
- Well understood methodology (sponsored by OECD and others) and currently adopted nearly all OECD countries and at EU level, within broader regulatory reform programmes
- The focus and depth of analysis change remarkably from country to country
- RIA has been broadly successful in Common Law jurisdictions but less successful in many Civil Law countries.
- Parliamentary democracies are less prone to RIA than presidential ones
- There have been some notable failures!



# RIA: MAIN STEPS

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Analysis of status quo

Identification of need for regulation

Analysis of alternative policy options

Consultation

Collection of information

Identification of preferred option

Detailed cost-benefit analysis

Input to drafting



# RIA IN THE US (1)

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1980: OIRA established by Congress under Paperwork Reduction Act

- Authorized to oversee federal agencies' collection of information from the public and to establish [information policies](#)

1981: Reagan administration introduces RIA (EO 12,291)

- “regulatory action shall not be undertaken unless the potential benefits to society from the regulation outweigh the potential costs to society.”
- Does not apply to independent agencies (e.g. FTC, FCC, SEC)

1993: Clinton launches “Regulatory Planning and Review” (EO 12,866)

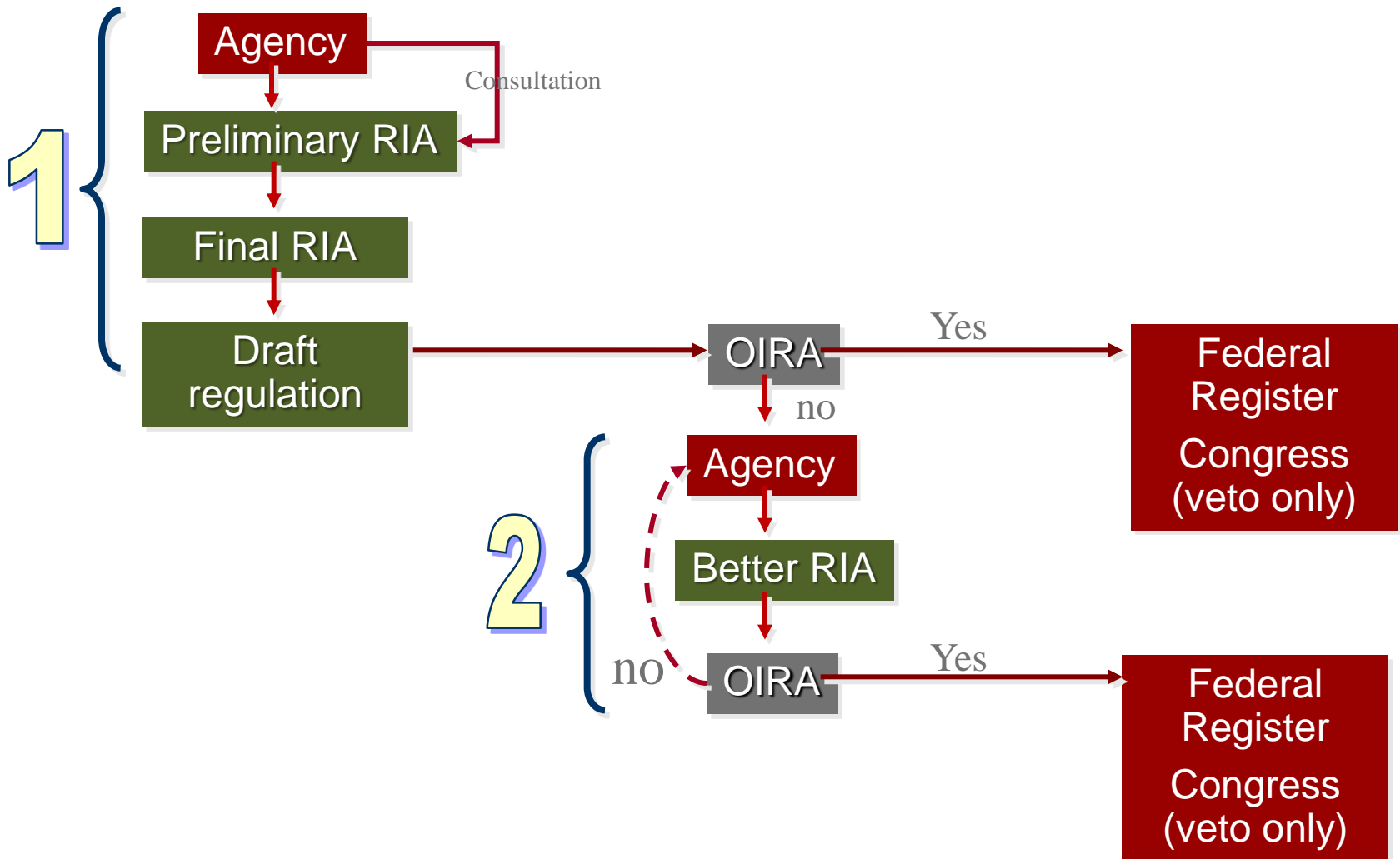
- Threshold for RIA: “significant regulatory actions” (> 100M million USD)
- Review and oversight role of OIRA

