

IMPACT ASSESSMENT METHODS: TOWARD INSTITUTIONAL IMPACT ASSESSMENT

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INTRODUCTION

An important branch of the methodologies for designing public policies has been impact assessment (IA) to predict and evaluate the implications and consequences of a wide variety of government measures, including development projects, regulations, and laws before and/or after their implementation. A veritable “family” of IA methods has been developed in the United States and Europe, with potential applications at various levels in different areas of government. Foreign aid agencies have sought to promote the adoption of one of the most promising and popular method called Regulatory Impact Assessment (RIA) in other regions including Asia and, in particular, the Philippines.

The Philippine government has long been familiar with Environmental Impact Assessment (EIA) and some experience with Traffic Impact Assessment (TIA), but RIA was introduced only in 2012. RIA is a novelty that has still some ways to go due to technical problems and institutional issues that it shares with other countries. Despite the increased recognition of the important role of the “institutional component” in development and government, and advances in assessment methods addressing institutional aspects, they tend to leave internal organizational factors in obscurity if not always out of account.

After a review of the development of different IAs, the critical issues that RIA has raised, and Philippine experience with the three forms mentioned above, this paper proposes and outlines what it calls Institutional Impact Assessment (IIA). This is intended to fill the gap in organizational analysis and IIA should thereby help in dealing with some of the obstacles in the way of other IA methods. However, there are more fundamental gaps and constraints

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that would have to be confronted, as the RIA controversy abroad and the Philippine experience with it would suggest.

This work proceeds from premises that may be familiar in Public Administration (PA) and the social sciences but may still have a ring of novelty from other perspectives. Techniques of analysis, and whole technologies, cannot be made to work unless housed in an appropriate institutional home, not to mention a wider social and cultural setting. The institutional approach, narrowly, legalistically conceived in the “Old PA,” has undergone renovation in the social sciences (Scott 2014: vii). Yet some social scientists maintain a restrictive view of the meaning of “institution” and would strictly distinguish it from “organization.” (e.g. Douglas 2013: 36). Here I consider the latter to be an indispensable part of the former. More will be said about the institutional approach before IIA is presented below.

The reviews of IAs undertaken here are based for the most part on secondary published materials, so that there may be an unevenness in the evaluative comments that the author nonetheless hazards. The IIA method proposed afterwards is mostly an outline, though it tries to incorporate as specific ideas as possible.

GENERAL IA SCHEMES

In their *ex ante* or anticipatory mode, IAs try to predict, analyze, and compare in detail the potential effects of proposed policies, laws, regulations, development projects, and other measures of likely significant consequence; their costs, benefits, and risks; and other relevant impacts against intended targets, outputs, and outcomes. Comparison of alternative measures and consultation with stakeholders are essential parts of the process. The expected impacts are evaluated in terms of criteria and standards of effectiveness, efficiency, and equity, with cost-benefit analysis (CBA) a common (but controversial) tool. For the installation and actual case application of an IA scheme, certain principles, particularly those formulated in Europe, serve as guidelines for IA developers and administrators. These include those pertaining to which level of government is best able to administer an IA, what “threshold” conditions should trigger an application, and the scope of the application to particular cases. (See Box 1 for OECD’S guiding principles).

The same IAs may be used *ex post*, or after a measure has been implemented for some time, but a different set of evaluators and evaluation techniques may be involved. Some agencies have used IA mainly for *ex post* application, although a combination with an *ex ante* phase has been recommended (as it is in our IIA proposal).

IAs have been developed for a wide variety of areas and range of measures, from specific business and financial regulations to combined, “three-pillar” economic, social, and environ-

Box 1. GUIDING PRINCIPLES OF OECD'S SUSTAINABILITY IMPACT ASSESSMENT

1. "Sustainability" ... "all three sustainable development aspects are fully integrated into the the assessment." SIA considers short- and long-term effects and spatial impacts.
2. "A focus beyond numbers," uses tools to capture less monetized aspects, avoid "hard" analyses (e.g. CBA) dominating "soft," participatory, and non-market approaches.
3. "Stakeholder involvement" to ensure inputs from different perspectives & disciplines, increase awareness of wider policy implications & issues, uncertainties, and limits of expert knowledge. Also create consensus with greater transparency, participation, and social, spatial, and sectoral balance.
4. "Transparency and accountability" for integrated policies, asking who are involved, procedures and methods used, and reasons for the mitigation options and solutions considered and selected.
5. Proportionality in SIA's scope, based on "proportionate analysis" matching depth and scope to the significance and political, legal, and sectoral contexts of proposed measures, type of impacts and mitigation options examined, and provision for monitoring and evaluation.
6. "Clear lines of [institutional] responsibility." In order to "embed the SIA within the institutional set-up and its operations, ... clear procedures need to be established on timing, who will do what, for what purpose and with what resources."

SOURCE: OECD (Organisation for Economic Co-operation and Development) 2010.

mental development plans or projects. The U.S. Environmental Protection Agency (EPA) has a "Social Impact Assessment" scheme, and there are three versions of "Sustainability Impact Assessment" – the EPA's, the OECD's (Organisation of Economic Co-operation and Development), and the EU's (European Union). (See Table 1). All three cover the three pillars, as does the EPA's Social Impact Assessment. The latter is a tool for ex post analysis, while the three versions of Sustainability Impact Assessment are ex ante devices.

The IAs are commonly used to assist decision-making by superior authorities, in developing integrated policies and addressing specific issues. EPA, however, does not use its IAs for its own decision-making but to support local decisions "related to smart and water quality." According to Craig - writing about EU IA in general but with reference to "Better Regulation" - the EU's IA scheme has been applied widely to legislative and non-legislative proposals, i.e. to all major initiatives of the European Commission in its annual work programme:

Table 1. STEPS IN DIFFERENT GENERAL IA SCHEMES COMPARED

EPA Social IA*	EPA Sustainability IA	OECD Sustainability IA	EU Sustainability IA	OECD Regulatory Impact Assessment
Public involvement	Engage stakeholders	Screening: IA needed?	[Consultation report]**	Define policy context, goals, & problem
ID policy options	Proper scope of IA	Scoping: extent of IA	ID the problem	ID regulatory & non-regulatory options
Describe state of social systems	ID suitable methods & analytic tools	Select tools to match scope of IA	Develop policy options	ID, quantify impacts (costs, benefits, distribution) of options
Analyse impacts interpretatively	Analyze impacts across three pillars***	Ensure stakeholder participation	Analyze impacts	Develop enforcement & compliance strategies per option
Analyse direct, in-direct impacts	Analyze synergies, conflicts, trade-offs	Analyze impacts across pillars	Compare options	Develop monitoring & feedback
Compare impacts using matrix	Communicate results	ID synergies, conflicts, trade-offs	Outline monitoring & evaluation method	Public consultation, stakeholder participation in regulatory process
ID options to modify policy proposals		Propose mitigation measures Present results & options to policy-makers		

*The EPA Social IA specifies the methods to be used, i.e. factor analysis to estimate social changes, “interpretative understanding and quasi-causal analysis,” anthropological and/or sociological research methods for analyzing impacts, and matrix analysis and/or ranking of alternatives.

**According to Paul Craig c. 2014: 2.

***The “three pillars of sustainability” are the economic, social, and environmental dimensions of development.

SOURCES: U.S. EPA, “Social Impact Assessment,” Internet copy, last updated 6/25/14; EPA, “Sustainability Impact Assessment,” 6/26/14; OECD, “Sustainability impact assessment: an introduction,” 2010: Thiel A *et al.*, “Institutional Analysis on Sustainability Impact Assessment by Policy Makers,” SENSOR Report Series, 2007/01, p. 23; Paul Craig, “Impact Assessment in the EU: Institutional, Political, and Legal Dimensions,” c. 2014.

legislative proposals that have significant economic, social, and environmental impacts; non-legislative initiatives (white papers, action plans, financial programmes, negotiating guidelines for international agreements) that define future policies; implementing measures and delegated acts that are likely to have significant impacts. (Craig c. 2014: 1).

