



**Asia-Pacific
Economic Cooperation**

Advancing Free Trade
for Asia-Pacific **Prosperity**

Compendium of Public Consultation Initiatives of Volunteer APEC Member Economies

APEC Economic Committee

May 2019

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Acknowledgement

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Disclaimer

The views expressed in this paper are those of the author and do not necessarily represent those of APEC Member Economies.

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Acronyms and Abbreviations

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
COFEMER	Commission for Regulatory Improvement, Mexico
GRP	Good Regulatory Practice
MPC	Malaysia Productivity Corporation, Malaysia
OECD	Organisation for Economic Co-operation and Development
PC	Public Consultation
RIA	Regulatory Impact Analysis
RIAS	Regulatory Impact Analysis Statement
RQA	Regulatory Quality Assessment
RURB	Reducing Unnecessary Regulatory Burdens

Executive Summary

In this project, public consultation (PC) is used generically to refer to engagement with interested parties when governments write or amend regulation. This can be conducted in a number of ways and ranges from informing to listening to interactive engagement. This report documents the approaches used by the 14 participating economies.

PC plays a crucial role in:

- formulating effective policies
- improving the quality of written regulations
- improving compliance which, in turn, helps to better achieve policy goals
- reducing administration and enforcement costs for government
- reducing compliance costs for business and community sectors
- assessing expectations
- identifying non-evident impacts and policy alternatives
- strengthening the relationship between regulators, policy makers, businesses, other interested parties and society
- increasing buy-in by affected parties.

This project into PC (the first in APEC) was proposed and managed by Malaysia, through the Malaysia Productivity Corporation (MPC), co-sponsored with Australia, Thailand and Viet Nam. The project establishes a platform for volunteer economies to undertake their own peer-reviews of PC in their economies, to identify gaps in the framework and implementation of their PC as it applies to the development and administration of regulation.

Addressing these gaps will assist APEC economies in applying Good Regulatory Practices (GRP) and improving indicators measured by the World Bank, APEC, OECD and other relevant International Organizations. At the core, this will support the PC reforms required to improve the mechanisms used to formulate and revise regulations.

As well as compiling this compendium on PC practices in participating economies, Malaysia volunteered to be the first APEC economy to have its PC to be assessed in detail by Ms. Sue Elaine Holmes, an Australian expert, who has been appointed by APEC for this project. This assessment, which is an accompanying report, serves as a guide for other economies which choose to do their own in-depth analyses of their current PC framework and practices.

The key stages of this review were:

- in March 2018, interviews of relevant Malaysia ministries, policy makers, business representatives and other interested parties to assess Malaysia's PC system that is being used to develop or amend regulation
- in April 2018, Malaysia circulated a survey to all APEC economies to assess how their governments engage with stakeholders and identify the practices they use
- from 17-18 July 2018, Malaysia hosted a Workshop on APEC Peer Review on PC Initiatives to discuss the in-depth assessment of Malaysia's PC and the compendium of APEC economies' PC practices based on replies to the survey, and to share knowledge on PC by APEC economies, World Bank, OECD and local experts
- from July to October 2018, the draft reports were updated based on feedback received from the workshop and from follow-ups with the participating economies.
- In October 2018 to May 2019, the revised draft reports were circulated to APEC Economic Committee for further comments and their final approval.

The in-depth assessment of Malaysia and the survey and discussions were structured around the four key dimensions proposed by the OECD in 2015:

- **methodology** – techniques used to engage the public
- **systematic adoption** – how widely is PC used across the government and the methods used to achieve this
- **transparency** – what information about the regulation and its reviews is given to participants. In addition, for the project, **inclusiveness** was added. It refers to assistance given to groups who find it difficult to participate
- **oversight and quality control** - the strategies to encourage compliance and improvements in how PC is conducted.

Given the breadth of the exercise, it was not possible to conduct detailed examination of all PC practices and the report relies extensively on the answers provided to the surveys. While international comparisons do not fully capture the quality, use, and impact of regulatory practices, as with other exercises in benchmarking, they provide a basis on which to further examine differences and share ideas for improving PC.

Where economies compare well against the OECD framework or have introduced innovations which might also work well in other economies, they have been referred to as “**best practices**”, meaning these are ideas which are worth further exploration by other economies.

The indicators and questions were devised by Ms Sue Holmes and the review team (figure A).

Figure A: Survey on public consultation initiatives

Dimensions	Indicators for each dimension
Methodology	<ul style="list-style-type: none"> • Stages when the public is consulted • Guidance provided to stakeholders • Methods used to encourage widespread involvement • Methods used to gather inputs from interested parties • Minimum period to receive feedback
Systematic Adoption	<ul style="list-style-type: none"> • Commitment and leadership • Formal requirements • Standard questions for developing new regulations • Standard questions for amending existing regulations
Transparency and Inclusiveness	<ul style="list-style-type: none"> • Transparency of process • Consideration of and response to stakeholder comments • Availability of information • Who gets to participate in consultations? • What triggers public consultation? • Improving access for challenged groups
Oversight and Quality Control	<ul style="list-style-type: none"> • Independent body to monitor, enforce and advise • Publicly available evaluation of stakeholder engagement • Training • Guidance documents for civil servants

Methodology

All participating economies conduct public consultation at least at one stage during the development of new regulations or the review of existing regulations. This is also the case for reviewing the administration and enforcement of regulation.

All economies provide guidance documents on general procedures, involved in making new regulations and relating to a particular regulation and most provide access to these documents on their websites.

Economies use varying methods to identify stakeholders. Stakeholder analysis and databases of companies and past engagements are commonly used. Social media and media releases are used more than advertising.

Public meetings are the most common method used to engage stakeholders and receive their comments. Focus groups, face-to-face meetings and ICT (websites and social media) are also used by most economies.

The minimum length of time allowed by the economies to receive feedback from interested parties during the consultation period ranges from less than 2 weeks to 12 weeks. While most economies specify a minimum time, most also allow some variability in the time provided for input due to a number of factors. The most common factors are: complexity of issues and type of regulatory instrument, followed by level of public interest. Other factors mentioned by individual economies included: if the regulation under review impacts on trade; overall size of impact; degree of urgency; general context or nature of the proposal.

All economies use their websites to notify interested parties of reviews of regulation.

Best practices in methodology

stages when the public is consulted

Russia holds public consultation, if the regulation is likely to have a medium or high level of impact, at three stages.

encouraging widespread involvement

Malaysia uses value-chain analysis to help identify all stakeholders.

gathering inputs from interested parties

Canada and **Australia** provide portals with information on all current reviews involving public consultation.

Mexico provides a search tool whereby anyone can search for information on completed and ongoing regulatory changes by publication date, regulatory agency, economic sector and/or the type of resolution.

Thailand requires that public consultation must, at minimum, be provided via both the proposing agency's website and the government's central law amendment website.

Canada posts *Forward Regulatory Plans* on the websites of government bodies.

Russia provides a number of websites which help the preparation of Regulation Impact Analysis (RIA) and facilitate public consultation, including to help organize PC, provide statistics on RIA, news, training, webinars, reviews, best practices and sites for the regions.

Some **Canadian** ministries have established a wide range of advisory committees to identify possible solutions before regulation is drafted or proposed.

Indonesia provides a "polling" room as part of its e-participation, where specific issues arising from analysis or from draft recommendations are presented and anyone can provide their opinions as long as they identify themselves.

Malaysia uses a thorough review process, called Reducing Unnecessary Regulatory Burdens (RURB), where public engagement is core to the process of identifying unnecessary burdens and finding ways to address them.

Malaysia structures the questions they pose to stakeholders in way that ensures openness to gaining new insights into the ways regulation and its administration imposes unnecessary regulation.

time to receive feedback

Mexico has a best practice that allows any stakeholder to comment on any regulatory issue at any time.

Systematic Adoption

One factor which is crucial to systematic adoption is leadership and cultural change. However, it is difficult to gather feedback on this in a survey, so the focus of the survey is on the other indicators. However, **Malaysia** has recently demonstrated a best practice in leadership and **China** has a long-standing commitment to cultural change.

Best practices in Systematic Adoption

high-level political endorsement

Malaysia's new Government has committed to require Green Papers to the Cabinet and White papers to the Parliament to demonstrate engagement of all members of society when policy changes are being discussed.

cultural change

In the 1990s, **China** made a commitment to build a government of service and emphasized that government should: "Understand public mind, observe public feeling and respect public opinions"

formal requirements

Thailand's Constitution states: "Prior to the enactment of every law, the State should consult with stakeholders, assess any impacts that may occur from the law thoroughly and systematically, disclose the results to the public, and take them into consideration at every stage of the legislative process (section 77)".

Most economies have legislative requirements to consult over regulatory matters. While **Peru** does not have overarching formal requirements, all of its four economic regulators conduct public consultation for regulatory proposals which is an indicator that this may serve as the way by which PC will be developed and later adopted systematically.

Twelve of the fourteen economies, which answered the survey, indicated that their RIA requirements include a requirement to consult publicly. Of the three economies which do not stipulate a PC requirement in their RIA: the **Philippines'** consultation requirement is contained in higher level overarching documents, while **Peru** and **Brunei Darussalam** do not require RIA to be conducted at all.

Transparency and Inclusiveness

Most economies make public the main points made by stakeholders. Some do this by providing summaries, others put written submissions up on their website. Three economies do not make public the main points made by stakeholders. A number of economies use draft and final reports to respond to ideas made by participants, either directly or indirectly.

Best Practices in Transparency and Inclusiveness

In **Russia**, a summary of the proposals of the participants in public consultation is automatically generated on the official web site for public consultation.

Canada requires a high-level summary of the response to consultations be included as part of the RIAS when it is published.

Indonesia has conducted a 'meta' analysis of the issues raised by the public regarding the quality of the regulation to identify those issues which are most prevalent: conflicting or duplicating regulations, differing interpretations, irrelevant or not operational regulations, inadequate enforcement.

Australia, and **Viet Nam** consult with foreign stakeholders.

Australia, **Canada** and **New Zealand** consult any affected group.

Australia allows groups to self-nominate.

Canada requires that all stakeholders, whether directly or indirectly affected, should be consulted and officials must ensure that an appropriate balance of views is represented in the consultation process.

China requires regulatory agencies to ensure that non-typical groups will be considered for public consultation if the regulation will affect them.

Australia's Productivity Commission's actively considers ways to assist those with disabilities to participate in its inquiries, such as using large fonts, providing audio versions of draft and final reports and brail versions of overviews, ensuring all venues are accessible to people in wheelchairs.

In **Thailand**, where draft legislation is expedited or proceeds in secret, the responsible agency must provide the reasons why this is necessary before the Council of Ministers will consider the regulatory proposal.

Thirteen economies indicated they regularly consult with businesses and professionals. In contrast, employees and intermediate users and suppliers are the least consulted. Those economies which do not consult with the businesses which supply inputs to or buy outputs from the core businesses under review miss out on identifying and exploring what may be some important economic impacts.

Some groups find it more difficult to participate, such as people with disabilities, living in remote areas and/or without access to the internet. Fewer economies have policies to help such groups than those who do not.

Most economies conduct PC when the regulation impacts on business, the environment and/or consumers. A minority of economies conduct PC if the regulation is likely to impact on regions, productivity, competition or society. **Mexico, Canada** and **Australia** conduct public consultation for any significant risk. **Canada** also puts a particular emphasis on issues which will impact on small business. **Brunei Darussalam** includes public complaints as a trigger for public consultation.

Most economies report exemptions from PC requirements, when the regulation may impact on national defence or security or if the matter involves an emergency. In the latter case, some economies require PC to take place after the regulation has been introduced.

Oversight and Quality Control

Seven economies have a body which is within government but independent from the proposing agency to assess PC.

Other seven economies, with external bodies which actively engage in checking PC, most advise the regulatory bodies when they do not comply and assist the regulatory bodies to improve performance, largely by providing training and guidance documents. For four of these economies, the independent body does not make their findings public.

Observations

Usefulness of framework and questionnaire

The framework and its four dimensions are very useful, both as a way to assess an economy's PC and to provide guidance on what an economy needs to address to improve PC.

The questionnaire, based on the four dimensions has also proved useful though some questions, especially those under systematic adoption, could be streamlined and clarified in order to avoid confusion over PC, RIA and RURB and where PC is mandated. Also, instead of distinguishing between PC for new versus amended regulation, a more useful focus in the future should be on differences according to the type of legal instrument ranging from Laws to guidance notes.

