

Regulierungsfolgenabschätzung: Anspruch, aktuelle Praxis und rechtsetzungsmethodische Implikationen

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**Évaluation des analyses d'impact approfondies et
des études Standard Cost Model
effectuées par la Confédération entre 2007 et 2009**



Etude mandatée par le
Secrétariat d'Etat à l'économie (SECO)

Rapport final
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Regulatory Impact Assessment

RIA (Regulatory Impact Assessment) or simply Impact Assessment is a systematic and mandatory appraisal of how proposed primary and-or secondary legislation will affect certain categories of stakeholders, economic sectors, and the environment. “**Systematic**” means coherent and not episodic or random. “**Mandatory**” means that it is not a voluntary activity.

Synopsis of the presentation

Part 1

- Lessons from previous comparative research on knowledge utilization and RIA

Part 2

- Switzerland in comparative perspective

Part 3

- Key issues

Part 1

What previous research told us

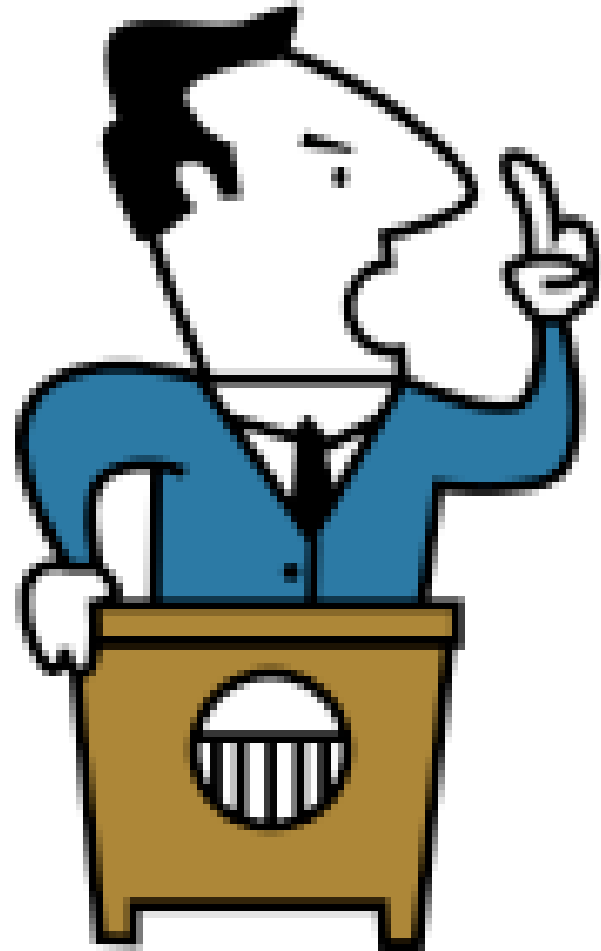
Comparative research on knowledge utilization



- Performance measures
- Policy evaluation
- Citizen's charters
- Policy appraisals
- Foresight studies

Evidence-based democracy?

- ...limited utilization by
elected politicians,
NGOs, citizens
- ...utilization depends on
legal framework (FOIA,
APA, judicial review)
- ... internal & external
accountability



Susan Owens



The important effect of knowledge utilization is: what happens to people after many years of utilization of an evidence-based tool?

Owens Susan, Rayner Tim, and Bina Olivia. 2004. New agendas for appraisal *Environment and Planning A* 36(11)

Dunlop, Maggetti, Radaelli, Russel on implementation
(to appear in Regulation & Governance, 2012)



RIA implementation & the art
of covenant = actors
convene to frame the
utilization of an instrument

“Actors sit down and decide
what’s an impact
assessment to do”

So, ‘what happens to them’ is
important, but also ‘what
happens to the instrument
at the implementation
stage’

Different usages of RIA

RIA varies across countries and
sectors

Control



Rational, evidence-based policy



New public management



Symbolic



RIA Indicators

	System level RIA requirements (OECD) %	Extent of RIA (OECD) %	Individual RIAs carried out systematically (excluding burdens tests)	RIAs are published with supporting analysis
Austria	59	65	0	0
Belgium	63	65	1	0
Czech Rep	85	83	0	0
DK	74	71	0	0
France	41	42	0	0
Germany	74	60	0	0
Spain	26	37	0	0
UK	100	100	1	1
CH	74	67	SECO REPORT	SECO REPORT