By assessing potential impacts and supplying evidence about the dis/advantages of an option, the EU IA seeks to inform the political judgments of decision-makers and identify possible trade-offs among competing objectives. It determines where the net beneficial impact is sustainable and otherwise conforms with the principles of “Better Regulation.” IA is thus intended to help EU institutions design better policies and law through informed legislation, stakeholder inputs, coherence, conformity with the EU charter, transparency about costs and benefits, and “compliance with subsidiarity and proportionality.” (*Ibid.*: 2-3)

The IAs in Table 1 differ in the emphasis they place on analytic tools in their prescribed steps, with the EPA’s Social IA probably the most self-conscious about social science methods. EPA’s and OECD’s versions of Sustainability IA explicitly include analysis across pillars and synergies, and give more or less prominent space to stakeholder consultation.

REGULATORY IMPACT ASSESSMENT (RIA)

The development of RIA signifies the trend that “Regulation has become a central form of state intervention in the economy” that has matured in practice and intellectually (Baldwin, Scott & Hood 1998: 1). Regulation has been the object of reform (deregulation) and innovation (“better regulation”). RIA was invented in the West primarily to lift the so-called “regulatory burden” on business, but its scope has widened beyond the economy. Since it is a form of regulation designed to discipline government regulation, its increasing analytical requirements have raised controversy across the Atlantic over its perceived Conservative, anti-regulation agenda.

The OECD’s version of RIA, also presented in Table 1, seems innocently rational enough. It follows the general decisionmaking pattern of defining the policy problem, analyzing options, monitoring, and stakeholder participation. Unlike the other IA schemes, RIA specifies the regulatory and non-regulatory options considered to implement a proposed policy or law. It also includes cost-benefit analysis (CBA), analysis of the social incidence of impacts, and development of strategies for enforcing compliance with each option.

RIA is intended to assist policy design but not to substitute for policy decisions, OECD insists. Moreover, there is no single “correct” RIA model, which should be adapted to its context. It stresses the use of CBA for identifying direct and indirect costs and benefits and their social distribution, quantifying their future streams and present monetary value, and determining their net result. Established by a 1981 order of President Reagan (EO 12291), CBA gained adherents in the U.S. and in Europe, so that the U.S. came to be called “CBA country.” (Sunstein 1997).

But CBA had raised strong objections from the outset. Before its institution, the U.S. Congress had passed a number of landmark laws for environmental, health, and safety protection* but insisted on considering their benefits alone and forbade balancing them with costs. Thus, “the American regulatory state contains many regulations imposing costs not justified by benefits.” (*Ibid.*: 3). However, it was precisely the costs of complying with regulations that business and conservative interests were concerned with and wanted to curb.

In the U.S., the Office of Management and Budget (OMB) centralized the review of agency regulatory proposals, requiring them to submit a Preliminary Regulatory Impact analysis and then a RIA outlining policy options and CBA results. OMB scrutiny had a “very significant,” restrictive impact on U.S. regulations (Baldwin & Cave 1999: 87). But in the UK, burden-reducing reforms were pursued by central and departmental “Better Regulation Units.” Agencies were required to submit “Compliance Cost Assessments” together with Regulatory Appraisals of new proposals likely to affect business, charities, and voluntary organizations. The Conservative Government was followed by a Labour Government in bringing cost-benefit balancing closer to the U.S. CBA model (*Ibid.*: 88).

CBA was one of the objects of sweeping criticisms levelled by the lobby group TransAtlantic Consumer Dialogue (TACT), which said that the additions of layers of analytical requirements was unduly “freighting” new regulations compared to the minimal “notice and comment” conditions for rulemaking required by the U.S. Administrative Procedures Act of 1946 (APA).** The new requirements afflicted the regulatory system with “paralysis by analysis,” and resulted in the absence of significant regulation in 35 years and in substantial harm to consumers and the public interest. Although some agencies were charged to perform economic analysis, TACT argued, the protective Acts nonetheless considered the benefits of health, safety, and the public interest paramount. (TACT 2007: 2-3).

TACT also expressed fears that the U.S. was influencing European governments to curb regulation through analytical and process burdens that undermining the pro-regulation “Precautionary Principle.” UK impact assessment methods were “distorted,” potentially detrimental to consumers, and conducive to faulty regulatory decisions. Yet the anti-regulation trend was being incorporated in EU policy with guidelines combining CBA and risk analysis and a 25% cost-reduction campaign like the U.S. paperwork program. (*Ibid.*: 5)

*The federal Acts for Clean Air, Clean Water, Coal Mine and Safety, Consumer Product Safety, National Traffic and Motor Vehicle Safety, and Occupational Safety and Health (TACT 2007: 2).

**The APA required regulatory agencies to notify the public of any proposed rule (or amendment) and to give them the opportunity to comment, supply information, and make recommendations before the rule is put in final form and officially approved.

Like TACT, pro-regulation groups in the U.S. admired the Precautionary Principle (PP) because it represented strong state intervention. Originated in Sweden in 1969, PP introduced a “reversed burden of proof” that required industry “to demonstrate the safety of its products to regulators,

rather than regulators having to prove harm,” as was the case before (Lofstedt 2004: 244). PP gained adherents in Europe for the “high level of protection” that it afforded. Since 1992, however, RIA appeared to be taking the upper hand as a regulatory philosophy that considered both the negative and positive impacts of regulation. In 2003, separate IA schemes were integrated for the European Commission’s three-pillar IA agenda, and the EU was commended by the U.S. government for its “Better Regulation package” and encouraged to work with the U.S. OMB. (*Ibid.*: 250)

Criticism of the package was “rather mute,” according to Lofstedt (*Ibid.*: 252), but not that from TACT, which pointed out that the post-APA “distortions” that the U.S. was peddling in Europe threatened to weaken its new directives against GM technology and to make an “empty shibboleth” of PP. TACT also said that the U.S. centralized regulatory review in the OMB, yet allowed special access for special interests, constrained scientific and other information, and as a result encouraged industry bias in rulemaking and “regulatory underkill.” TACT also questioned a number of the U.S. regulatory system’s dubious assumptions and tendencies. (*Ibid.*: *passim.*)*

PROMOTION OF RIA IN OTHER COUNTRIES

Despite the issues raised in the West, international organizations like the OECD sought to promote RIA elsewhere and report increasing adoption of RIA in developing as well as developed countries. Some studies, however, question its rate of progress. One study in 2002 noted that even in Europe, technical guidelines had not gone far beyond ex ante appraisal and CBA was unable to go into the analysis of equity, distributional impact, and causal chains. Moreover, there remained doubts about the relevance of OECD “best practice” in developing countries. In any case, “provisions for formalized RIA, and practical experience in its application, are currently limited in most low and middle income countries.” (Lee 2002: 34).

Similarly, a 2003 survey of 40 developing and transitional countries disclosed wide variability in RIA coverage, though it tended to favor economic evaluation and came short of a three-pillar scope. Quantitative methods were “generally underdeveloped” and consultation limited to business and government. (Kirkpatrick, Parker & Chang 2004: 11). RIA was used mostly for ex ante assessment due to lack of M&E resources or to “reluctance ... to dwell on whether previously introduced measures have achieved their results. In OECD countries there is a similar relative

*For a more nuanced analysis of the complex theoretical and empirical issues involved in U.S. CBA practice, see Stuart Shapiro, “Politics and Regulatory Policy Analysis,” *Regulation* (Summer 2006). 40-45.

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Table 2. OVERBURDENING THE U.S. REGULATORY SYSTEM: CRITICISMS BY
TRANS ATLANTIC CONSUMER DIALOGUE (TACT)

Post-APA Requirements

Centralized political review of regulations
Economic analytical requirements
Limitations on information gathering
Special access for special interests
Hurdles to dissemination of scientific and other information
Opportunities for critics to challenge government findings

Effects

Industry bias in the rulemaking process
Paralysis by analysis
Information gaps
Politicization of science
Regulatory underkill

U.S. Influence on Europeans

Centralized political review - France creating its own version of OMB in a Better Regulation Office in the Ministry of Finance, Economy and Industry
Paralysis by analysis - Europeans (e.g. UK and Ireland) requiring RIAs that emphasize market failure and cost-benefit analysis
Reducing information collection - The Netherlands leading with its Administrative Cost Reduction program, inspiring international work on “the Standard Cost Model”

Dubious Assumptions and Tendencies

Implicit assumption that “better” means “less” rather than more effective regulation.
Unjustified assumption, based on little or no hard evidence, that self-regulation is better than legislative measures.
Tendency to overstress economic and other easily measurable factors in impact assessments, to the detriment of the wider public good.
Underestimation of the harder-to-measure, potentially bad consequences of failing to regulate in an appropriate and timely manner.
Tendency to raise the burden of proving the case for regulation or to impose procedural or other obstacles to effective regulation and enforcement.
Trend of compromises within the legislative process reducing the “enforceability” of new regulatory measures.
Inherent imbalance in the process of consultation and public discourse, in favor of business and to the detriment of the wider and more diffuse public interest.
Corresponding imbalance in the evidence base for policymaking, heightened by misdirected policies on research funding, resulting in much consumer research but little *consumer-oriented* research.