The answers, presented in this report, will also serve as a base against which to measure progress in the future.

Why Public Consultation?

PC plays a crucial role in:

- formulating effective policies
- improving the quality of written regulations
- improving compliance which, in turn, helps to better achieve policy goals
- reducing administration and enforcement costs for government
- reducing compliance costs for the business and community sectors
- assessing expectations
- identifying non-evident impacts and policy alternatives
- strengthening the relationship between regulators, policy makers, businesses, other interested parties and society
- increasing buy-in by all affected parties.

Project Background

In June 30, 2017, the APEC Budget and Management Committee notified Malaysia on the approval of the project: "APEC Peer Review on Public Consultation Initiatives". The approval was in response to the proposal made by Malaysia, through the Malaysia Productivity Corporation (MPC) in March 2017, co-sponsoring with Australia, Thailand and Viet Nam.

This project establishes a platform for volunteer economies to undertake their own peer-reviews of Public Consultation in their economies, to identify gaps in the framework and implementation of their Public Consultation (PC) as it applies to the development and administration of regulation.

Addressing these gaps will assist APEC economies in applying Good Regulatory Practices (GRP) and improving indicators measured by the World Bank, APEC, OECD and other relevant International Organizations. At the core, this will support the PC reforms required to improve the mechanisms used to formulate and revise regulations.

Malaysia initiated this project (the first time of its kind in APEC) and volunteered to be the first APEC economy to be assessed by Ms. Sue Elaine Holmes, an Australian expert, who has been appointed by APEC for this project. This assessment can now serve as a guide for other economies which choose to do their own in depth analyses of their current PC framework and practices.

For project management purposes, the stages of this project have been split into three “phases”, as in figure B.

Figure B: APEC Peer Review on Public Consultation Initiatives Project Stages

Phase	Timeline	Activities
I (Desk Research and Information Gathering)	July 2017 - April 2018	<ul style="list-style-type: none"> • Project initiation - allocation of resources, project team formation and appointment of experts and external resources. • Peer Review of PC initiatives (Malaysia's case); • Circulation of PC Surveys to the rest of APEC economies; • Analysis of responses.
II (Workshop - PC Practices by APEC Economies)	April 2018 - August 2018	<ul style="list-style-type: none"> • APEC Peer Review on PC Initiatives Workshop <ul style="list-style-type: none"> – Paperwork and liaison with APEC Secretariat, invitations to international (from OECD, World Bank, APEC) and local speakers, APEC economies' and local participants, and logistics management; – Procurement and appointment (logistics, rapporteuring, public relations) • Presentations by guest speakers, APEC economies, and Ms. Sue Holmes on the APEC Peer Review on PC Initiatives - findings for volunteer APEC economies and comments from participating economies.
III (Report)	Sept. 2018 - November 2018	<ul style="list-style-type: none"> • Draft Reports and Recommendations by Ms. Sue Holmes <ul style="list-style-type: none"> – Liaising with APEC economies for additional comments and feedback post APEC Peer Review on PC Initiatives held in Kuala Lumpur, Malaysia. – Finalising and sharing the Draft Reports.

Event chronology:

- a. In March 2018, Ms. Sue Holmes, the APEC expert conducted a series of interviews in Malaysia with relevant ministries, policy makers, the business community and other interested parties to assess Malaysia's PC requirements

and practices as used to develop or amend regulation. The interviews were structured around survey questions;

- b. In April 2018, Malaysia circulated a survey to all APEC economies to capture and compile government wide practices on how governments engage with stakeholders and to identify best practices in public consultation by the economies;
- c. From 17 to 18 July 2018, Malaysia hosted a Workshop on APEC Peer Review on PC Initiatives at the Grand Hyatt, Kuala Lumpur:
 - to share the draft reports on Malaysia’s peer review assessment and the compendium of APEC economies’ PC practices for further comments;
 - to provide a platform for sharing of knowledge and expertise, experiences and best practices in the public consultation practices by APEC economies, World Bank, OECD and local experts.
- d. From July to October 2018, the draft reports were updated based on feedback received from the workshop and from follow-ups with the participating economies.

Project Description

The first stage was to devise a survey design: to identify the features of each economy’s framework for PC and its application, with the intention to use the answers to determine how much progress has been made by each economy and help identify the next stages as well as best practices.

Take stock of the APEC economies’ PC practices, by compiling and analysing:

- answers to the questionnaires
- presentations at the workshop
- updates on current practices in some economies

Discuss and explore:

- best techniques - **methodology**
- ways to **systematically adopt** PC
- how to ensure **transparency and inclusiveness**
- the strategies which will encourage compliance and continuous improvement - **oversight and quality control**
- the usefulness of the framework and questionnaire
- best practices.

APEC Survey on Public Consultation

About the survey

The target group for the survey was representatives of the policy makers from APEC economies' government agencies. The four dimensions of a public consultation program were outlined in the *OECD's Regulatory Policy Outlook 2015*:

“The composite indicators for stakeholder engagement in regulatory policy ... measure four main areas; i) oversight and quality control; ii) transparency; iii) systematic adoption; and iv) methodology. Oversight and quality control measures whether there are mechanisms in place to externally control the quality of stakeholder engagement practices (mostly public consultations), to monitor stakeholder engagement and whether evaluations are made publicly available. Transparency looks at the extent to which the processes of stakeholder engagement are made open to the widest spectrum of stakeholders and how and if stakeholders' views and comments are taken into account. Systematic adoption investigates if there are formal requirements for stakeholder engagement and to what extent stakeholders are engaged in practice both in the early and in the later stages of the regulation-making process. Methodology examines the existence of guidance documents, methods and tools used for stakeholder engagement, including minimum periods for consultations and the use of interactive websites and social media tools.” (page 73)

We changed the ordering of the dimensions to reflect the order in which economies usually adopt public engagement, moving from using PC in limited cases to develop their methodologies, to managing to ensure PC is **systematically adopted**. Economies then usually introduce elements of good governance to ensure **transparency**. We also added **inclusiveness** to “transparency” because widening and facilitating participation is an important part of ensuring all stakeholders participate in PC. Economies often then move to develop strategies which will encourage compliance and continuous improvement - **oversight and quality control**.

The team then developed the areas which fill into each dimension. They are outlined in figure C.

The questions were developed and modified by Ms Sue Holmes and MPC members to collect information on current practices and initiatives on public consultation. The survey was first sent to Malaysian government bodies and interested parties in the private sector. The questions were also used to structure meetings held with representatives from the public and private sectors. The information collected was used to write the peer-review report on Malaysia's use of PC in developing and reviewing regulation.

The survey was distributed to all APEC Economies on 6 April 2018.

Survey Respondents

Fourteen APEC economies responded to the survey. The findings from the survey form the core source of the information provided in this compendium report. It has been supplemented with further information provided at the workshop and from responses from follow-up questions after the workshop. The participating economies represent 67 per cent of APEC's membership of 21 economies. The participants are:

1. Australia
2. Brunei Darussalam
3. Canada
4. China
5. Indonesia
6. Malaysia
7. Mexico
8. New Zealand
9. Peru
10. Philippines
11. Russia
12. Chinese Taipei
13. Thailand
14. Viet Nam.

Survey Framework

Figure C: Survey framework on public consultation initiatives

Dimensions	Indicators for each dimension
Methodology	<ul style="list-style-type: none"> • Stages when the public is consulted • Guidance provided to stakeholders • Methods used to encourage widespread involvement • Methods used to gather inputs from interested parties • Minimum period to receive feedback
Systematic Adoption	<ul style="list-style-type: none"> • Commitment and leadership • Formal requirements • Standard questions for developing new regulations • Standard questions for amending existing regulations
Transparency and Inclusiveness	<ul style="list-style-type: none"> • Transparency of process • Consideration of and response to stakeholder comments • Availability of information • Who gets to participate in consultations? • What triggers public consultation? • Improving access for challenged groups
Oversight and Quality Control	<ul style="list-style-type: none"> • Independent body to monitor, enforce and advise • Publicly available evaluation of stakeholder engagement • Training • Guidance documents for civil servants

Chapter 1 : Methodology

Methodology concerns what methods governments use to consult with interested parties when regulations are developed or amended, such as guidance documents, how stakeholders are contacted and encouraged to participate, and the use of interactive websites and social media tools. The stages when PC takes place and the minimum length of time given to stakeholders to participate are also indicators of good methodology (box 1.1).

Box 1.1: Indicators of good public consultation methodology

- Scope of public consultation:
 - a) stages when the public is consulted
 - b) applied to one or more of:
 - i. new regulation
 - ii. existing written regulation
 - iii. administration & enforcement of regulation
- Guidance to participants
- Stakeholder analysis and identification
- The range of ways information is gathered
- Time given for input.

Stages when the public is consulted

Best practice is for any interested party to be able to comment throughout the development or review of regulation. The survey asked economies whether they consulted early or late in the development or review of regulation or both. Generally, the demarcation between early or late is whether it is before or after the regulation has been drafted. Chart 1.1 shows the results.

Chart 1.1: Stages when the public is consulted

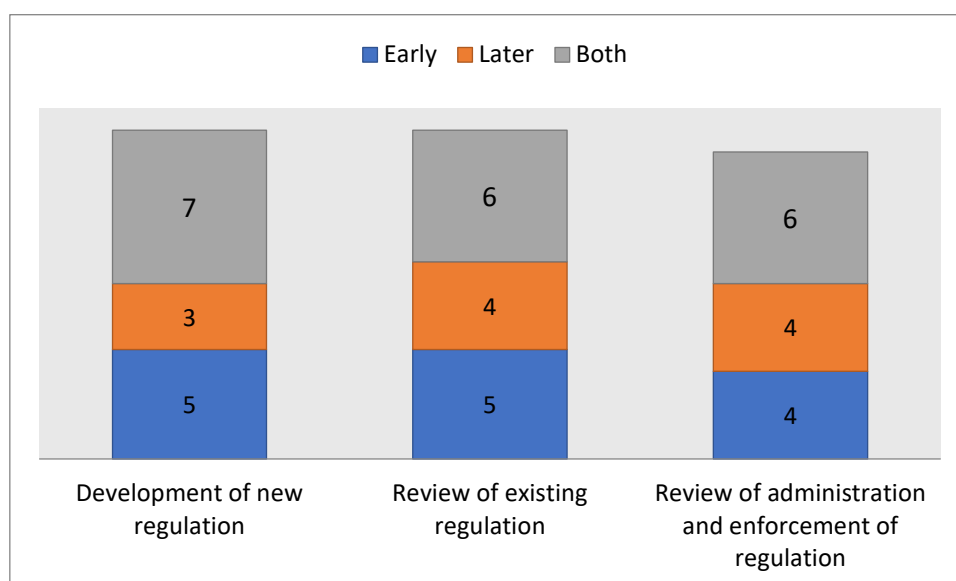


Table 1.1: List of economies on stages when the public is consulted

	Development of new regulation				Review of existing regulation				Review of administration and enforcement regulation			
	Early	Later	Both	None	Early	Later	Both	None	Early	Later	Both	None
Australia			✓				✓				✓	
Brunei Darussalam		✓				✓				✓		
Canada			✓				✓				✓	
China			✓				✓				✓	
Indonesia	✓				✓				✓			
Malaysia	✓					✓				✓		
Mexico			✓			✓					✓	
New Zealand			✓				✓				✓	
Peru		✓				✓				✓		
Philippines		✓			✓					✓		
Russia	✓				✓				✓			
Chinese Taipei			✓				✓				✓	
Thailand	✓				✓				✓			
Viet Nam	✓				✓				✓			

All economies conduct public consultation at least at one stage during the development of new regulations or the review of existing regulations. This is also the case for when reviewing the administration and enforcement of regulation.

As outlined in box 1.2, Russia has a best practice for PC because it consults at three stages.

Box 1.2: Best practice stages for public consultation

Russia holds public consultation, if the regulation is likely to have a medium or high level of impact, at three stages:

1. early stage, after notice is given of the development of new regulation
2. middle stage, after research results in the selection of the best regulatory decision and draft regulation is made available for public consultation by the developer of the regulation
3. final stage, when the Ministry of Economic Development of the Russian Federation prepares its opinion on the quality of the completed procedures and the assessment of regulatory impacts.