Compliance with RIA requirements

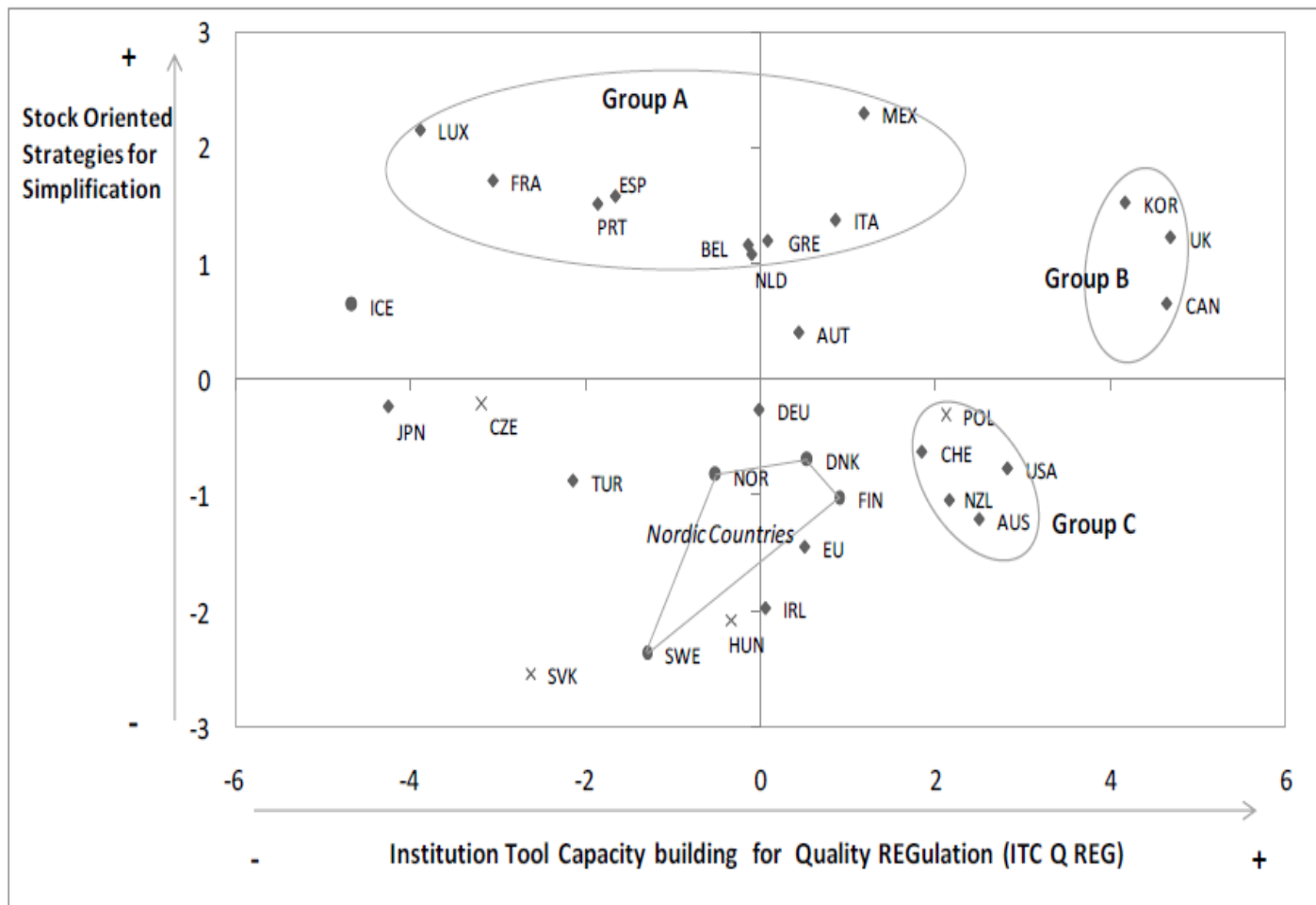
In 24 countries a government body outside the ministry sponsoring the regulation was responsible for reviewing the quality of the RIA with scope for revising the regulatory proposal. However, only in 16 countries, two-thirds of this group, was there scope for blocking the regulatory proposal as part of the review. Reports on the level of compliance with RIA requirements were produced in half of the countries and the EU. These reports are regularly published in only four countries, Australia, the Czech Republic, the UK and the US. Eight countries reported that they undertake *ex post* comparisons of actual versus predicted impacts. Only Korea, Switzerland, the UK and the EU reported that they assess the effectiveness of RIA in leading to modifications of initial regulatory proposals undertaken. For example, Korea found that about 29% of draft regulations had been changed as they passed through the Regulatory Reform Committee in 2004.