SOURCE: Trans Atlantic Consumer Dialogue, “Position Paper and Resolution on Horizontal Regulatory Initiatives in EU-U.S. Regulatory Cooperation,” February 2007, 9p.

lack of interest in publishing ex post assessments, probably on the grounds of ‘letting sleeping dogs lie.’” (*Ibid.*5, 7). A “surprisingly high number” of countries (19) claimed that RIA was already a legal requirement (including the Phiippines, whose claim was probably valid alone for EIA).

Such shortcomings, however, did not seem to faze the foreign aid agencies pushing for RIA. In Asia, the Asia Foundation (AF) was reported to have been active in promoting RIA adoption as a good governance tool in Indonesia, Sri Lanka, and Cambodia since 2004 (Rustiani *et al.* 2011). In Indonesia, it worked with more than 38 local authorities and four national ministries to organize and install RIA, review and help revise regulations, and draft a “regent decree.” RIA was “institutionalized” with a Mayoral Decree in South Sulawesi and local regulations in East Java. In 2007-2009, AF lobbied and assisted national ministries and an economics faculty of the University of Indonesia. Bappenas (the national planning agency) was put in charge of RIA development activities (*Ibid.*: 74-79, 80).

In Sri Lanka, RIA was directed at lagging regions’ businesses. Guidebooks on local business regulations were developed and distributed among business associations and local authorities, which have also used them to write “citizen charters.” In 2009, a by-law operation unit was organized to streamline legislative procedures and review local by laws (*Ibid.*: 82-83). In Cambodia, AF partnered directly with national institutions to introduce RIA to legislative staffs and parliamentary commissions. Building on a previous project to improve economic policymaking and intergovernmental and stakeholder linkages, the RIA program went through the various phases of training, organization, analysis, tutoring, and group work on cases studies of local and national business registration. Booklets were also distributed to raise awareness about RIA and stakeholder consultation. (*Ibid.*: 86).

The authors reviewing AF’s work noted that it was playing a key role in integrating RIA in economic governance and promoting a critical view of policymaking and regulations. (*Ibid.*: 87). A different side of the Cambodia experience, however, was brought up by a German RIA consultant (Hauerstein 2014: 253-255). In Cambodia and Indonesia, he points out, “new laws are not often subjected” to RIA scrutiny. Cambodia was implementing reforms primarily in proposing an “administrative procedure law” along with 22 other new laws. But none of the agencies concerned had conducted a RIA review of the bills. (*Ibid.*: 254).

Cambodia “lacks a standardized system of administrative law.” The bill would regulate interactions between citizens and the state by standardizing decision-making and introducing general guidelines. (No details are presented in the article.) After a discussion with stakeholders, however, Hauerstein (consultant on the administrative procedure bill), faced a wall of resistance: They concluded that “the administration would not apply the law ... because it called for the administration to perform more duties and work with greater transparency. Such expectations were unrealistic given the current state of governance in Cambodia, in which the administration has unlimited rights and public officials have unregulated opportunities to earn income.” (*Ibid.*: 254-255).

Instead, the stakeholders suggested gradually introducing an administrative law, preceded by awareness-raising and “informal rules.” Hauerstein himself writes that “it might be possible to achieve the policy goal without passing a new law... After all, many [developing countries and emerging markets] tend to pass laws they never enforce.” He hastens to add that this would

undermine the credibility of the state. The stakeholders argued that an “informal code” patterned after the European Code of Good Administrative Behavior should be enacted. (*Ibid.*).

Hauerstein notes that the Cambodian government introduced the administrative procedure bill without “elaborating policy reasons or goals.” So he drafted a policy statement for it but only in general terms to allow policy options to be considered. (*Ibid.*: 254). In view of the resistance to the proposed law, this attempt to assert the primacy of policy over law may now seem academic, but it indicates a basic disconnect in the institutional framework for regulation.

In a journal article assessing the impact of regulatory reform efforts in developing countries (including Vietnam), Kirkpatrick probably best sums up the situation also experienced in other Asian countries: “the results ... are likely to be heavily influenced by context-specific factors, and donors should be alert to the dangers of adopting a ‘one-size fits all’ approach to regulatory reform.” (Kirkpatrick 2014: 167. For a reply to contextualist arguments, see Krause 2013).

PHILIPPINE EXPERIENCE WITH IA SCHEMES

This section reviews the three IA schemes with which Philippine government authorities have had some experience: Environmental Impact Assessment (EIA), Traffic Impact Assessment (TIA), and the pilot RIA project. This describes their formal features based on published or accessible materials, and highlights the problems they have encountered, particular those of an institutional nature. More space is given to the RIA project because of its significance for regulatory and institutional reform and also due to data limitations on the other IAs.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

An EIA system has been administrative by a division of the Environmental Management Bureau (EMB), Department of Environment and Natural Resources (DENR), since 1978. EIA assesses the biophysical and human aspects of the environmental impacts of development projects. It is an ex ante process that involves predicting and evaluating the likely environmental impacts during project construction, commissioning, operation, and “abandonment.” It includes designing appropriate preventive, mitigating, and enhancement measures “to protect the environment and the community’s welfare.” (EMB/DENR, “The Philippines [EIA] System,” <http://www.emb.gov.p/eia-ADB/basics.html>, downloaded 9/7/2015).

EIA is intended to enhance planning and guide decision-making, ultimately about whether or not the DENR should approve a proposed project and grant it an Environmental Compliance Certificate (ECC). Each proposal undergoes a two-stage review by the department’s EIA Review Committee (EIARC): (1) a procedural review of the completeness of the proponent’s EIA report and data base, and (2) a substantive review of the quality of the assessment, “the congruence, accuracy and precision of its analytical techniques and methods employed.” (Regidor & Teodoro 2005: 2349).

The assessment is done at various stages of the project cycle, but particularly at phases 1 and 2. During the project conception and pre-feasibility study stage, the proponent conducts a “self-screening” to determine whether the project is within the EIA system and rapid site and impact assessments of its location and scope are made. During the feasibility study, the proponent conducts a detailed impact assessment, formulates an environmental management plan to prevent or mitigate adverse impacts, and determine the costs and benefits for deciding on the “final project option.” He also starts preparing a formal EIA application containing his commitments for DENR review and decision.

During the third and fourth stages, “generic measures” on project facilities and operations are specified, and mitigation measures are implemented, environmental performance monitored, and management plans updated. Recommendations of major improvements may entail a new round of formal applications and referral to previous DENR approvals. (EMB/DENR *loc. cit.*).

EIA must have accomplished a great deal to protect the environment during its 35 years of existence. Unfortunately, its long-term record has not been available in publications and even in DENR’s websites. From one critical review, it appears that it had not been an impervious screen against environmental threats. This review of EIA in mining (Ingelson *et al.* 2009: 9-13) recited a litany of deficiencies in the EIA system, including lack of attention to biodiversity and ethno diversity, neglect of alternative designs, exclusion of locals, and failure to make polluters pay.

Some agencies that have complied with EIA requirements, though, address some of the areas allegedly neglected in the past, such as potential impacts of water projects on cultural communities and social impacts of welfare and transportation projects on the poor (DSWD 2013, LUWA 2014, and CPI Total Corporation & DOTC 2015). They also devote space to the institutional aspects of the projects. But here they seem to take organizational arrangements as largely given, requiring at best capacity-building and assignment of responsibilities. *

*The ESIA for the Proposed Metro Manila BRT Line, for example, starts by considering relevant policies, laws, and standards, but says almost nothing about any structural change in organization that the BRT (bus rapid transit) system might call for. (CPI Total Corporation & DOTC 2015: 1-3, 2-1 to 2-7; for BRT’s institutional implications, see Ocampo 2012: 75-81).