Public access to guidance documents

The provision of and access to guidance documents is an objective indicator of good methodology. They provide the reference points for stakeholders to use in knowing how and when to participate and provide a degree of accountability in that government agencies are expected to conform to the criteria outlined in the documents.

All economies provide guidance documents on general procedures involved in making new regulations and relating to a particular regulation.

In **Thailand**, agencies can choose whichever consultation strategy they see fit as long as the strategy can reach all the relevant stakeholders.

Chart 1.2: Public access to guidance documents

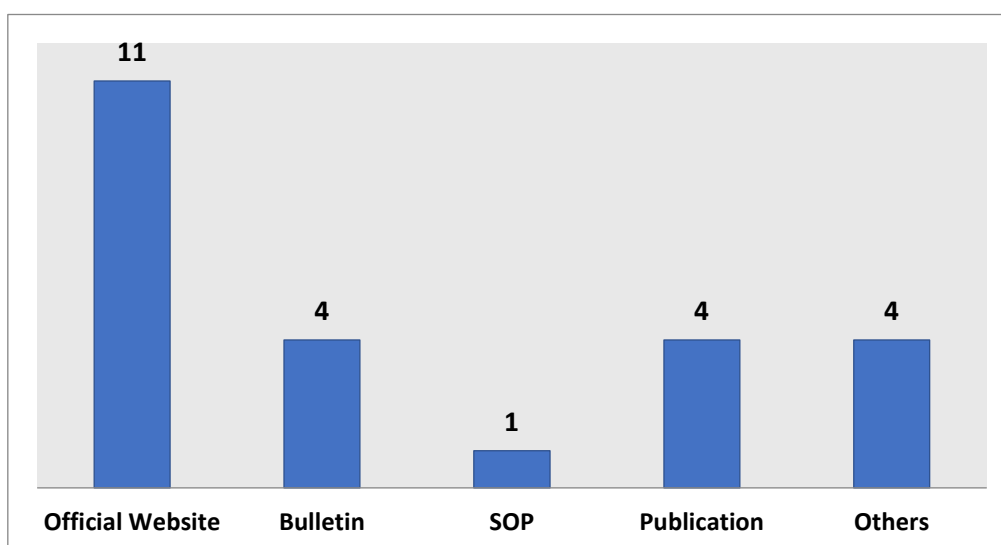


Table 1.2: List of economies on public access to guidance documents

	Public access to guidance documents				
	Official Website	Bulletin	Guidelines on Standard Operating Procedures (SOP)	Publication	Others
Australia	✓				
Brunei Darussalam					
Canada	✓				
China	✓	✓			
Indonesia					✓
Malaysia	✓		✓	✓	
Mexico	✓	✓		✓	
New Zealand	✓				
Peru					
Philippines	✓	✓		✓	
Russia	✓			✓	✓
Chinese Taipei	✓				
Thailand	✓				✓
Viet Nam	✓	✓			✓

Methods used to encourage widespread involvement

While allowing groups to participate is important, this will only be effective if all stakeholders are informed of ongoing reviews and are encouraged to participate in the associated PC.

Identifying interested parties

Identifying all potential stakeholders is the first step needed before designing the best way to contact them and engage their contribution. Economies use varying methods to identify stakeholders. Stakeholder analysis and databases of companies and past engagements are commonly used (chart 1.3).

Chart 1.3: Identifying interested parties

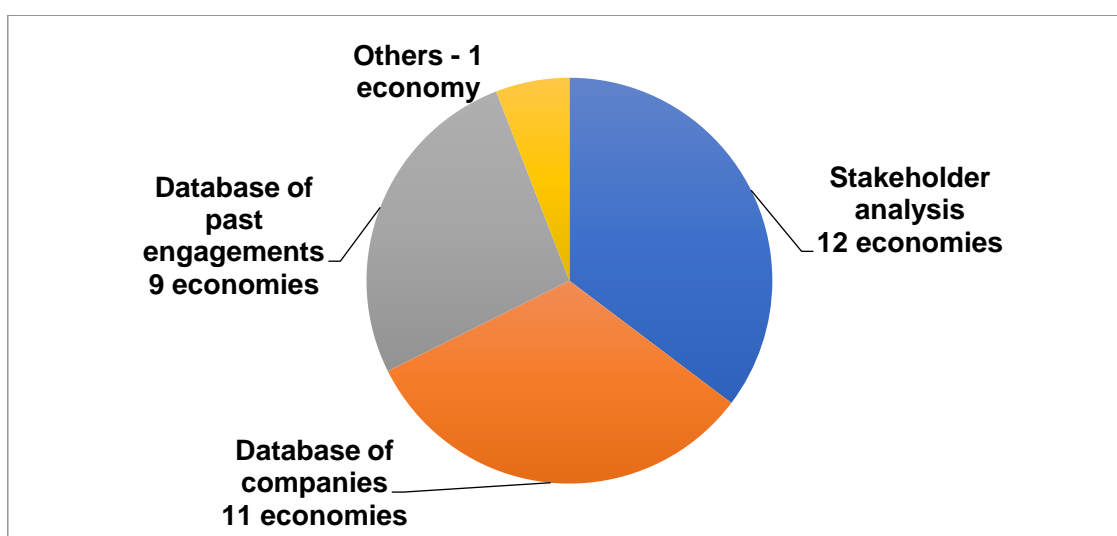


Table 1.3: List of economies on identifying interested parties

	Identifying interested parties			
	Stakeholder analysis	Database of companies, organization, NGOs	Database of past engagements by function and interest	Others
Australia	✓	✓		
Brunei Darussalam		✓	✓	
Canada	✓			
China	✓	✓		
Indonesia	✓			
Malaysia	✓	✓	✓	Value Chain Analysis
Mexico	✓	✓	✓	
New Zealand	✓	✓	✓	Any or all of the above, on a case by case basis
Peru	✓			
Philippines	✓	✓	✓	
Russia	✓	✓	✓	
Chinese Taipei	✓	✓	✓	
Thailand		✓	✓	
Viet Nam	✓	✓	✓	

Malaysia uses value-chain analysis to help identify all stakeholders (box 1.3). This is a best practice that could be considered by other economies.

Box 1.3: Best practice value chain analysis used by Malaysia’s case

When trying to identify all interested parties early in a RURB review, Malaysia uses value-chain analysis.

By working out all stages of production and consumption that precede and follow the industry under review, it is possible to identify other industries, suppliers to, and users and consumers of the products or services of the industry. All of these groups are likely to be affected by the regulation and thus should be treated as stakeholders.

Figure D: Logistics Value Chain

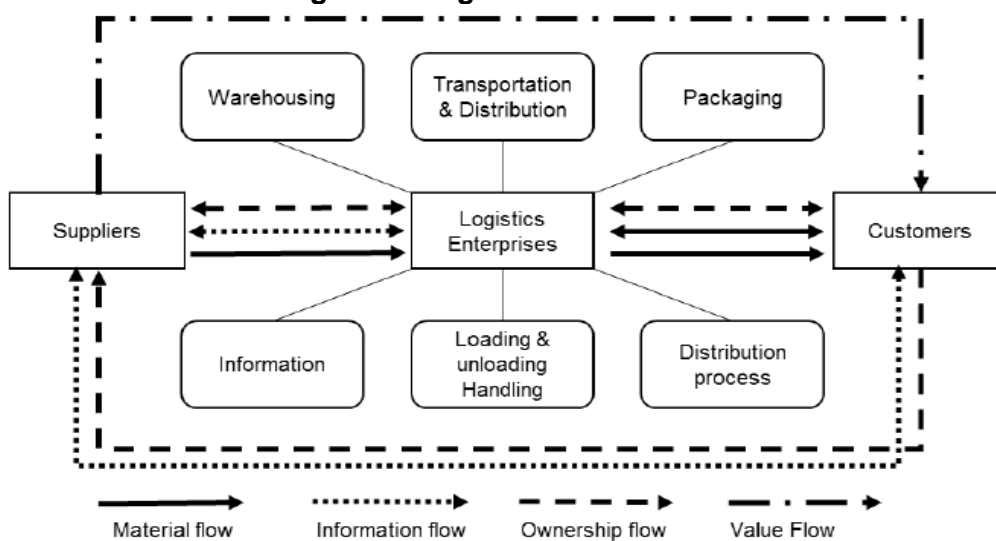
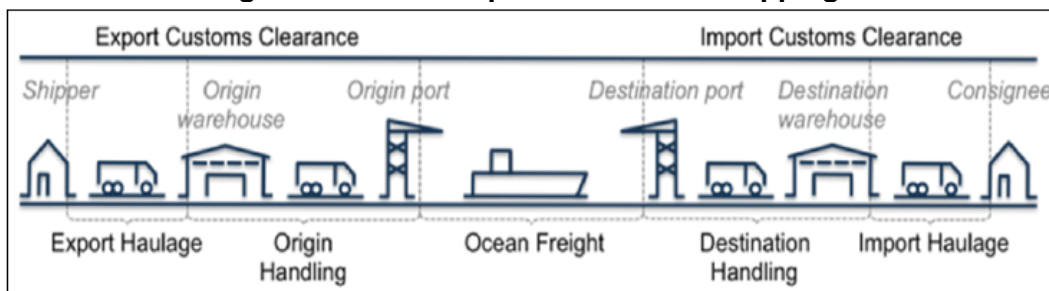


Figure E: Seven Steps International Shipping



Ensuring all potential interested parties are notified of reviews and provided with relevant information

Economies use a range of methods to ensure potentially interested parties receive notification of the review and are easily able to access relevant information (chart 1.4). All economies use their websites to notify interested parties of reviews of regulation. Social media and media releases are used more than advertising.

Chart 1.4: How interested parties are notified of reviews

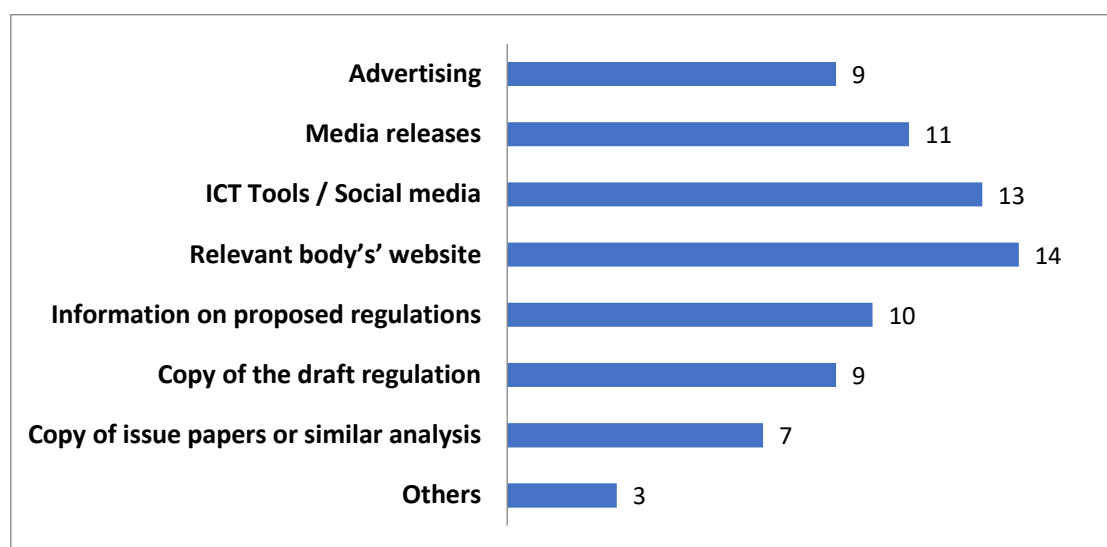


Table 1.4: List of economies on how interested parties are notified of reviews

	How interested parties are notified of reviews							
	Advertising	Media releases	ICT Tools / Social media	Information on the relevant body's website	Information on the proposed regulations	Provide copy of the draft regulation	Provide copy of issue papers or similar analysis	Others
Australia	✓	✓	✓	✓	✓		✓	
Brunei Darussalam	✓	✓	✓	✓				
Canada	✓	✓	✓	✓	✓	✓	✓	✓
China	✓	✓	✓	✓	✓	✓	✓	
Indonesia			✓	✓				
Malaysia		✓	✓	✓	✓			
Mexico	✓	✓	✓	✓	✓	✓	✓	
New Zealand	✓	✓	✓	✓	✓	✓	✓	✓
Peru			✓	✓				
Philippines	✓	✓	✓	✓	✓	✓	✓	
Russia	✓	✓	✓	✓	✓	✓		✓
Chinese Taipei	✓	✓	✓	✓		✓	✓	
Thailand			✓	✓	✓	✓		✓
Viet Nam		✓		✓	✓	✓		

Box 1.4: Best practice


- Canada and Australia provide portals with information on all current reviews involving public consultation:
 - The website Consulting Canadians provides a consultation calendar that tracks past, current and anticipated consultations: <http://www1.canada.ca/consultingcanadians/>
 - The Australian Department of Industry, Science and Innovation provides a portal to advise businesses and individuals of all reviews across the government, not just the Department, which are currently consulting with the public.
- Mexico provides a search tool whereby anyone can search for information on completed and ongoing regulatory changes by publication date, regulatory agency, economic sector and/or the type of resolution by COFEMER, its national regulatory improvement commission.
- Thailand requires that public consultation must, at minimum, be done via both the proposing agency's website and the government's central law amendment website.
- Canada also provides Forward Regulatory Plans posted on the websites of government bodies.