2002: RIA under George W. Bush (EO 13,258)

- OIRA Prompt letters: from “gatekeeper” to “instigator”



# RIA IN THE US (2)







# IMPACT ASSESSMENT IN THE EU

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- 1986: Business Impact Assessment System (BIAs)
  - SMEs Task Force at the Commission
  - Since 1989, competence of DG XXIII (now DG Enterprise)
- 1996: SLIM: Simplification of the Legislation on the IM
  - Ex post evaluation of regulation
- 1997: Business Environment Simplification Task Force
  - Focus on compliance costs, SMEs and obstacles to growth
  - Sharing of Best Practices and benchmarking
- 1998: Business Test Panel
  - A stable consultation platform for businesses
- 2002: communication on Impact assessment
  - Preliminary assessment + Extended Impact Assessment



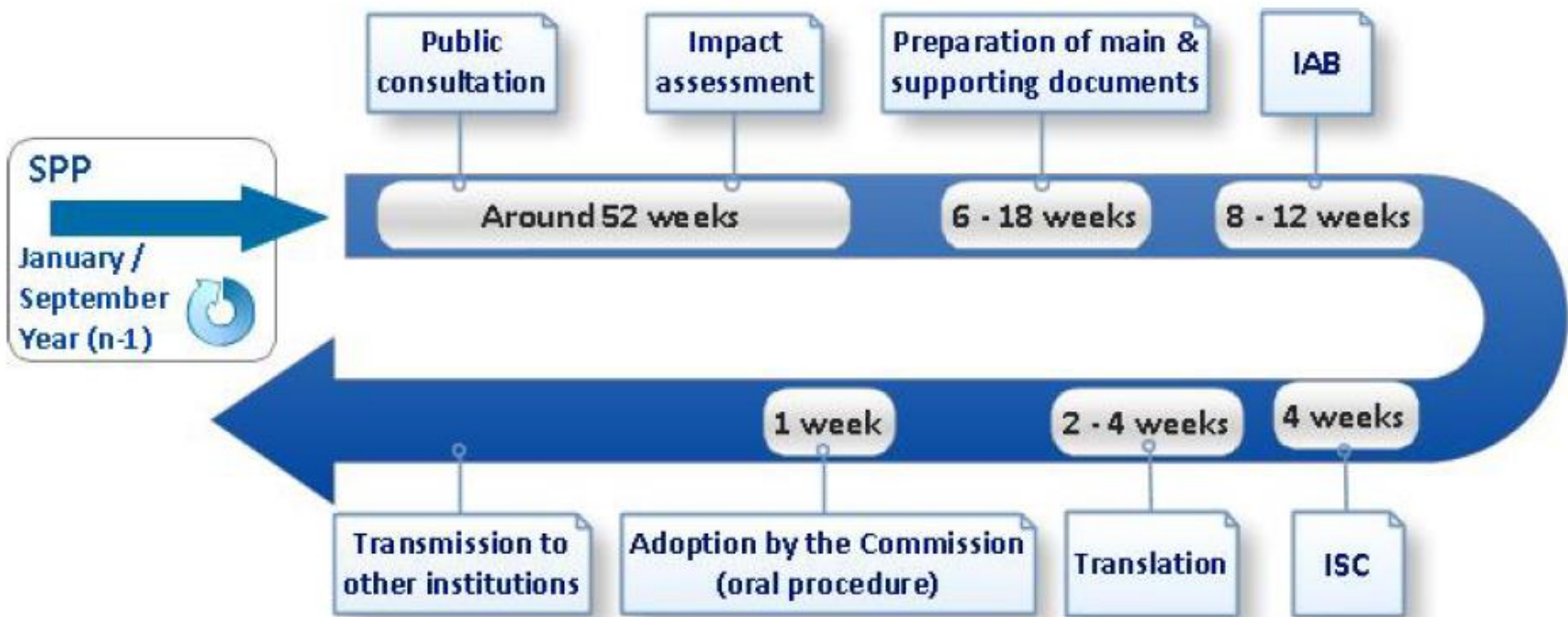
# IMPACT ASSESSMENT IN THE EU

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- 2003: Inter-institutional agreement on better law-making
  - Parliament and Council commit to the same IA methodology
  - Reinforced in 2005 with the “Common Approach to IA”
- 2005: Re-launch of the IA system (“growth and jobs”)
  - New IA guidelines, more emphasis on economic analysis
- 2007: ex post evaluation of the Commission’s IA system
  - Suggested strengthened quality oversight
- 2007: Appointment of the Impact Assessment Board
  - 5 DGs involved, rooted in the SG
- 2007: launch of the administrative burdens Action Plan
  - Emphasis shifts towards administrative burdens
  - Since 2006 the IA guidelines contain an annex on the SCM
- 2010: smart regulation