From EMB/DENR’s own account, however, it seems clear that EIA has involved frictions with other agencies and project proponents that the regulator itself had to attend to. EMB/DENR concludes its overview of its EIA system by saying, without given any further explanation, that:

- (1) Other government agencies issue permits, certificates, licenses, and other documents “without proper review of environmental and social concerns.” This makes the EIA process ineffective and “shall be stopped.”

- (2) Issues outside of the DENR-EMB's purview shall be "resolved" through the expert judgment of the agencies concerned but with "guidance" from EIA. E.g. "social acceptability" shall be left to LGUs "but technical acceptability of the social impact assessment" shall be within DENR-EMB jurisdiction.
- (3) EIA "preparers" and project proponents pre-empt negative EIA findings by obtaining favorable decisions from other agencies. The EIARC and "EIA case handler" should therefore closely examine permits obtained before or after the EIA process, e.g. those that would reclassify a forest reserve into a commercial zone, or reclaim a coral reef within a project site.
- (4) In sum, an EIA should be done before an agency decision document is issued, though the final decision to implement a project or not likes with the LGU with "spatial jurisdiction" or with a lead agency with the "sectoral mandate" (e.g. Department of Energy for energy projects).

TRAFFIC IMPACT ASSESSMENT (TIA)

A subsystem of EIA, TIA deals with the potential impact on traffic conditions of urban development measures. Vehicular congestion, overcrowded public transport, and related problems in Metro Manila have become a multi-billion headache for the country. TIA can deal with indifference to the traffic impact of building construction and subdivision development, though hardly with its basic sources in transportation, land use, and environmental issues. TIA is part of EIA because traffic could have serious environmental impact, especially air pollution. Although its methodology has been articulated, however, it is yet to be "institutionalized" or established as a regular government requirement for project developers.

Proposed TIA Guidelines. According to guidelines recommended by the University of the Philippines National Center for Transportation Studies (U.P. NCTS 2001)*, TIA estimates the travel, traffic, and parking generated by a building or subdivision project; its road, circulation, and parking requirements; and their impact in terms of traffic congestion, road accidents, accessibility, and other issues. It is appropriate for residential, commercial, and industrial development and for

*U.P. NCTS Foundation, Inc. "Proposed Philippine Traffic Impact Assessment Guidelines," 2001. 12p.

proposed zoning or rezoning, land subdivision, site planning, special-purpose districts, and environmental assessment.

First, the need for TIA in particular cases is determined in terms of minimum quantitative "thresholds," such as "100 or more new vehicle trips" generated during the A.M. or P.M. peak hours. The guidelines cite thresholds for parking, zoning, project size, and road modifications. Next, the proponent or developer conducts the TIA step-by-step: (1) determine the scope of work, including the study area, (2) collect data (primary and secondary), (3) do the TIA, including intersections and

arterial capacity analysis and infrastructure, (4) identify mitigation measures and prepare a traffic management plan.

Data collection includes inventories of transport and traffic facilities, projects, and plans for present and future developments and improvements. The tools for research and analysis should be easy to understand, since the users may include lay people. The traffic management plan, which may include traffic signalization, “traffic calming,” and other enforcement measures, would involve “a) institutional plan, b) costing, c) implementation phasing, and other information that may be required.”

The TIA report is submitted to a city or municipal planning and development office (CPDO or MPDO). If a TIA was deemed unnecessary to start with, the local authority may require a “traffic operations analysis” instead. (This analysis is not explained by the guidelines). Many other details are spelled out in the U.P. NCTS proposed guidelines. These include 16 items for impact analysis, capacity scenarios of intersections and arterials, and “standards of significance” (e.g. levels of service or LOS).

Case Studies of TIA Application. A case study of two projects required to do a “full TIA” was reported by transport experts from NCTS (Regidor & Teodoro). One was a 40-storey mixed-used building along EDSA in the Cubao CBD, Quezon City. It complied with the TIA prescribed by the EIARC, which included a seven-point criteria. The second project, an 85-level building also located along EDSA, failed to comply with all the criteria except the impact on air quality. Aside from conducting a “simplistic study,” the proponent put the burden of mitigating adverse impacts on the LGU and the Metro Manila Development Authority (MMDA). The project’s application was therefore rejected by the EIARC (*Ibid.*: 2345-2346).

In order to avoid such oversimplification and burden-shifting, Drs. Regidor and Teodoro recommended that government should actively anticipate development impacts, be critical, and have the MMDA participate in the EIARC evaluation process. Moreover, they expressed preference for a comprehensive instead of a “compact TIA” and advocated a “Sustainable Traffic Management and Transportation Planning” approach, but did not explain the implication of the broader discipline. (*Ibid.*).

Another article published in 2005 cited serious shortcomings in TIA practice in the Philippines and Thailand (Limapornwanitch *et al.* 2005).^{*} For example, their practices tended to follow Western-style TIA standards focused on private cars, neglect public transport, and ignore impacts of adjacent road networks. Moreover, the authors observed that in the Philippines, there was as yet no standard TIA process and “institutionalization has yet to materialize and the usual practice of TIA has generally been superficial.” (*Ibid.*: 4214-4217). TIA still seems an obscure part of the EIA system, compared to the DENR’s adoption of the more recent regulations on disaster preparedness and climate change. TIA is not mentioned even in the DOTC’s ESIA on its BRT project.

THE RIA PILOT PROJECT

At the urging and aid of the Asian Development Bank (ADB), the Philippine government launched its RIA pilot project in 2012. It was (and remains) a problematic innovation in its wider as well as specific institutional settings. A recent article says that the government has no “regulatory management system,” though “regulatory policies” may already be present (Llanto 2015: 21-27). A case study in a franchising agency shows that it churned new rules and frequent amendments often enough, but simply had no procedures for regulatory rulemaking. On the other hand, it had a judicial code of “rules of practice,” and the study suggests that the quasi-legislative function of regulatory agencies was probably generally neglected by the government in favor of the quasi-judicial (Ocampo 2012: 62-72). In this kind of situation, therefore, RIA was given a tall order to, in effect “regulate regulation” and thereby promote good governance. It was readily embraced by the agencies involved in the pilot project, though.

The idea for a RIA pilot was conceived in 2007 where a strategy was agreed for designing a regulatory system that was both “protecting and enabling.” It would draw inspiration from an international perspective and undertake capacity-building at national and subnational levels. Three national Departments were identified as pilot agencies – Labor and Employment (DOLE), Tourism (DOT), and Finance (DOF) – while the National Economic and Development Authority (NEDA) was eventually designated as the oversight body. (DOF later dropped out of sight).

In late 2012, a draft “quick reference guide” to RIA was issued. This document justified the regulatory reform intended, the key players, elements and documents, and a chart of how RIA works. It also outlined RIA’s targets – embed best regulatory practice, improve the quality of regulations, lower compliance cost (red tape), foster “a more robust competition,” and foster

*The provision for TIA of another agency, the Housing and Land Use Regulatory Board (HLURB), is a one-liner that does not explain what TIA means. (HLURB 2009: Rule III)

confidence among the international and Philippine interests. The main target for RIA and consultation was business, with “community (individuals) and government” mentioned next. There was to be a “Small Business Lens,” a broadening of its business focus as the UK did. As in Europe, this lens was aimed at minimizing the regulatory burden of SMEs. (Draft “Quick Reference Guide” 2012; author not indicated. A “Briefing Note” issued by the Dole Institute of Labor Studies (ILS), however, said much the same thing as the Guide (ILS 2012)

The ADB pushed for RIA due to the “high cost of regulation” in the Philippines and the absence of a regulatory review system (ADB, “Public Sector Management Subsector Assessment (Summary): Investment Climate,” ...). It closely monitored RIA’s progress as part the reform policies that it encouraged the Philippine government to pursue with ADB loans. ADB reports thus supply information about the pilot project’s activities and also the problems it met along the way.

ADB Reports on RIA's Progress. ADB had recommended the establishment of RIA as early as 2008 in a report on red tape in the Philippines. By 2012, the government had developed an institutionalization strategy and signed a MOA with DOLE to subject the Labor Code to RIA and with DOT to review draft standards for hotels and resorts. Rather than just monitoring, ADB also urged complementary reform strategies and policies, including the creation of an "Office of Best Regulatory Practice," red tape reduction, and competition policy. (ADB, "Sector Assessment (Summary) - Public Investment Climate, Increasing Competitiveness for Inclusive Growth (RRP PH P43396" 2012: 3).