Box 1.5: Best practice complex platform- system of RIA

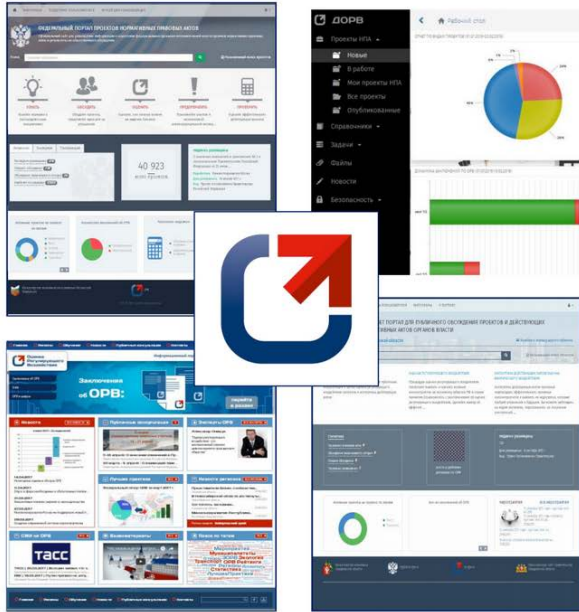
Russia provides a number of sites which serve different functions in contributing to the preparation of RIA and facilitating public consultation.

Figure1.3 Complex Platform

Complex platform-system of RIA




regulation.gov.ru
the Federal site for the organization of RIA and public consultations



Interactive app
Internal accounting, systematization and statistics of RIA work

orv.gov.ru
the main information resource on RIA in Russia: news, training, webinars, reviews, best practices



regional sites
for the organization of RIA and public consultations in each region of Russia

Methods to gather information from stakeholders

After ensuring all those who may be interested are notified of reviews, the next important item is to provide interested parties mechanisms by which they are able to participate in any PC that is undertaken.

Chart 1.5: Methods used to gather information from stakeholders

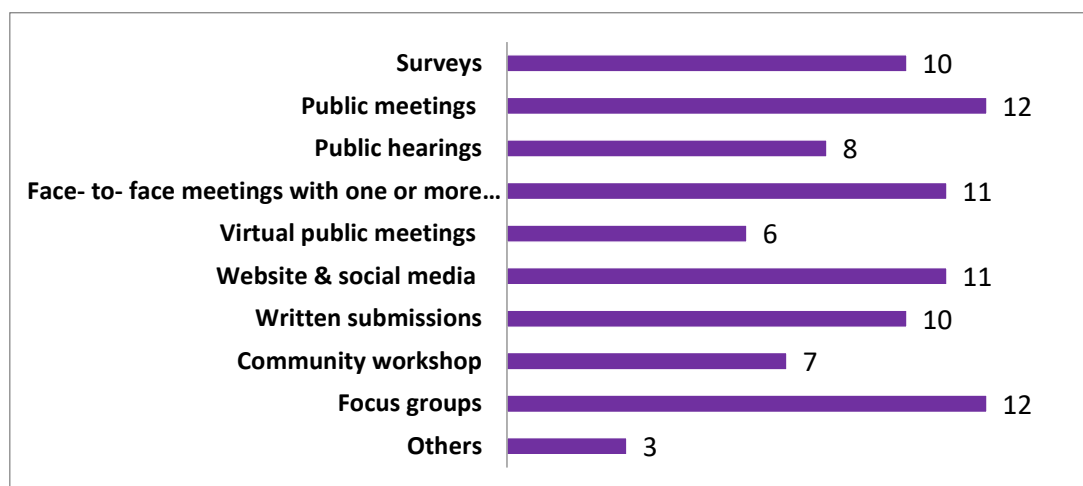


Table 1.5: List of economies on methods used to gather information from stakeholders

	Methods used to gather information from stakeholders									
	Surveys	Public meetings	Public hearings	Face-to-face meetings	Virtual public meetings	Website and social media	Written submissions	Community workshop	Focus group	Other
Australia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Brunei Darussalam	✓		✓	✓		✓			✓	
Canada	✓	✓	✓	✓	✓	✓	✓	✓	✓	
China	✓	✓	✓	✓		✓	✓	✓	✓	
Indonesia		✓				✓			✓	
Malaysia		✓		✓			✓		✓	
Mexico	✓	✓	✓	✓	✓	✓	✓	✓	✓	
New Zealand	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Peru						✓	✓			
Philippines	✓	✓	✓	✓		✓	✓		✓	
Russia	✓	✓			✓	✓	✓	✓	✓	✓
Chinese Taipei		✓	✓	✓	✓	✓				
Thailand	✓	✓		✓		✓	✓		✓	✓
Viet Nam	✓	✓		✓				✓	✓	

Public meeting is the most common method used to engage stakeholders and receive their comments. Focus groups, face-to-face meetings and ICT (websites and social media) are also used by most economies.

Australia advised it used other methods to gather information:

- expert round table discussions and workshops
- seminars and conferences.

Box 1.6: Some best practices in gathering information from stakeholders

Some **Canadian** ministries have established a wide range of advisory committees to identify possible solutions before regulation is drafted or proposed. For example, the Paediatric Expert Advisory Committee enables Health Canada to seek expert advice and public involvement in the development, licensing and continued vigilance for health products – pharmaceuticals, medical devices, biologics including vaccines and natural health products – on the market destined for children, and pregnant and nursing women.

One feature of **Indonesia’s** e-public participation channel is its “**polling**” **room**, where specific issues arising from analysis or from draft recommendations are presented to participants and anyone can provide their opinions as long as they identify themselves.

Malaysia uses a thorough review process, called Reducing Unnecessary Regulatory Burdens (RURB), where public engagement is core to the process of identifying unnecessary burdens and finding ways to address them (box 1.7).

Malaysia structures the questions they pose to stakeholders in way that ensures openness to gaining new insights into the ways regulation and its administration imposes unnecessary regulation (box 1.8).

Box 1.7: RURB is a best practice way to gather input for improving existing regulations

- Reviews existing regulation including its administration and enforcement
- Focuses on identifying regulatory burdens that can be removed while achieving the objective of the regulation
- Public consultation is core to the process of identifying unnecessary regulatory burdens
- Inclusiveness - all possible stakeholders are contacted
- Structured questions
- Acknowledge inputs
- Extensive engagement with stakeholders
- Draft and final reports

Box 1.8: RURB questions used by Malaysia

Malaysia uses the following structured questions when it consults with stakeholders when reviewing existing regulation. Importantly it gives as much emphasis to how the regulation is administered and enforced as to its written content.

1. Which regulations concern you the most? Why?
2. Which regulations are the hardest to comply with?
3. Which regulations do you think are too onerous given what they are trying to achieve?
4. Do you think any regulations are not justified at all?
5. Are some regulatory requirements inconsistent?
6. Do you consider inspectors and other regulatory administrators do a good or a poor job? In what ways?
7. Do you find inspectors and administrators are consistent in their decisions?
8. Do you find they are helpful or unhelpful in advising you how to comply?
9. Are there any publicly available guidelines?
10. How long do regulators take to respond to applications, etc?
11. Do you have any suggestions for reducing the burden of compliance of regulations?
12. Are there any other issues you want to suggest we should cover in our review?

Minimum period to receive feedback

The length of time given to stakeholders to provide feedback is also an indicator of good methodology. In general, the longer time given the better, as it allows participants to gather information and prepare their arguments. If the participant is representing a group, such as an association, then time is also needed to consult with their members.

The length of time given to provide feedback can refer to either the deadline by which written submissions must be delivered or the period of time over which public engagement takes place, including meetings and interviews. Often it refers to both.

Time allowed to receive input from the public

The minimum length of time allowed by the economies to receive feedback from interested parties during the consultation period ranges from less than 2 weeks to 12 weeks. Only one economy allows less than 2 weeks to respond. Both **New Zealand**

and **Brunei Darussalam** indicate the minimum length of time varies according to context.

Chart 1.6: Minimum time allowed to received feedback

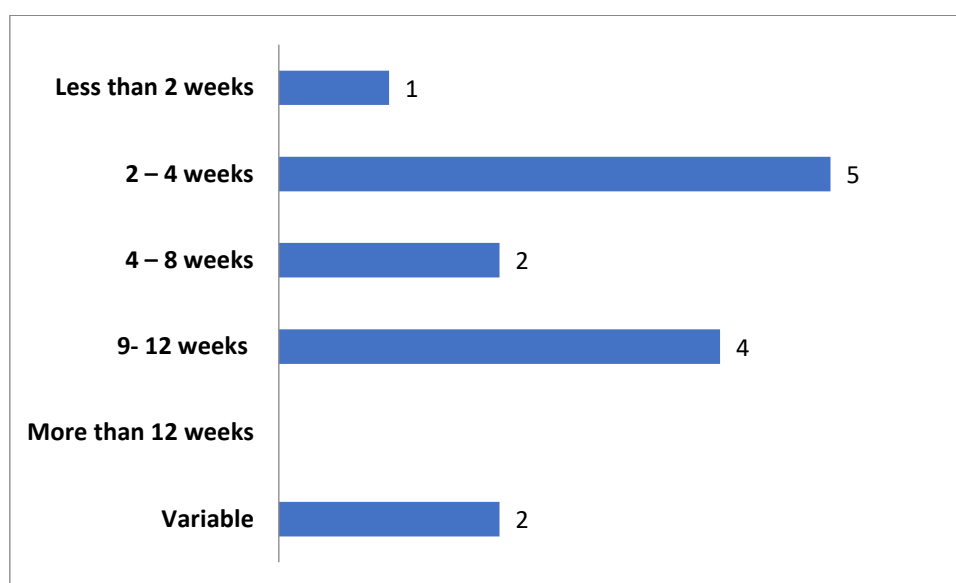


Table 1.6: List of economies on minimum time allowed to received feedback

	Minimum time allowed to received feedback					
	Less than 2 weeks	2 – 4 weeks	4 – 8 weeks	9- 12 weeks	More than 12 weeks	Variable
Australia				✓		
Brunei Darussalam						Depending on methods used. Varies from 1 day (usually via social media) to more than 12 weeks
Canada			✓			
China			✓			
Indonesia		✓				
Malaysia				✓		
Mexico	✓					
New Zealand						Varies according to context
Peru		✓				
Philippines		✓				
Russia		✓				
Chinese Taipei				✓		
Thailand		✓				
Viet Nam				✓		

Factors influencing the time to receive feedback

While most economies specify a minimum time, most also allow some variability in the time provided for input due to a number of factors. The most common factors are: **complexity of issues** (12 economies), **types of regulatory instrument** (10 economies), followed by **level of public interest** (7 economies) and others (6 economies).