OECD cluster analysis

Switzerland is in group C in the graph
(next slide)

Three main groups have been identified. *GROUP B* involves Canada, Korea, but with the UK this time. This group is the most advanced on the first axis, in terms of recourse to regulatory quality tools and institutional set up, while also developing policies for administrative simplification and burden reduction. *GROUP C*, including the United States, Australia, New Zealand, as well as Poland and Switzerland, is relatively advanced in terms of use of regulatory quality tools, RIA, consultation, but is not prone to the use of administrative simplification strategies and burden reduction. *GROUP A* on the contrary involves a larger set of countries that have adopted a strategy for regulatory reform clearly aimed at simplification, including Mediterranean countries, France, Italy, Spain, Portugal and Greece. Mexico is also in this group and is slightly more advanced in terms of regulatory quality tools, mainly due to its adoption of RIA. The positive side of this axis also involves less policy coherence and less clarity in rule making procedures, which may also reflect some of the fragmented nature of regulatory policy in some of these countries. Luxembourg is in this group the country with less recourse to tools and institutional set up.



Part 2

Switzerland in comparative
perspective

SECO Report

- Federal level only (but we not there is smart regulation activity going on at the cantonal level)
- Overall positive assessment of the *AIR approfondies* [but what does this mean for the other RIAs?]
- Poor systematization and oversight of the process and the quality of the *AIR approfondies* (ad-hoc coordination, it works but it is not structured)
- Strategic usage prevails
- RIA is an instrument for the bureaus involved to coordinate policy and increased the acceptance of proposals

Perceptions of RIA (Seco Report p.204)

Scale 1 (complete disagreement)- 5 (complete agreement)

	Control	RegRef priority	Business influence	Coordina tion of stakehol ders	Conflict reduction tool	Econom ics	Tick-the box
Can	2.25	2.11	2.33	1.44	2.66	2.27	2.77
Den	3.00	3.50	3.50	2.00	2.50	2.37	2.33
NL	2.12	2.80	3.00	2.12	2.75	2.75	3.00
SWE	2.11	1.89	2.90	2.11	2.11	2.22	3.36
UK	2.33	3.00	3.90	3.10	2.78	2.80	2.70
USA	3.35	3.05	2.40	1.70	3.31	3.05	2.00
CH	3.29	2.57	2.50	2.13	3.53	3.25	2.94

Part 3

Issues and questions for the
development of RIA in Switzerland

Enraciner l'outil!

1. **Institutionalization**: capacity within Seco, uncertainty about role of Seco, internal vs. external utilization, lack of engagement with the contents of RIA
2. Learning to **produce** RIA is not the same as Learning how to **use** it
3. What is the added **value** of RIA?
4. Integrated regulatory policy **management** (e.g. **post-implementation review**)
5. The problem of two separate **tracks**: the pre-parliamentary process and the RIA process; poor implementation of the two-stage RIA recommended by Federal Council

Back to Susan Owens and the art of covenant

- 1999 – 2006 – 2012..... We are still talking about institutionalization, but this is a consequence of limited investment in capacity and oversight
- What happened to those who use the RIA? They coped with limited resources and uncertainty by defining what the instrument can do for them and pragmatically they have de-coupled from the more ambitious usages
- This is why RIA has been “re-appropriated” the bureaus who are directly involved in policy formulation and economic analysis.

De manière plus générale, tout en augmentant la transparence des impacts économiques tout au long du processus décisionnel, **les AIR approfondies examinées ne semblent pas intensifier et focaliser leur analyse.** L'évaluation constate d'ailleurs que les AIR approfondies ont aussi servi (ou sont perçues comme ayant servi) à d'autres buts. La véritable valeur ajoutée du système semble être une meilleure **structuration du processus** d'élaboration de l'analyse. **La synchronisation et l'interaction des AIR avec le processus décisionnel est moins évidente,** tandis que leur contribution pour optimiser les **impacts économiques varie significativement.**

THANK YOU!

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