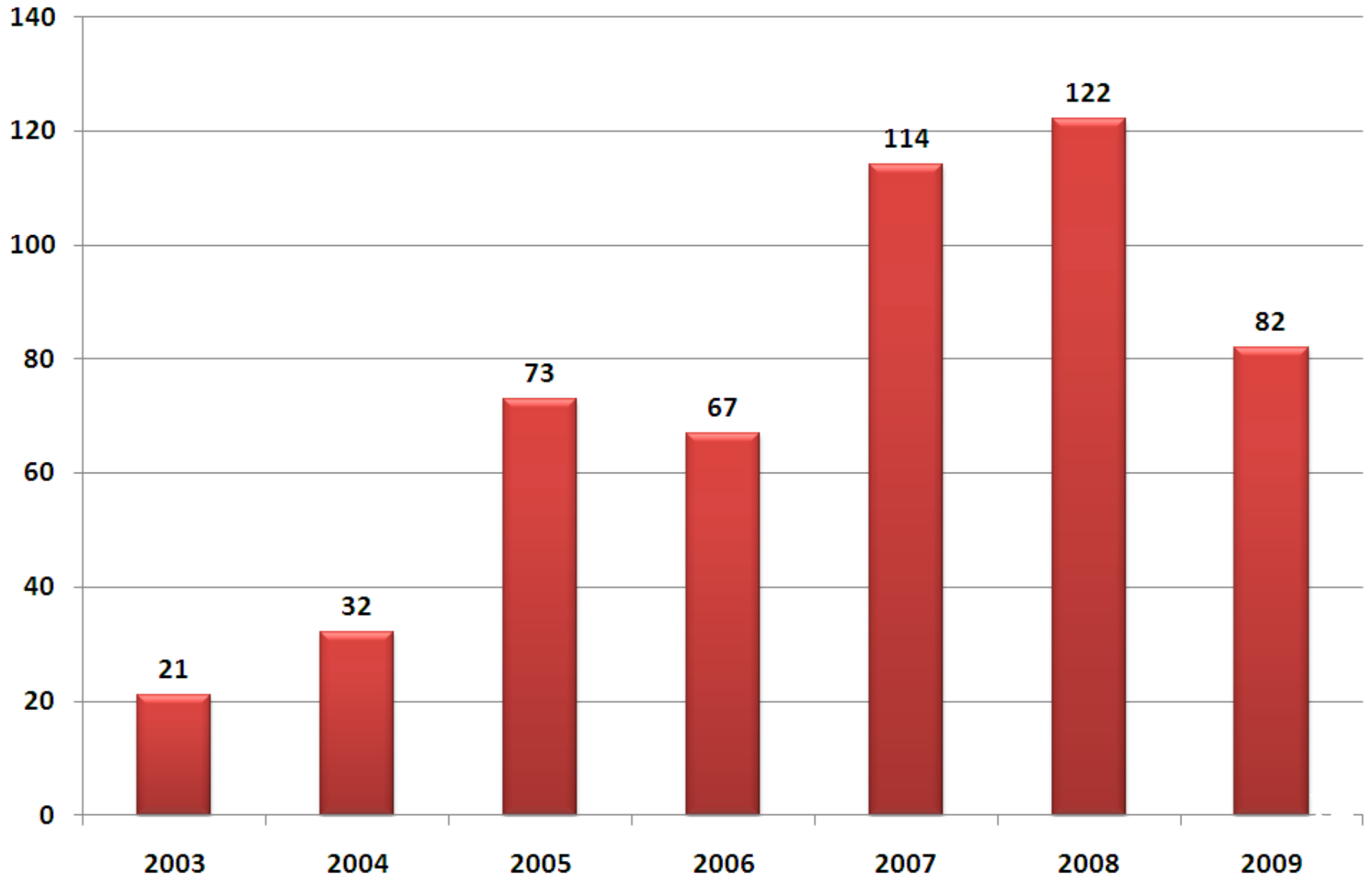


# IMPACT ASSESSMENT IN THE EU





# NUMBER OF IAS PER YEAR





# CIVIL LAW COUNTRIES

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- RIA, where existent, serves widely different purposes and has different scope and depth
  - RIA mandated in law without underlying infrastructure. Every administrative (paradigm) shift needs a cultural shift, and this is lacking in many countries
  - Often the scope is too ambitious (covering primary legislation) and broad in scope (covering all regulation)
  - A “better regulation” community is slowly emerging – often taking root from Administrative Burden reduction programmes
  - Limited political buy in - RIA gives results in the long-term (next government?)
  - Lack of understanding by the broader community



# Strategies for long term improvement

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- For many countries, and for a number of different policy areas, the implementation of **RIA remains a work in progress**.
- The integration of RIA should be seen as a **long term policy goal**.
- All countries, even those with many years experience with undertaking RIA and with very advanced RIA systems in place still experience problems with the **quality and timeliness** of RIA documentation.
- An on-going need to provide support for public officials responsible for RIA and to improve the way that RIA is prepared.



# Systemic factors that influence RIA

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- The most fundamental challenge for RIA system design is promoting its integration in the policy-making process beginning as early as possible.
- RIA has to be undertaken at the inception of policy proposals, when there is a genuine interest in identifying the optimal approach and there is an opportunity to consider alternatives to regulation.
- The scope of the application of RIA is also important for capturing significant regulatory proposals.
- The successful incorporation of RIA in regulatory policy depends on high political support.
- The establishment of a central oversight body with responsibility for promoting the use of RIA is the single most significant quality assurance mechanism that has been taken up by OECD members.



# Methodological frameworks for RIA

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RIA is primarily about improving evidence-based decision-making in public policy.

Undertaking RIA is a technically challenging exercise, practitioners must have clear and useful methodological guidance if its benefits are to be seen in regulatory outcomes.

Relevant practical issues include:

- the establishment of an appropriate threshold test to justify RIA;
- the selection of analytical methods, including benefit-cost analysis, break even analysis and multi-criteria analysis;
- the use of valuation methods;
- and the application of risk assessment tools.

When the systematic elements of RIA are put in the background, the quality of the advice in RIA depends upon the application of a useful and effective analytical methodology