Chart 1.7: Factors which influence the time given for feedback

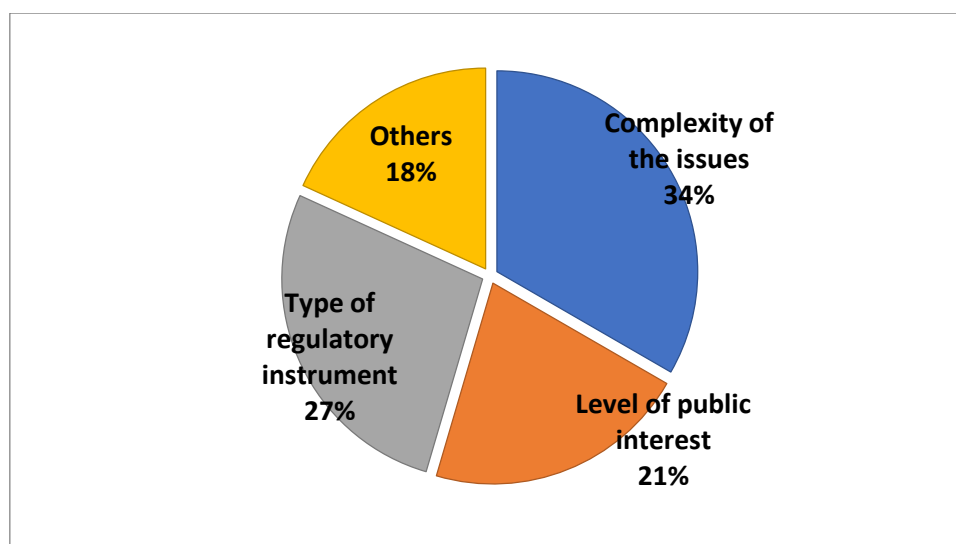


Table 1.7: List of economies on factors which influence the time given for feedback

	Factors which influence the time given for feedback			
	Depending on the complexity of the issues	Level of public interest	Type of regulatory instrument	Others
Australia				
Brunei Darussalam	✓	✓	✓	
Canada	✓	✓	✓	Trade impacts
China	✓	✓	✓	
Indonesia	✓			
Malaysia	✓		✓	
Mexico	✓		✓	In the public consultation process of RIA which is carried out in the website of COFEMER, the stakeholders can submit comments at any moment of the regulatory improvement process, even when the process has finished (when the officials of COFEMER issue a final decision) the stakeholders can send their comments and these ones are notified to the regulator by the COFEMER officials.
New Zealand	✓	✓	✓	Context-dependent
Peru				Urgent matters
Philippines	✓	✓	✓	
Russia	✓			Depending on the degree of regulatory impact
Chinese Taipei	✓			
Thailand	✓	✓	✓	Consultation period must last at least 15 days but the proposing agency can extend the period as they see appropriate to the nature of the proposed regulation
Viet Nam		✓	✓	

Some economies indicated a number of other factors which may influence the length of time allowed for public engagement. **Canada** allows more time if the area under review involves impacts on trade. **Russia adjusts the time depending on** the overall size of the regulatory impact. **Peru** takes account of the degree of urgency of the issue, reduce the length of time for urgent matter. Both **New Zealand and Thailand** indicate the time can be amended given the context or nature of the proposal.

Mexico has a best practice that allows any stakeholder to comment on regulatory issues at any time (box 1.9).

Box 1.9: Best practice – always open to feedback

In **Mexico**, the stakeholders can submit comments at any time while a regulation is being reviewed and even when the process has finished. The comments which arrive, after an assessment, are sent to the regulator by the COFEMER. See: <http://www.cofemersimir.gob.mx>

Chapter 2 : Systematic adoption

Often governments start by using public consultation in just a few areas and this helps them to develop their skills. After this, they look to ensure public consultation is used wherever it will help with improving regulation, regulatory administration and compliance. Thus they start on establishing systematic adoption of PC.

Systematic adoption concerns formal requirements for public consultation and to what extent stakeholders are engaged in practice, both in the early and in the later stages of the regulation-making process.

Indicators of systematic adoption:

- leadership and cultural change
- formal/legal requirements for public consultation
- government-wide agreement on and adoption of the questions and processes to apply when consulting
- extensive involvement of stakeholders throughout the development of regulation (also a part of methodology and inclusiveness, Dimensions 1 and 3)
- independent oversight (part of Dimension 4) also increases the likelihood of systematic adoption.

In general, it is difficult to measure leadership and cultural change, so the focus of the survey is on the other indicators. However, Malaysia has recently demonstrated a best practice in leadership (box 2.1).

Box 2.1: High-level political endorsement of PC

- Leadership and cultural change are fundamental to achieve significant changes. The new Malaysian Government has given a strong endorsement to conduct public consultation when writing new or amending existing regulations, as written in its manifesto:

Green Papers to the Cabinet and White papers to the Parliament should engage all members of society when policy changes are being discussed, Promise 16 – *Restore the Dignity of Parliament, Manifesto, Rebuilding our Nation, Fulfilling our Hopes*

- This Promise is strong and a clear form of leadership which should foster the cultural change.

One other example, comes from China (box 2.2).

Box 2.2: China and cultural change

China stated that, in the 1990s, it made a commitment to building a government of service and emphasized that the government should:

“Understand public mind, observe public feeling and respect public opinions”

Thus it appears that China started trying to achieve the cultural change necessary to underlay public consultation and participation quite early.

Formal requirements to consult publicly over regulatory matters

Formal, public requirements to consult publicly are pivotal to achieving systematic adoption of PC. The responses to the survey indicate that most economies have legislative requirements to consult over regulatory matters. However, a minority have the other requirements (chart 2.1).

Chart 2.1: Formal requirements

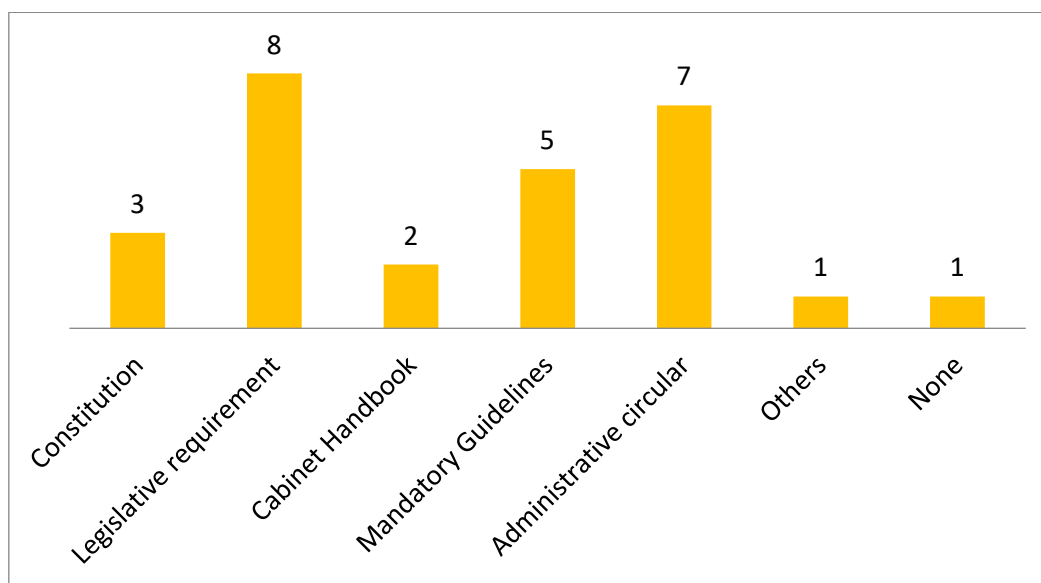


Table 2.1: List of economies on formal requirements

	Formal Requirements						
	Constitution	Legislative requirement	Cabinet Handbook	Mandatory Guidelines	Administrative circular	Others	None
Australia		✓		✓			
Brunei Darussalam					✓		
Canada	✓		✓	✓			
China		✓		✓	✓		
Indonesia		✓					
Malaysia					✓	✓	
Mexico		✓		✓			
New Zealand			✓		✓		
Peru							✓
Philippines	✓	✓		✓	✓		
Russia		✓					
Chinese Taipei		✓			✓		
Thailand	✓				✓		
Viet Nam		✓					

In addition to a Government circular, **Malaysia** has a policy statement on the development and implementation of regulations.

While **Peru** does not have overarching formal requirements, its four economic regulators - Telecom; Public Transport Infrastructure; Energy, Gas, Electricity and Hydrocarbons; and Water and Sewerage – all conduct public consultation for regulatory proposals.

Thailand (box 2.3) has interesting best wording in its Constitutional requirements to engage with stakeholders and understand impacts.

Box 2.3: Thailand has best practice wording in its constitution

While not easily adopted by other economies, it is still interesting to note the words in the Thai constitution.

“Prior to the enactment of every law, the State should consult with stakeholders, assess any impacts that may occur from the law thoroughly and systematically, disclose the results to the public, and take them into consideration at every stage of the legislative process. When the law has come into force, the State should undertake an evaluation of its outcomes after a specified period of time, for which consultation with stakeholders shall be conducted, with a view to modernize and further develop all laws”

(Section 77 Constitution of Kingdom of Thailand)

Standard questions for developing new regulations and amending existing regulations

Systematic adoption is facilitated if there is an agreed set of questions to be addressed when engaging with the public. RIA, which is used to provide an assessment of the costs and benefits of regulatory options, is the most commonly adopted set of questions. In addition, some ASEAN economies have adopted RURB, which is used to provide an assessment of the cost effectiveness of regulations, when reviewing existing regulation. The survey asked economies:

- whether they require regulation makers to use RIA and/or RURB
- what questions are required to be answered in RIA and RURB
- is the requirement to conduct PC contained in their RIA and RURB or is it contained in a different document.

Twelve of the fourteen economies, which answered the survey, indicated that their RIA requirements include a requirement to consult publicly (chart 2.2).

Chart 2.2: Formal requirements to consult publicly contained RIA

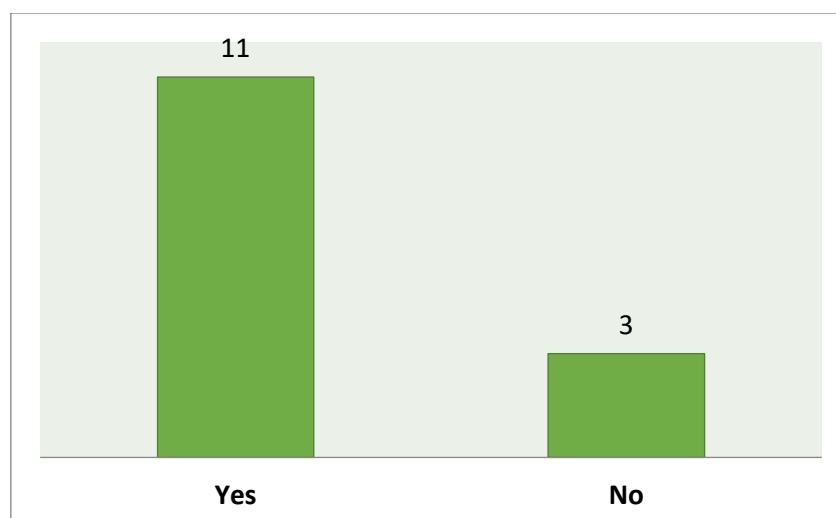


Table 2.2: List of economies on formal requirements to consult publicly contained RIA

	Formal requirements contained RIA	
	Yes	No
Australia	✓	
Brunei Darussalam		✓
Canada	✓	
China	✓	
Indonesia	✓	
Malaysia	✓	
Mexico	✓	
New Zealand	✓	
Peru		✓
Philippines		✓
Russia	✓	
Chinese Taipei	✓	
Thailand	✓	
Viet Nam	✓	

Of the three economies which do not stipulate a PC requirement in their RIA:

- the **Philippines** does not have a public consultation requirement within its RIA rather the requirement is contained in higher level over-arching documents
- **Peru** and **Brunei Darussalam** do not require RIA to be conducted at all.

Viet Nam answered that its RIA does not require PC but in fact the RIA for new laws and ordinances contains a requirement to conduct PC while the RIA required for other instruments, such as Decrees, Circulars and Decisions, does not explicitly require PC. So Viet Nam has been recorded as having PC requirements in its RIA.

Commonly, RIA contains seven broad elements of review. The analysis and the questions asked of participants are usually structured around these elements.