By 2014, DOLE and DOT had "established focal persons and begun reviews of regulations that restrict investment and employment" The government had been "chipping away at regulations and other arrangements that constrain competition ..." Secretary of Finance ___Purísima reported to ADB in November 2014 that DOLE had completed reviews of eight regulations and programs and DOT two of its own. The ADB added that DOLE reviewed rules on security of tenure, foreign workers' work permits, and the apprenticeship law; and set up an electronic or e-regulation portal for public consultation. (ADB, "Public Sector Management Assessment ..." : 2; Purísima letter dated 11/24/2014).

Meanwhile, the NEDA had established a new division, a "Governance Staff," to take charge of the good governance agenda and champion RIA in the executive branch. It was preparing a draft presidential order to "mandate" RIA practices in the government. Rather than the independent agency ADB preferred, the government set up an antitrust Office of Competition in the Department of Justice and a Regulators Council with five sector working groups. (*Ibid.*)

By the end of 2014, the ADB expected that RIA would have piloted in five national agencies, "with at least 50% of focal persons women;" 15 or more RIA reviews completed, and at least 50% of stakeholders consulted were women. But there were no baseline data for these targets. And ADB also noted the following remaining "Risks: Weak interagency coordination, Capacity of agencies to implement may be constrained by resources and other emerging priorities, Competition policy reforms and efforts to reduce red tape may face ..." resistance from vested interests. (ADB, "Proposed Policy-Based Loan for Subprogram 2 ..." November 2014: *passim*, p. 11).

DOLE's Progress Report. DOLE had been busier than DOT, which lagged behind due to what ADB observed as "poor regulatory framework, business environment, tourism infrastructure, and service standards." (ADB 2014 report). DOLE's central and regional officials viewed RIA as a "technology-focused activity" to cut red tape and costs to business and complement DOLE's good governance agenda. RIA's role was to ensure that regulation "will facilitate and not impede business ... to help business keep jobs and make more jobs." ("ADB partners with DOLE for pilot assessment of impact of regulations," posted August 10, 2012).

DOLE had undertaken RIA regulatory reviews and training, awareness-raising, and promotional activities in its regional and field offices. Moreover, DOLE's lead unit for RIA, the Institute of Labor

Studies (ILS) had prepared and published RIA-related papers. The first one proposed a “diagnostic framework” for reviewing regulations. This paper was followed by two more in later years. They lend insight into the extent and quality of DOLE thinking about RIA.

The *Cruz Paper* (2012)* recalls that RIA was introduced to DOLE “essentially to improve the quality of labor market regulation for increased competitiveness.” Labor laws and rules should protect workers but must be balanced with labor market flexibility, employment generation, and “social dialogue.” Poorly designed ones could impose significant costs on “business, community and government” in terms of time, compliance and enforcement, resulting in reduced efficiency and profits, higher consumer prices, and greater administrative costs for government.

The paper cites the OECD’s regulatory quality checklist and the Philippines’ ADB-assisted program, “Strengthen Institutions for an Improved Investment Climate,” as among RIA’s inspirational sources. It would relieve business of the “regulatory burden” from new and existing regulations, ensure that proposed ones are “warranted, appropriate and efficient,” and facilitate a disciplined approach to improve quality and reduce red tape. However, DOLE proposed to reframe RIA in “the bigger context of decent work,” to add purpose, coherence, and more “institutional resonance.”

The diagnostic framework is a matrix of fairly abstract categories of “critical” processes and capacity determinations (Table 3, next page) . In what must have served as the survey -----

*Cynthia R. Cruz, “Regulatory Impact Assessment Adoption Determinants: A Diagnostic Framework,” *ILS Discussion Papers Series 2012*, ILS, no date. 16p. The summary above is from this paper, unless otherwise indicated. Cruz was the head of ILS.

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Table 3. ELEMENTS OF DOLE’S RIA DIAGNOSTIC FRAMEWORK

<i>Critical Process Elements</i>	<i>Institutional Capacity Determinants</i>
Analysis	Organization
Consultation	Continuing capacity development
Design	Economic, social, political context
Dissemination	Nature of regulatory instrument
Compliance administration	Nature of regulatee
Assessment	
Modification/continuation	

SOURCE: Cruz 2012: chart p. 10; 10-13.

Instrument, these categories are expressed in the form of short questions, with corresponding plus or minus signs depending on their “implications” for RIA adoption. (See the appendix for excerpted versions of the Cruz tables). Though no options-formulation stage is specified, the criteria for “the preferred option” include “proportionality,” greatest community benefit, decent work promotion, consistency, and no duplication of regulations.

The analysis or assessment proper would cover impacts on small business, environment, and gender. (CBA and other quantitative techniques are not mentioned). The framework is comprehensive. “Institutional capacity determinants” would include “clarity in decision-making process and procedures,” in such key regulatory processes as “rulemaking.” The expected reactions to the 20 items listed under capacity determinants are mostly positive statements, except for legal context, frequency of regulations, and “regulatee influence/capture.” Administrative costs would consist of those incurred in the dissemination, implementation, monitoring and assessment of compliance with regulations. (See the appendix for annexes of tables from the Cruz paper).

The *results of the RIA diagnosis* undertaken in five DOLE bureaus* were reported in 2014.** The report discloses some details on agency regulations, but covers only the “process” side of

*Bureau of Labor Relations (BLR), Bureau of Local Employment (BLE), Bureau of Working Conditions (BWC), National Wages and Productivity Commission (NWPC), and Professional Regulations Commission (PRC).

**DOLE, “RIA Adoption Determinants: A Diagnostic Framework, RIA Critical Process Parameters Diagnostics,” with ILS, ADB, and “tripartism” logos (2014). 12p.

the matrix in Table 3, leaving out the “institutional capacity determinants.” The “collected results” of the diagnosis were briefly described in the DOLE/ILS paper, which consists of half-page backgrounders and descriptive summaries of unit responses parameter by parameter. Most of the agency replies to the questions posed are positive except NWPC’s saying that it did not consider options on minimum wage-setting, since this process is “mandatory” and does not distinguish gender. The “proportionality” principle was likewise “N.A.” to NWPC. The four other agencies’ responses are usually positive about other parameters though they sometimes invoke conditions peculiar to their functions. (Excerpts of the responses are presented in Box 2, next page).

Since the institutional determinants were glossed over completely, the agency replies say nothing about how regulation is organized, how rules are made and implemented, and what instruments and regulatees or client groups are involved in the different DOLE bureaus. The paper gives no explanation for the omission. The aim of the diagnosis to identify gaps in capacity, and “conformance to or deviation from best regulatory practice and principles, was nowhere attained.

Another paper, this one about *options for employment insurance* (2014), reveals that weaknesses earlier acknowledged by the Cruz paper – particularly “low levels of skills and knowledge in impact analysis” – still hanged over DOLE’s RIA pilot. Presented as an input into a “Regulatory Statement (RIS)” on unemployment insurance, the paper was prompted by DOLE’s concerns for job displacement and industrial peace. After a bring introduction mentioning the absence of unemployment insurance in the Philippines, it presents four options to address that gap:

- Option 1: the existing policy, which provides separation pay to be enhanced by linking to Dole’s “active labor market policies” (ALMPs)
- Option 2: “Job Search Insurance Linked to ALMP,” with sub-options: a Social Security System (SSS) suggestion on contingency, benefit, benefit duration, qualification, and financial contribution, or an International Labour Organisation (ILO) model with simpler provisions (e.g. on contributions and benefits)
- Option 3: “Unemployment Insurance Savings Account Linked to ALMP” with two sub-options for worker-employer contributions: individual savings account, or a common/solidarity fund
- Option 4: “Gradual building [up] of EI using existing programs of DOLE and TESDA” (Technical Education & Skills Development Authority) where “the income support component approximates the cost of separation pay” (Dalumpines 2014:)

*Benjamin M. Dalumpines III, “Exploring Options for Employment Insurance in the Philippines; Input to the Regulatory Impact Statement (RIS) on Employment Insurance,” *ILS Monograph Series* 2014-09. 19p.

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Box 2. RESULTS OF DOLE DIAGNOSTIC SURVEY

- 1, Most agencies cite some threshold or “trigger” of need for applying RIA, e.g. cases of abuses or fraud in the private sector (BLE), workplace accidents (BWC)
- 2, All agencies claim to articulate their policies in some form or forum, and use metrics.
- 3, All consider non-regulatory as well as regulatory options, e.g non-reg for accrediting professional organizations (PRC), shifting to partnership and cooperation (BLE)
- 4, All except NWPC follow the criteria or principles for evaluating the preferred option
- 5, All consider the administrative cost of preferred option, given budget constraints
- 6, All consider impacts on small business (though the agencies’ remarks don’t seem relevant
- 7, All consider the environment, e.g. BWC as a member of an interagency committee
- 8, All except NWPC consider gender – appropriateness in professions (PRC), equality in pre-employment (BLE), workplace discrimination (BWC)
- 9, All consult with regulates and non-regulatees

- 10, All claim to consider their principles for crafting regulations – good governance, (PRC), Wage Rationalization Act (NWPC), tripartism (BWC, NWPC), job opportunities (BLE)
- 11, All identify their respective superiors, though level of approval depends on type of regulatory issuance (BLR, BLE, BWC)
- 12, All have dissemination strategies – website (PRC); wage orders, regional boards (NWPC); website, mass media/fora (BLR, BLE, BWC)
- 13, All monitor compliance through inspections, “feedback mechanisms;” regulatees’ reports, regional spot checks (BLR, BLE, BWC)
- 14, All assess implementation results – stakeholder feedback form (PRC), after one year (BLE), quarterly “table reviews” (BWC), programs evaluated monthly, semestrally, annually (BLR)
- 15, All modify or correct non-working regulations – after review, research, consultations (NWPC), amendments after TWG consultation (BLR, BLE, BWC)

SOURCE: Excerpted from DOLE 2014: 3-10.

Since options-consideration had not been prominently mentioned in the RIA guidelines so far, the paper’s effort here is commendable. However, it is difficult to compare the options presented. The paper leaves a great deal of details unexplained. Table 10 in the paper (p. __) summarizes the comparative costs and benefits of income support in the first three options, but leaves out Option 4. The quantitative figures vary widely, seem incomparable, and are not netted out. Option 1 stands out as having the largest of both cost and benefit (both P75,000) (net zero?)

It is impossible to compare the four options because Option 4 is left inexplicably blank. Yet, elsewhere in the paper, this is the only option given favorable comment, but on behalf of the employer, not the worker: it “seeks to prevent or minimize the employer’s costs of dismissals by spreading out these costs as premium payments over the period a worker is employed. This is unlike the current scheme in which the employer makes a one-time payment upon termination of employment The system may include a feature allowing the employer to borrow from the fund for business expansion or job creation.” (*Ibid.*:).

The “ALMP” programs to which the first three options are linked are training, emergency employment, livelihood and other “safety net” programs for workers that can supplement any cash or insurance benefit during periods of unemployment. But their potential benefits (and costs) are not spelled out and quantified. They are simply assumed to be costless, since the programs involved “are part of the regular budget of DOLE ... no additional cost will be shouldered by employers and employees, as the programs are state-funded.” (*Ibid.*: 16)

Option 4 emerged as the favorite In an interagency meeting at which the Dalumpines paper was discussed with the results of a DOLE RIA Task Force Team on Employment Insurance (representing ILS and 5 other agencies). The “collected comments highlighted the proposal of gradually building an employment insurance scheme” using “separation pay and the existing programs of DOLE and TESDA.” The employer’s interest remained paramount, reaffirmed by reference to the paper’s favorable statement.

Thus far, DOLE’s RIA undertakings, as seen from the data and documents available, still had a great distance to go. DOLE was off to a good start with ILS leading its pilot activities, particularly in bringing to bear the international perspectives that early RIA advocates called for and relating the RIA work to DOLE’S own policy mission. But some of the results, as far as we can see, have disclosed gaps in its institutional framework and analytical abilities, and a policy bias for employers to the frequent neglect of worker interests. Nonetheless, we value ILS’ initial outputs, particularly the diagnostic schemes in the Cruz paper (appended here in excerpted form).

“There are no easy routes to regulatory improvement,” Baldwin concluded in a 2005 paper on UK and European regulatory reform, but the first step he suggested was to develop awareness of the limitations of the improvement tool available: “... the better regulation movement’s leading tool, the RIA, has a more limited capacity to deliver smarter regulation than is often appreciated.” (Baldwin 2005: 14).

The status of the Philippine RIA pilot project has been summed up in a statement of the director of the NEDA Governance Staff in an APEC workshop on regulatory impact evaluation last August: “At this point, we are in the process of building our capacities and expanding our capabilities to effectively perform this critical but challenging task” of institutionalizing RIA. (Abad Santos 2015).

INSTITUTIONAL IAs ABROAD: PROGRESS AND PROBLEMS

As mentioned at the start of this paper, the “institutional component” used to be neglected in foreign-aided development projects before the 1980s. World Bank projects on public administration, law and justice made up less than 1% of the total number of projects then (Andrews 2013: 4, fn. citing Moloney 2009). Early Philippine national plans had chapters on “development administration” but accorded them far fewer (if any) statistics than those on substantive programs. Since the late 1970s, the World Bank paid more attention to institutional development (ID) components, which were included in 72% of total projects in 1978 and 90% in the 1980s. Samuel Paul, however, found the ID portions narrowly focused on implementation and the relevance of their institutional analysis wanting in several respects (Paul 1990: i-ii). Improvements in scope and analysis did come later, though, as reflected in international assessment tools and agricultural research.

INSTITUTION-ORIENTED IAs

A 2006 review of the analytical tools used by the World Bank and other international agencies (Pillai & Lunde 2006) suggests increased attention to institution and related subjects. These are summarized and listed in Box 3 (next page). The list includes those explicitly labeled “institutional” and/or “governance” in their titles and also others concerned mainly with financial accountability, monitoring and evaluation, and poverty and social impact analysis but all having some institutional aspects or elements.

According to Pillai and Lunde, one lesson learned from their review was the complexity of assessing governance issues, “requiring analysis of both formal and informal rules and organizations.” They saw a need to understand the political dynamics of governance and the contextual nature and cross-country variations of institutional issues. It is thus hard to develop a standard template for institutional assessments, as experience with the IGRs and CFAA showed. (*Ibid.*: 20).

The difficulty seems partly due to the aggregative, “upstream” thrust of some of the IAs, to develop broad understanding by the top based on generalizations from specific contexts and experiences. As the authors of the WBI governance indicators were quoted as saying, “Aggregate indicators ... are more informative about broad governance issues and also provide greater country coverage than some of the individual indicators.” By contrast, Pillai and Lunde felt a need for analysis at “more disaggregate levels.” (*Ibid.*: 12).

A similar need for more contextual approaches was felt in agricultural research. In a journal issue entitled “Transforming Impact Assessment: ... Institutional Learning and Change” (Watts *et al.* 2008), the authors evaluate the 600 impact assessments done or sponsored by the Consultat-

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Box 3. INSTITUTIONAL ANALYSIS TOOLS USED BY THE WORLD BANK
AND OTHER INTERNATIONAL AID AGENCIES

*“Institutional and governance reviews (IGRs),” “upstream analytical tools” that address country-level governance problems (e.g. service delivery, corruption) and explain their underlying institutional issues based on empirical research results. No template was developed for IGRs, and their uses varied in terms of development levels and sectors.

*Country policy and institutional assessment (CPIA), used by the WB’s International Development Association (IA), five of whose 16 indicators concern public sector management, resulting in ratings averaged to yield an overall score.

*Governance indicators used by the WB Institute (WBI) including indicators of government effectiveness, “regulatory burden”, and corruption control. The indicators are aggregated from several hundred variables and 37 data sources constructed by 31 different organizations.

*Country financial accountability assessment (CFAA), “Civil Service Institutional Assessment,” and other tools. CFAA is another “upstream diagnostic tool” to enhance WB’s understanding of the subject. The latter highlights the importance of formal and informal rules, and

variations in outcomes and sustainability that organizational and administrative differences could bring about.

- *Monitoring and evaluation (M&E) tools, e.g. citizen report cards and expenditure tracking surveys and a diagnostic guide for development national or sectoral M&E methods.
- *Poverty and Social Impact Analysis (PSIA) of the distributional effects of specific reforms. The 10-step process includes “(4) assessing institutions” and organizations as key to “understanding how institutions, defined as formal and informal rules and organizations,” mediate the impact of reforms; the main organizational players, interests, and practices that link to policy levels.