Chart 2.3: Implementation on 7 elements of RIA

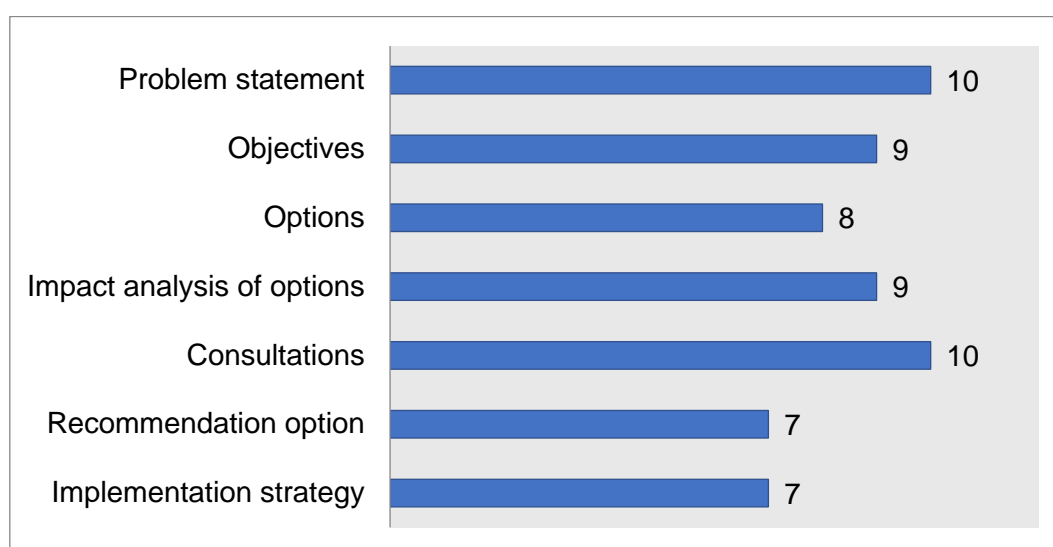


Table 2.3: List of economies in implementation on 7 elements of RIA

	Implementation on 7 elements of RIA						
	Problem statement	Objectives	Options	Impact analysis of options	Consultations	Recommendation option	Implementation strategy
Australia	✓	✓	✓	✓	✓	✓	✓
Brunei Darussalam							
Canada	✓	✓	✓	✓	✓	✓	✓
China	✓	✓	✓	✓	✓	✓	✓
Indonesia	✓			✓	✓		
Malaysia	✓	✓	✓	✓	✓	✓	✓
Mexico	✓	✓	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓	✓	✓	✓
Peru							
Philippines							
Russia	✓	✓	✓	✓	✓	✓	✓
Chinese Taipei	✓	✓	✓	✓	✓		
Thailand	✓	✓			✓		
Viet Nam							

Only **Peru** and **Brunei Darussalam** do not conduct RIA. Seven of the fourteen economies, use all of the seven standard questions of RIA. Four of the economies use at least some of the questions. **Philippines & Viet Nam** conduct RIA but do not use any of the seven questions.

Eleven economies use RIA when reviewing existing regulation.

Malaysia, Thailand and **Viet Nam** use Reducing Unnecessary Regulatory Burdens (RURB), as does **Australia** when it benchmarks regulations across jurisdictions. Thailand and Viet Nam only use RURB, while Malaysia and Australia use both, depending on the circumstance.

Peru does not specify what questions should be asked. **Thailand** has a program of “improving and modernising outdated regulations”.

Indonesia assesses existing regulation against 5 dimensions which address both the text of the regulation and its administration and includes a cost and benefit analysis.

Chart 2.4: Use of RIA and RURB when amending existing regulation

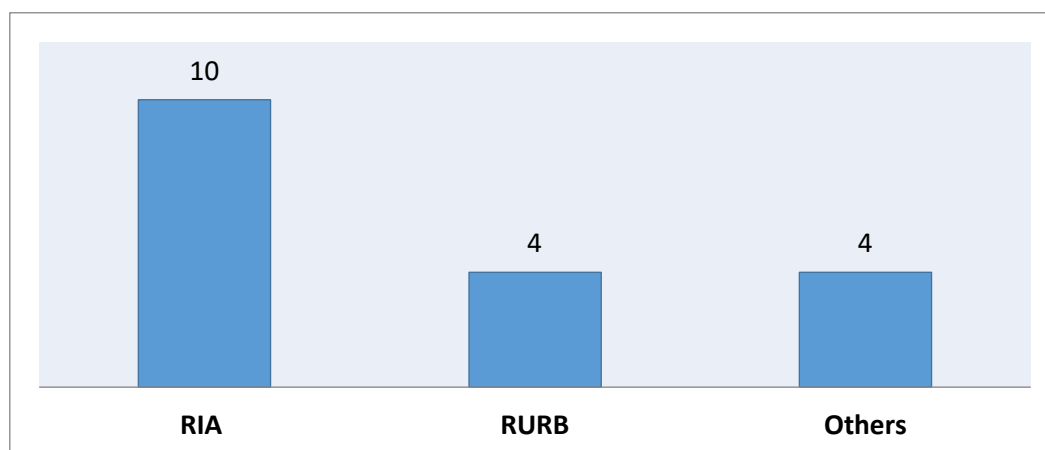


Table 2.4: List of economies use of RIA and RURB when amending existing regulation

	Amending existing regulation		
	RIA	RURB	Others
Australia	✓	✓	
Brunei Darussalam			
Canada	✓		
China	✓		
Indonesia	✓		✓
Malaysia	✓	✓	
Mexico	✓		
New Zealand	✓		✓
Peru			✓
Philippines			
Russia	✓		
Chinese Taipei	✓		
Thailand	✓	✓	✓
Viet Nam		✓	

Chapter 3 : Transparency and inclusiveness

Transparency and inclusiveness look at the extent to which the processes of stakeholder engagement are made open to the widest spectrum of stakeholders, and how and if stakeholders' views and comments are taken into account. (Some characteristics which impact on transparency and inclusiveness are covered in the section on Methodology.)

Transparency of process

Transparency of process concerns how much information is provided to those who may wish to participate in a review so that they know when they can comment, the issues being addressed in a review and the stages of the review. Most economies provide this information (chart 3.1). Two economies do not make it clear what issues are being addressed in a review and five do not make public the timeline or stages of a review.

Chart 3.1: Which aspects of regulatory assessments are made public?

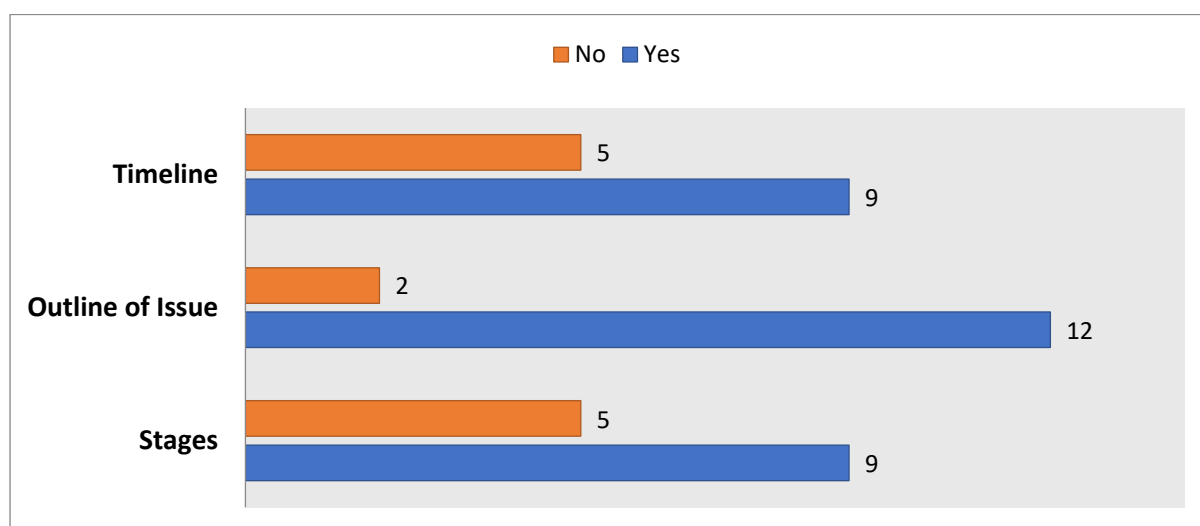


Table 3.1: List of economies on which aspects of regulatory assessments are made public

	Which aspects of regulatory assessments are made public?		
	Stages	Outline of issue	Timeline
Australia	✓	✓	✓
Brunei Darussalam	✓	✓	✓
Canada	✓	✓	✓
China	✓	✓	✓
Indonesia	✓		
Malaysia	✓	✓	✓
Mexico	✓	✓	✓
New Zealand		✓	
Peru			
Philippines	✓	✓	✓
Russia	✓	✓	✓
Chinese Taipei		✓	
Thailand		✓	
Viet Nam		✓	✓

How stakeholder comments are responded to

The level of response to stakeholder comments can vary from acknowledgement that an input was made to making contributions public to engagement with the points made, indicating how they influenced the analysis and recommendations made in a review. Most economies make public the main points made by stakeholders. Some do this by providing summaries, others put written submissions up on their website (chart 3.2). **Philippines, Canada** and **Brunei Darussalam** do not make public the main points made by stakeholders.

Chart 3.2: How stakeholder comments are responded to

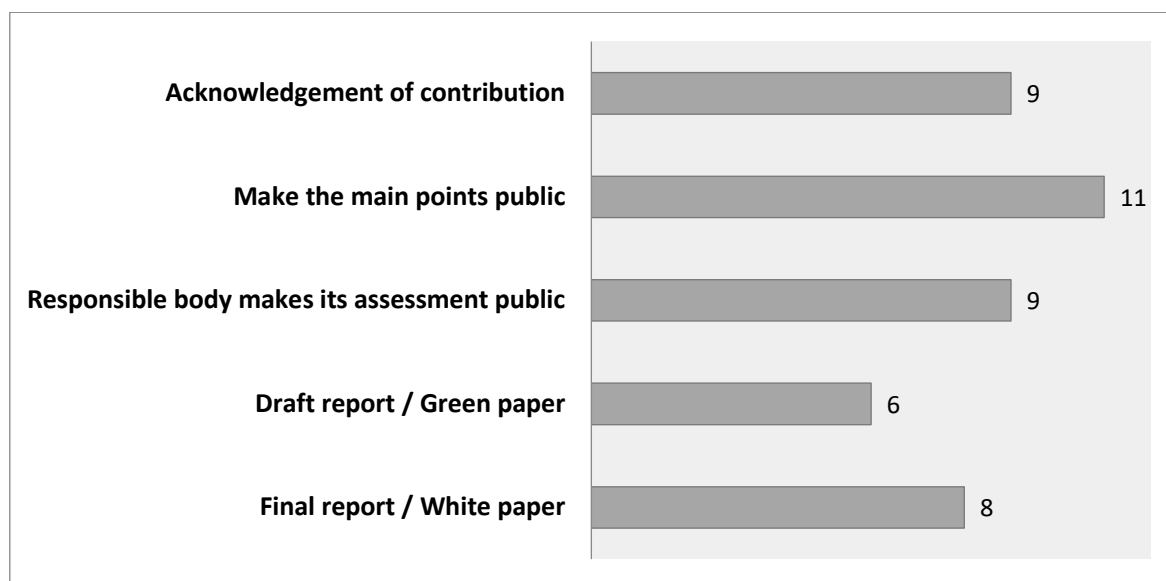


Table 3.2: List of economies on how stakeholder comments are responded to

	How stakeholder comments are responded to				
	Acknowledgement of receipt of contribution	Make public the main points made by stakeholders	The responsible body share its assessment of the comments	Draft report / Green paper	Final report / White paper
Australia	✓	✓		✓	✓
Brunei Darussalam	✓				
Canada			✓		
China	✓	✓	✓	✓	✓
Indonesia		✓			
Malaysia	✓	✓	✓	✓	✓
Mexico	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓	✓
Peru		✓	✓		
Philippines	✓			✓	✓
Russia		✓	✓		✓
Chinese Taipei	✓	✓	✓		
Thailand		✓			✓
Viet Nam	✓	✓	✓		

Box 3.1: Best practices

- **Russia:** A summary of the proposals of the participants in public consultation is automatically generated on the official website for public consultation - regulation.gov.ru
- **Canada:** Even though Canada does not make public the main points made by contributors, a high-level summary response to consultations must be included as part of the RIAS that is published in Canada Gazette Part 1. Before the RIAS is published in Part 2 of the Canada Gazette, the Consultation section should be revised to reflect and respond to feedback received during the pre-publication process. See page 19 of RIAS Writer’s Guide for more information: <https://www.tbs-sct.gc.ca/rtrap-parfa/riaswg-grrier/riaswg-grrier-eng.pdf>
- **Indonesia** has conducted a ‘meta’ analysis of the issues raised by the public regarding the quality of the regulation to identify those which are most prevalent: conflicting or duplicating regulations, differing interpretations, irrelevant or not operational regulations, inadequate enforcement.

Inclusiveness

Inclusiveness refers to both the range of groups who are consulted in reviewing regulation and to the mechanisms used to assist disadvantaged groups to participate in PC.

Categories of Stakeholders usually included in public consultation

Typically, when economies first start to conduct PC they focus on getting the input from businesses. The decision to include other groups often occurs when it is realised that engaging all groups, who will be affected, improves the quality of regulations. This is reflected in the answers, with thirteen economies indicating they regularly consult with businesses and professionals (chart3.3).

Chart 3.3: Categories of Stakeholders

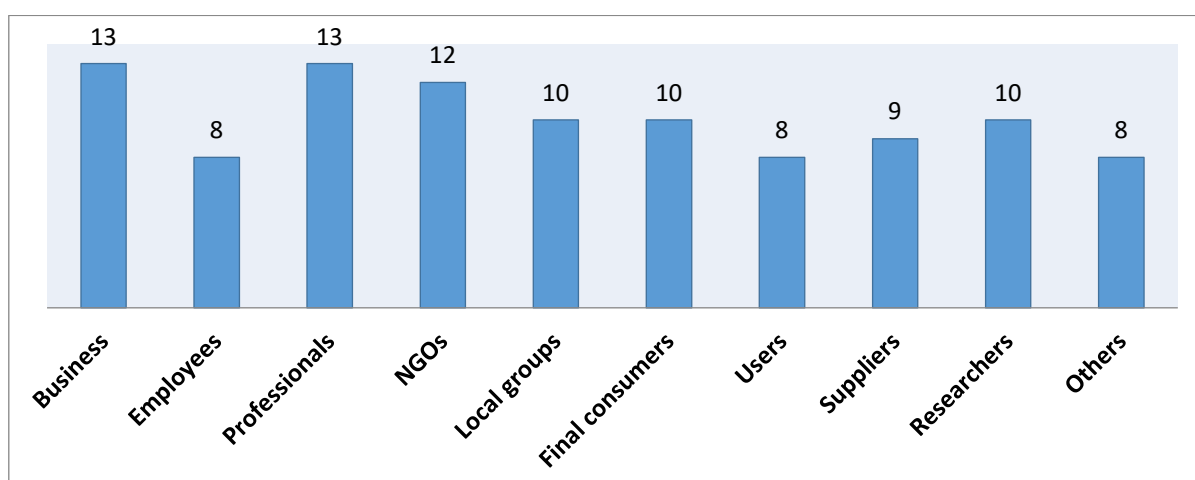


Table 3.3: List of economies on stakeholders categories

	Categories of Stakeholders									
	Business	Employees	Professionals	NGOs	Local groups	Final consumers	Users	Suppliers	Researchers	Others
Australia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Brunei Darussalam	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Canada										✓
China	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Chinese Taipei	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Indonesia	✓		✓	✓						✓
Malaysia	✓		✓				✓			
Mexico	✓	✓	✓	✓	✓	✓	✓	✓	✓	
New Zealand	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Peru										✓
Philippines	✓		✓	✓	✓	✓		✓	✓	
Russia	✓	✓	✓	✓	✓	✓		✓	✓	
Thailand	✓		✓	✓	✓					✓
Viet Nam	✓		✓	✓		✓			✓	✓

In contrast, employees and intermediate users and suppliers are the least consulted, even though they are all important participants in the economy. Those economies which do not consult with the businesses which supply inputs to or buy outputs from the core businesses under review miss out on identifying and exploring what may be some important economic impacts.

Nine economies indicated they also consult with other categories of stakeholders:

- **Indonesia** consults relevant ministries. Although not reported in the survey, it is likely a number of economies also do this
- **Australia** and **Viet Nam** consult with foreign stakeholders
- **Peru** consults with indigenous peoples if a regulation is likely to impact on them directly, those concerned about the environment, and anyone can comment on a draft regulation
- **Australia, Canada** and **New Zealand** consult any affected group. **Australia** allows groups to self-nominate. This practice plus **Canada's** requirement that all stakeholders should be consulted (box 3.2) constitutes a best practice.

Box 3.2: Canada's best practice of all-inclusive PC

The Government of Canada Guidelines for Effective Regulatory Consultations stipulates that all stakeholders, whether directly or indirectly affected, should have an opportunity to contribute their views. Moreover, significant effort should be made to identify the "most affected stakeholders," and officials should ensure that an appropriate balance of views is represented in the consultation process.

In addition, **China** has a best practice which requires regulatory agencies to conduct various assessments and meetings to ensure that non-typical groups will be considered for public consultation if the regulation will affect them.

Including disadvantaged groups in public consultation

In addition to ensuring all interested parties are allowed to participate in PC, the other aspect of inclusiveness is addressing the barriers which may prevent some people, who want to participate, from doing so.

People who typically find it difficult to contribute to public consultation include those:

- with disabilities, such as deafness, blindness, immobility
- living in remote areas
- without access to e-technology
- unable to read or write
- coming from other economies
- not speaking the local language.

Fewer economies have policies to help those who find it difficult to participate than those who do not (chart 3.4).

Chart 3.4: Including disadvantaged groups in public consultation

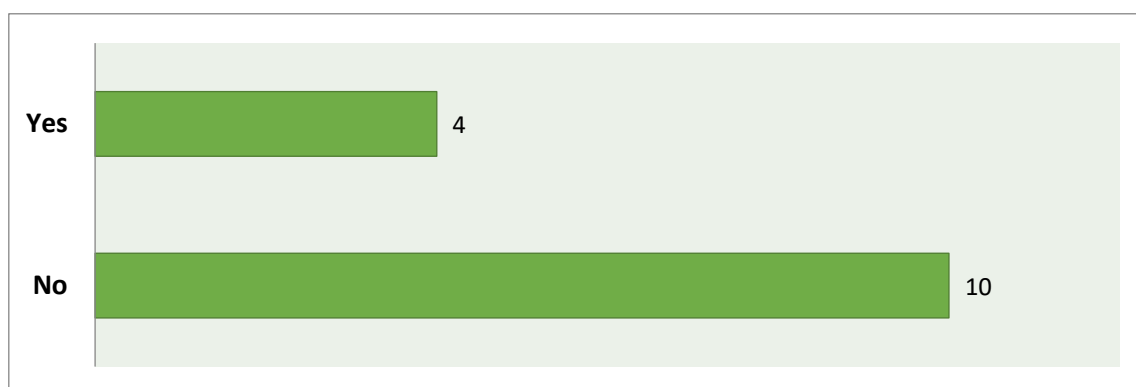


Table 3.4: List of economies that include disadvantaged groups in public consultation

	Including disadvantaged groups in public consultation	
	Yes	No
Australia	✓	
Brunei Darussalam		✓
Canada	✓	
China	✓	
Indonesia		✓
Malaysia		✓
Mexico	✓	
New Zealand		✓
Peru		✓
Philippines		✓
Russia		✓

Chinese Taipei		✓
Thailand		✓
Viet Nam		✓

Australia's Productivity Commission addresses inclusiveness on a number of fronts (box 3.3).

Box 3.3: Best practice inclusiveness

In Australia, the *Productivity Commission Act* requires the Commission to:

- consider multiple viewpoints in an inquiry
- recognize the interests of all parties affected by any Commission recommendation
- consult with all affected parties.

Discovering and understanding all viewpoints are deeply instilled in the Productivity Commission's approach to public engagement. For example, the Commission's inquiry into the best way to help those with disabilities resulted in changes in the way it conducts inquiries, such as:

- using large fonts
- providing audio versions of its draft and final reports and brail versions of its overview
- ensuring all venues are accessible to people in wheelchairs.

What triggers the decision to conduct public consultation?

As well as the range of interested parties who are consulted, the matters on which economies consult is also an indicator of transparency and inclusiveness – the more more types of impact that may lead to public consultation, the more inclusive is the PC policy. The decision to consult publicly is based mostly on who or what is impacted and the nature of the risks but, surprisingly, less on the size of the risk (chart 3.5).

Chart 3.5: Type of decisions to consult publicly

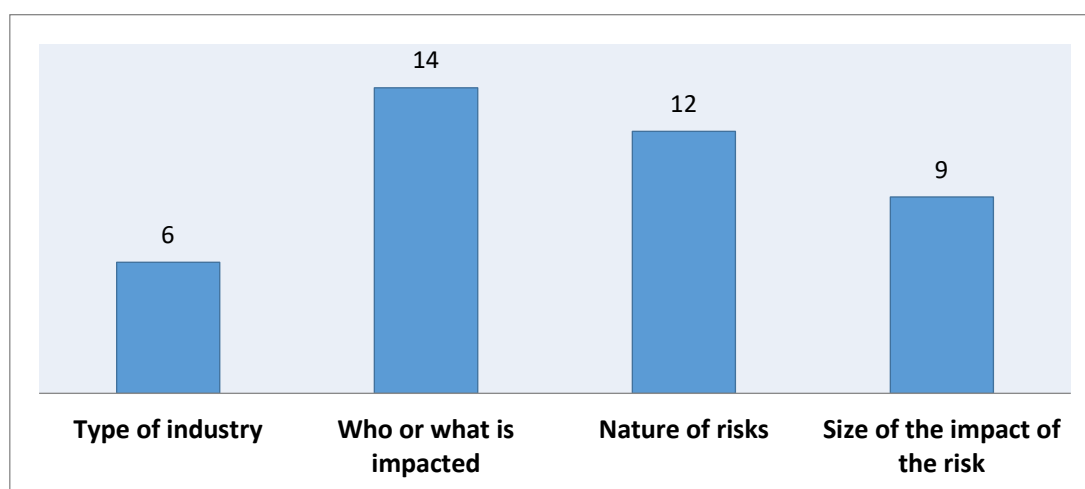


Table 3.5: List of economies on type of decisions to consult publicly

	Type of decisions to consult publicly			
	Type of industry	Who or what is impacted	Nature of the risks	Size of the risk
Australia		✓	✓	✓
Brunei Darussalam	✓	✓	✓	✓
Canada		✓	✓	
China	✓	✓	✓	✓
Indonesia		✓	✓	
Malaysia		✓		✓
Mexico	✓	✓	✓	✓
New Zealand		✓		
Peru		✓		✓
Philippines	✓	✓	✓	
Russia		✓	✓	✓
Chinese Taipei	✓	✓	✓	✓
Thailand	✓	✓	✓	✓
Viet Nam		✓	✓	

Under the broad category of who or what is impacted, most economies conduct PC when the regulation impacts on business, the environment and/or consumers. A minority of economies conduct PC if the regulation is likely to impact on regions, productivity, competition or society (chart 3.6). **Mexico, Canada and Australia** conduct public consultation for any significant risk. **Canada** also puts a particular emphasis on issues which will impact on small business. **Brunei Darussalam** includes public complaints as a trigger for public consultation.

Chart 3.6: Types of impact that may lead to public consultation

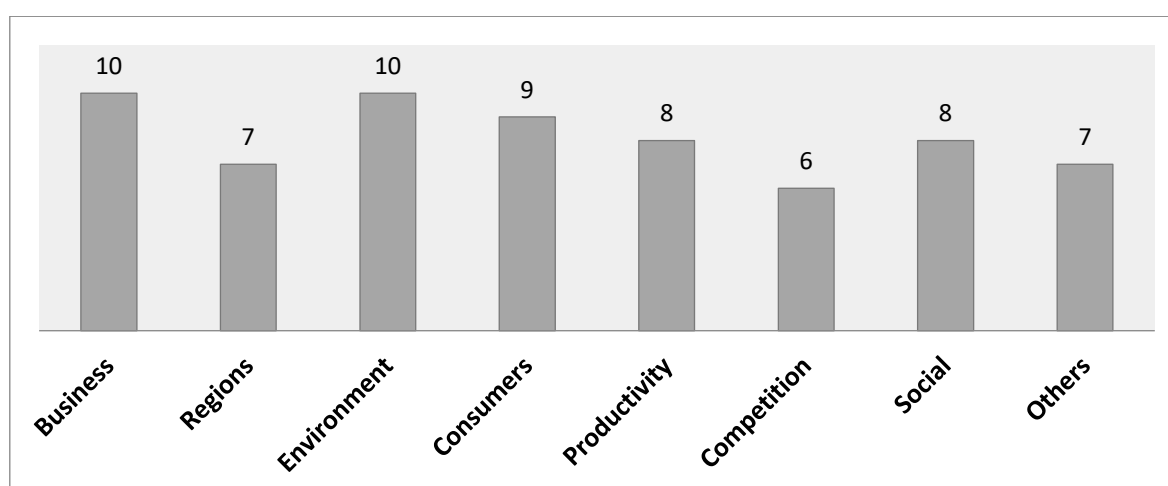


Table 3.6: List of economies on types of impact that may lead to public consultation

	Types of impact that may lead to public consultation							
	Business	Regions	Environment	Consumers	Productivity	Competition	Social	Others
Australia	✓	✓	✓	✓	✓	✓	✓	✓
Brunei Darussalam	✓	✓	✓	✓	✓	✓	✓	✓
Canada								✓
China	✓	✓	✓	✓	✓	✓	✓	
Indonesia	✓		✓	✓				
Malaysia	✓	✓	✓	✓	✓	✓	✓	
Mexico	✓	✓	✓	✓	✓	✓	✓	✓
New Zealand								✓
Peru			✓					
Philippines	✓			✓	✓			
Russia								✓
Chinese Taipei	✓	✓	✓	✓	✓	✓	✓	✓
Thailand	✓	✓	✓	✓	✓	✓	✓	
Viet Nam	✓		✓				✓	

The more types of risk which are likely to lead to public consultation, the more inclusive is the PC policy (chart 3.7).