SOURCE: Pillai and Lunde 2006: 9-16.

tative Group of International Agricultural Research (CGIAR) since the early 1970s. These were mostly ex post studies based on the methods of conventional agricultural economics. The results had raised several problems – reliance on success stories, premature impact evaluation, poor communication with decision-makers, for whom the studies had *not* been intended.

Since 2002, alternative approaches were developed, designed to address the more complex goals and institutional settings of agricultural development beyond increasing farm yields. Research must encompass non-research collaboration and contribute to “technical and institutional changes.” New strategies were considered, including notably innovation and “institutional histories,” and impact pathways evaluation. The former method involves a detailed narrative designed to engage scientists in “reflecting on institutional arrangements that foster or hinder change,” rather than focusing alone on technological success linearly perceived. (See Prasad *et al.* 2006).

Impact pathways evaluation (IPE), which was discussed at length by Watts, Douthwaite, and their colleagues, includes a network of “(a) causal chains of activities, outputs and outcomes that show how a project achieves its purpose and goal, and (b) network maps that show the evolving relationships between implementing organizations, partners and beneficiaries.” Innovation emerges from the network, “not a linear ‘pipeline.’” IPE derived from a German (GTZ) development model based originally on a “program theory.” It is viewed as representing a paradigm shift from positivist approaches that underpinned old-style agricultural research. It is used as part of a two-stage, ex ante and ex post IA process that emphasizes the important role of forward-looking research design and “self-monitoring and evaluation,” as well as that of independent impact evaluation after project completion (Douthwaite *et al.* 2003: 250-252).

The technical advances in agricultural research resulted in certain organizational changes, particularly in one CGIAR affiliate, but CGIAR’s partners, the reviewers note, had taken different paths and CGIAR itself was supporting ex post economic assessments “but may discourage experimentation with, and institutionalization of, non-traditional approaches.” With explaining why the setback

occurred, the reviewers nonetheless maintain that “a quiet revolution in the practice of impact assessment is already underway.” (Watts *et al.*: 33-34).

That assertion may have been vindicated in a recent sophisticated illustration of IPE whose end report is available for closer examination (Saleth & Dinar 2008).^{*} According to the authors, the framework addresses the insufficient attention to the impact generation and transmission roles of institutions as well as lack of proper treatment of development synergies (though IAs mention synergies often enough). Institutions are here “defined as a system of legal, policy, and organizational components (Bromley, 1989; Ostrom, 1990).” Existing approaches miss the impact roles of institutions, are *ex post* oriented, rely on objective data, and are unsuitable for “multiple and time-lagged projects with continuing, lagged, and uncertain flow of impacts. Here, *ex-ante* approach and subjective information are unavoidable.” (*Ibid.*: 2).

^{*}R. Maria Saleth and Ariel Dinar, “Quantifying Institutional Impacts and Development Synergies in Water Resource programs: A Methodology with Applications to the Kala Oya Basin, Sri Lanka,” *Policy Research Working Paper 4498*, World Bank, January 2008. 43p. + tables, charts, other annexes.

The assessment deals with (a) a set of three water and agricultural development programs (system rehabilitation, bulk water delivery and crop diversification); traces (b) their impact pathways and interaction points; locates (c) relevant institutions in these points and pathways; and links (d) them all with the final goal of “food security – one of the key targets of the Millenium Development Goals.” (*Ibid.*: Abstract). The methodology depicts the impact pathways as sequential and functionally linked variables representing the three programs, 11 institutions, and 17 impact objects (ranging from cropping pattern to food price, as well as, ultimately, food security). These are shown graphically in a chart (*Ibid.*: 48, Fig. 5) reproduced in the next page. (See Chart 1, next page, reproduced from Fig. 5 of their paper.)

The variables are linked in a system of structural equations, “each capturing different impact pathways, and translated mathematically for empirical application and quantitative evaluation.” A questionnaire survey of 67 government officials and national experts supplied the empirical data, which were then analyzed according to two quantitative models to determine which would be more realistic in treating the institutions. The analyses produced coefficients showing the direction and strength of variable relationships, as summed up in several matrix tables. (*Ibid.*: 22).

The results from different levels of analysis are interpreted in detail by the authors. The following discussion picks out the implications for the institutional variables. One is that institutional effects could be positive or negative, and strong or weak.^{*} Moreover, “the impacts of some institutional variables are captured in many equations, while the impacts of others are captured only in few equations... especially ... further down the impact pathway.” On the other hand, some institutional

variables that affect a few equations (e.g. market institution, price regulation, and trade policy) have a larger impact than those affecting many equations. (*Ibid.*: 32)

Saleth and Dinar point out certain further implications: “First is the role of impact dissipation ... due to their long impact chains, weak impact links, and *en route* impact distortions. Second is the relative proximity or shorter impact chains associated with a few institutional variables to the final proximate goals.” Impact dissipation explains why land tenure, local custom, and farm input supply and farm extension service “could not sustain their substantial initial impacts.” Closeness to the proximate goals explains why the market, price, wage, and trade policy have a relatively larger impact on food security, the ultimate goal. (*Ibid.*).

*Likewise, development synergies can also be positive or negative. Synergies “capture the difference between the sums of their individual impacts when implemented in isolation and their joint impacts when implemented and evaluated together.” (*Ibid.*: 38, fn. 1).

[Place Fig. 5 here]

An important policy message of “impact dissipation” is the need for locating and strengthening the weak links found in the impact chain. Some institutional variables have major impact on the final goal, while others may have low or negative impact on it despite their positive intermediate impacts. Some have large impact but are difficult to change (custom, land tenure), while others may be more amenable and promising in terms of potential contribution to food security. (*Ibid.*: 33).

Comparing the total effects of groups of variables (programs and institutions (*Ibid.*: Tables 5 & 6), the authors find that “the development [program] impacts are more than the institutional effects in most cases.” Yet, in seven cases “including food security and some of its proximate variables the total effects derived from institutions are more than” those derived from the three development programs. “This clearly suggests the critical role that institutions play in the generation and transmission of development impacts.” (*Ibid.*)

There are other methodological points worth noting from the Saleth and Dinar paper: for example, the advantage of the *ex ante* versus the “*post mortem*” approach in terms of allowing “enough lead time for policy/program adjustments and modification,” and their defense of using perception data as empirical evidence on the basis of constructivist philosophy, though they prefer expert participants in consultation and warn against bias from program beneficiaries. They are also amendable to using a mix of quantitative and qualitative data, including those from secondary sources. (*Ibid.*: 36-37).

All in all, the authors’ work appears to be a significant step forward in impact assessment, especially in placing institutional variables in clear impact pathways and in broader interagency and program contexts. However, it does leave something to be desired, about the forms and

characteristics of the institutions that affect their influence. Their organizational structures, functions, and other internal attributes that could help explain their relative contributions to development impact are missing or “black boxed” in the paper’s analytical framework and narrative discussion. The authors probably recognize this gap. Their results

indicate that the development synergies among the programs can be enhanced with a fine-tuning of the legal, policy, and organizational components of institutions related to the land, water, agriculture, market, and trade spheres. (*Ibid.*: 35).

But more would have to be learned about the institutional components before they can be fine-tuned. This is the burden we take up next.

A PROPOSED SCHEME FOR INSTITUTIONAL IMPACT ASSESSMENT

The IIA proposed here is primarily and mainly but not exclusively organizational and administrative analysis. Some authors view “institution” as denoting “the rules of the game” (North 1990: 4-5; even Ostrom 2005: 179) and would distinguish it strictly from “organization” (Douglas 2013: 36). But we assume that an organization is also a form of institution, set up by rules* of structure and function and often empowered to make rules for itself and others to follow. The term “institution” implies both organization and rules of different kinds (laws, policies, regulations, programs, decisions or orders of great consequence), that are already stable and enduring, having been “infused with value beyond the technical requirements of the task at the task at hand.” (Selznick, in Scott 1995:). To “institutionalize” is to establish, make stable and enduring as well as effective, though effectiveness may eventually get misdirected and attenuated as an institution becomes too settled to respond to changing times.

The definitions assumed here therefore share the tendency of like-minded social scientists to “elide” (suppress, ignore) the distinction between institution and organization (Scott 2014: 182-183), although that between organization and rules or measures of different kinds will be observed as an analytical distinction. Rules may be formulated and adopted by superior authority independently of a subordinate agency charged with their implementation (e.g. a legislature enacting a law to be executed by an administrative agency). On the other hand, such an agency may be authorized by the law to develop and administer services or regulations to implement its provisions. Such measures may be proposed internally or by an outside source. Any proposed or existing measure, if it is of any consequence, could have significant implications or effects also on the structure and functioning of administrative or regulatory agency and should therefore be subject to IIA scrutiny.