Chart 3.7: Types of risk which lead to public consultation

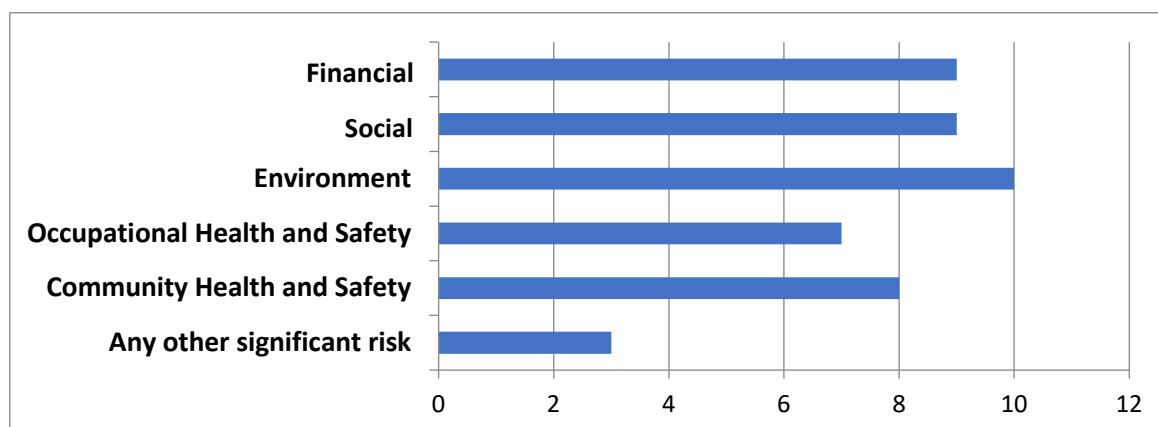


Table 3.7: List of economies on types of risk lead to public consultation

	Types of risk lead to public consultation					
	Financial	Social	Environment	Occupational Health and Safety	Community Health and Safety	Others
Australia	✓	✓	✓	✓	✓	✓
Brunei Darussalam	✓	✓	✓	✓	✓	
Canada						✓
China	✓	✓	✓	✓	✓	
Indonesia	✓	✓	✓			
Malaysia						
Mexico	✓	✓	✓	✓	✓	✓
New Zealand						
Peru						
Philippines	✓	✓	✓	✓	✓	
Russia	✓		✓			
Chinese Taipei	✓	✓	✓	✓	✓	✓
Thailand	✓	✓	✓	✓	✓	
Viet Nam		✓	✓		✓	

Exemptions

Most economies report exemptions from public consultation requirements, when the regulation may impact on national defence or security or if the matter involves an emergency. In the latter case, some economies require PC to take place after the regulation has been introduced. In **Thailand**, where draft legislation is expedited or proceeds in secret, the responsible agency must provide the reasons why this was necessary before the Council of Ministers will consider the regulatory proposal.

Mexico reports it has a number of other specific exemptions:

- paying taxes
- agrarian and labor issues
- administrative responsibilities of public servants
- any regulation determined by the COFEMER that PC could compromise the intended effects of the regulation.

Box 3.4: Best practice

In **Thailand**, where draft legislation is expedited or proceeds in secret, the responsible agency must provide the reasons why this is necessary before the Council of Ministers will consider the regulatory proposal.

Chapter 4 : Oversight and quality control

Oversight concerns whether there are external mechanisms in place to ensure PC takes place and to monitor and assess the quality of public consultation and stakeholder engagement. In this case, external refers to mechanisms which are separate from the government body proposing the regulation. The external body may still be part of government. These evaluations are more effective in improving compliance if they are made publicly available.

Quality control concerns the ways governments support officials to conduct PC well and provide mechanisms to improve its quality. Indicators for this include:

- guidance documents for civil servants
- general training
- targeted training when standards are inadequate?

External assessment of public consultation

Seven economies have a body which is independent from the proposing agency (chart 4.1) to systematically assess PC. **Brunei Darussalam's** body only assesses process.

Chart 4.1: Does an independent body assess public consultation?

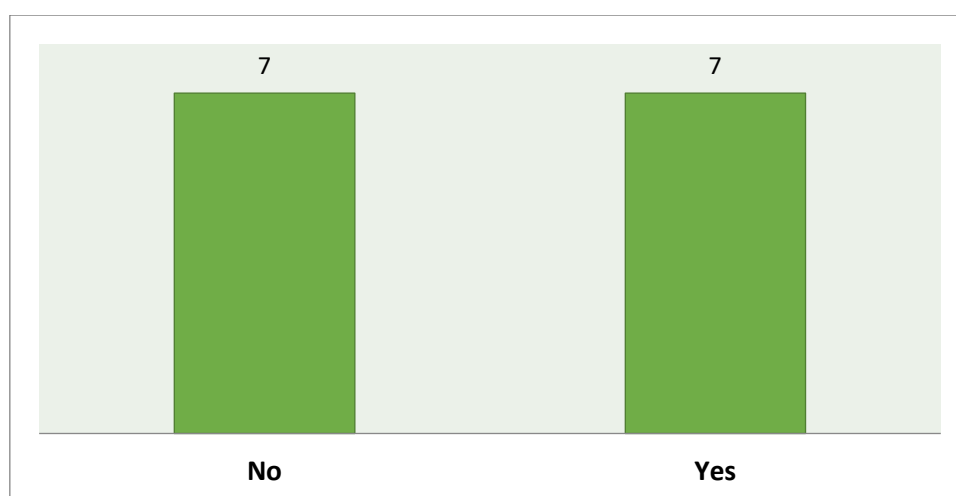


Table 4.1: List of economies that has an independent body assess public consultation

	Independent body assess public consultation	
	Yes	No
Australia	✓	
Brunei Darussalam	✓	
Canada	✓	
China		✓
Indonesia		✓
Malaysia		✓
Mexico	✓	
New Zealand		✓
Peru		✓
Philippines		✓
Russia		✓
Chinese Taipei	✓	
Thailand	✓	
Viet Nam	✓	

Of those seven economies, with external bodies which actively engage in checking PC, all monitor compliance by regulatory bodies with public consultation requirements. Most advise the regulatory bodies when they do not comply and assist the regulatory bodies to improve performance, largely by providing training and guidance documents (chart 4.2).

Chart 4.2: Function of independent bodies in public consultation

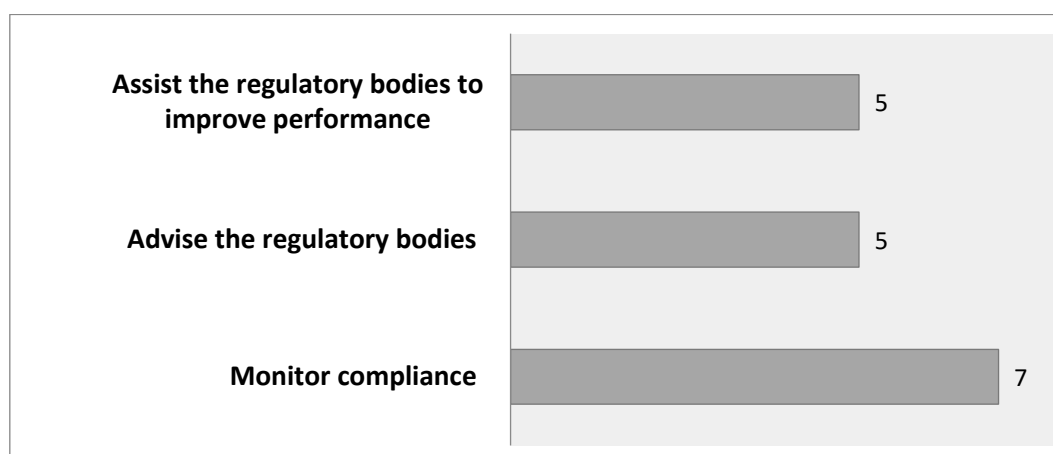


Table 4.2: List of economies on function of independent bodies in public consultation

	Function of independent bodies in public consultation			
	Monitor compliance	Advise the regulatory bodies	Assist the regulatory bodies to improve performance	Others
Australia	✓	✓	✓	
Brunei Darussalam	✓	✓	✓	
Canada	✓	✓	✓	
China				
Indonesia				
Malaysia				
Mexico	✓	✓	✓	
New Zealand				
Peru				
Philippines				
Russia				
Chinese Taipei	✓		✓	
Thailand	✓			
Viet Nam	✓	✓		

Four economies with an independent body assessing compliance with PC do not make their findings public.

Developments in the pipeline

Reflecting that public engagement and regulation impact analysis continues to be adopted and refined, a number of economies shared initiatives that they are in the process of implementing.

In April 2019, **Brunei Darussalam's** Management Services Department will provide oversight and quality control, including monitoring compliance with RIA and PC requirements, and training and guidance documents to improve their quality.

In **China**, there is a new trend where more local governments require public consultation as a precondition for policy-making. For example, PC has been used to inform the streamlining of administration and the delegation of powers.

The new **Malaysian** Government proposes some changes to Parliament which will increase the range of ways members of the public can comment on policy proposals:

- informal groups which can involve representatives of civil society;
- Green Papers to Cabinet and White papers to Parliament to demonstrate that the proposing agency has engaged **all** members of society when policy changes are being discussed, Promise 16 – *Restore the Dignity of Parliament, Manifesto, Rebuilding our Nation, Fulfilling our Hopes*;
- institutionalizing the Select Committee system with appropriate support staff to enable them to function effectively;
- allow the forming of Temporary Committees for ad-hoc matters.

In May 2018, **Mexico** passed the General Law of Regulatory Improvement which extends regulation management requirements to the states and local governments. Changes which will impact on PC include:

- all regulatory authorities at all levels of government must publish a Regulatory Agenda twice a year to publicize their regulatory forecasts and request public input and all must conduct RIA and ex-post RIA after 5 years
- an electronic catalogue containing, in one location, all regulations, permits, and formalities at the federal, state, and local levels
- a new complaint mechanism, whereby any person will be able to raise concerns with respect to the actions or inactions of a public servant.

Peru is conducting Regulatory Quality Assessment (RQA) of its stock of Administrative Procedures to end in the first trimester of 2019. The RQA incorporates some elements of RIA and is seen as a way to lay the groundwork for a future application of RIA in Peru.

Figure F: Thailand Bill will address both the writing and review of regulations



Conclusion

Usefulness of framework and questionnaire

With regards to the framework and questionnaire, we conclude that the framework and its four dimensions are very useful. The questionnaire has also proved useful though some questions, especially those under systematic adoption, could be streamlined and clarified in order to avoid confusion over public consultation, RIA and RURB, and where public consultation is mandated. Also, instead of distinguishing between PC for new versus amended regulation, the focus could be moved to differences according to the type of legal instrument ranging from Laws to guidance notes.

The answers, presented in this report, will also serve as a base against which to measure progress in the future.

Best practices for APEC economies

All identified best practices around public consultation and engagement have been reported in the relevant sections of the report.

Through these efforts APEC economies can learn from one another on improving their public consultation mechanism for future improvements.