The development of IIA will therefore profit from the experience and documentary outputs of the RIA pilot project, particularly the DOLE/ILS diagnostic paper. However, IIA will be different in that it will focus on agency goals, structure, and functions, staff, leadership, management, and administrative attributes, and how these factors or variables affect agency performance in terms of goal-achievement. More broadly, it will also be concerned with policies, regulations, and other types of rules insofar as they affect organizational performance.

*Or “principles” about what criteria should guide structure (purpose, function, clientele, area), how many subordinates should report to a superior (unity of command, span of control issues), whether a hierarchy should be pyramidal or flat, whether an organization should be decentralized or remain centralized.

IIA will be primarily concerned with the formal aspects of organization, but will also analyze the informal where accessible. In Richard Scott’s analytical terms, it will concentrate on the “regulative pillar” of institutions (the formal-legal elements, rule-making, monitoring, sanctioning processes) but will also consider “normative” elements (values, norms, standards) and “cultural-cognitive” ones (shared beliefs, symbolic systems). (*Ibid.*: 59-*passim.*)*

IIA will focus on organizational impact on agency or inter-institutional performance, i.e. on how well or poorly an agency is producing its intended outputs. It will therefore be engaged mainly in cost-effectiveness analysis rather than CBA, but in many instances it may have to consider benefits or outcomes as well to be more meaningful. In any case, the need for IIA and its scope should be well defined using “thresholds” of need and the proportionality principle for “scoping.”

IIA may apply to specific agencies, a group of agencies, and wider institutional frameworks that may include non-governmental entities. A single big agency may require restructuring or an important new technology (ICTs); IIA may concentrate on determining how organizational and administrative changes could improve its performance. Governmental functions, however, are often specialized and distributed among several agencies mandated with common goals. For example, public transport franchising is assigned to one distinct regulatory agency of the DOTC, motor vehicle registration and the issuance of drivers’ licenses to another, and transport planning is a function of a department-level unit. The franchising and regulation of tricycles has been devolved to city and municipal governments, and these share traffic enforcement functions with the national transport and police agencies.

In addition to standard organizational and administrative analysis, impact pathways evaluation (IPE) would be useful to track inter-organizational linkages and evaluate the performance effects of government agencies with interrelated functions and common goals. A more comprehensive assessment framework may include non-governmental entities that share governmental functions, as in PPP (public-private partnership) arrangements. This would be especially the case where they are

nearly integral to government operations, such as private corporations undertaking infrastructure development and/or managing public services under specific performance contracts (e.g. urban railway systems). Private entities more loosely governed by public franchises (e.g., bus companies) and regulations may also be brought within the pathways framework and organizational analysis if they appear to be determinative of the effectiveness and quality of government agency performance.

*In *The Limits of Institutional Reform in Development* (42-45), Matt Andrews deploys Scott's "pillars" as a floating balloon with the regulative part above water and the normative and cultural-cognitive pillars submerged. However, latent or informal elements can become manifest and formal (e.g. standards).

Though primarily anticipatory, IIA should be useful both ex ante for proposed rules and ex post for existing or implemented measures. For proposed measures, IIA could be applied at three stages (see Charts 3-5, pp. 32-33). The first involves extracting and specifying the implications of any measure with significant potential impact, on the organizational goal, structure, functions, personnel and resource capacities of an implementing agency or agencies. The rule (policy, regulation, etc.) may be formulated simultaneously with or ahead of the organizational analysis, whose result may influence the substance of the proposal soon or subsequently (on account of "administrative feasibility," for example).

A second stage would involve progress monitoring of whether the organizational recommendations are adopted with or without change. This is like comparing the "as built" versions of a building with its blueprint, but IIA monitors can also determine if some change is needed before implementation due to changing circumstances. The third stage would be the impact evaluation to assess the effects of the agency's organization "as built" on the implementing organization's performance in achieving its policy goals (and/or other desired outcomes).

For existing rules or measures, the assessment would be mostly impact evaluation after a sufficient period of implementation. Impact evaluation would entail a different set of actors and methodology from those of ex ante design and progress monitoring. The latter may involve mostly agency "insiders", while impact evaluation should hire outside evaluators to ensure impartiality and credibility. The evaluation models may also switch from a simple to a more complex analytical framework or model.

With the foregoing premises stated, we may now outline the steps recommended here for IIA. The "outline" means that the present proposal cannot go into much detail or depth; nonetheless, it is hoped that the presentation is meaningful enough so that others may help refine it and fill in any gaps. The outline consists of the principal steps, one of which is broken down into more specific activities afterwards.

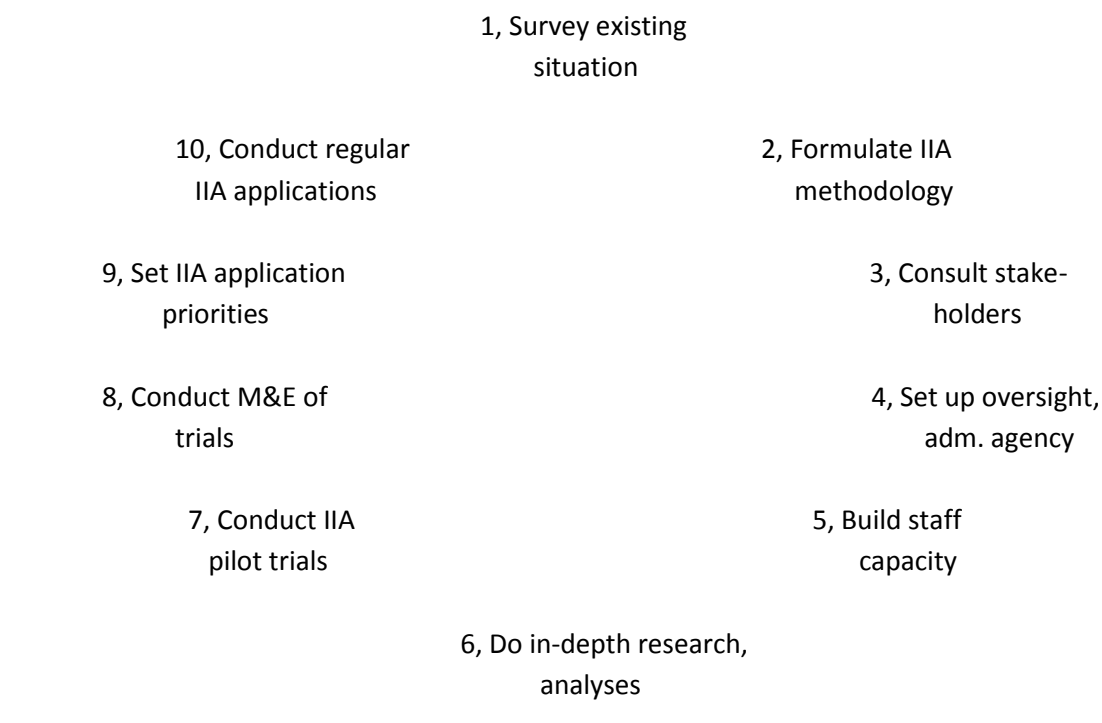
MAIN STEPS IN IIA DEVELOPMENT

The main steps for the proposed IIA follow roughly those taken or considered in the development, installation, and use of other IAs, particularly RIA:

1. Preliminary survey of the existing institutional situation to determine the need for IIA and agency capabilities for administering it on a regular basis
2. Formulation of the IIA agenda, methodology and guidelines for its establishment and use
3. Stakeholder consultation and awareness-raising
4. Organization of oversight and agency staff for IIA administration
5. Staff training and capacity-building on the principles, techniques, and analytical tools of IIA
6. In-depth research to ascertain IIA needs and identify potential pilot policy, project, or organizational proposals
7. Priority-setting for IIA application
8. Pilot trials of IIA application in selected agencies
9. Monitoring and evaluation of trial results
10. Regular application of IIA on priority measures

These steps are re-stated in the chart below.

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 Chart 2. MAIN STEPS IN INSTITUTIONAL IMPACT ASSESSMENT



As suggested above, there will be some initial activities to be undertaken. The next charts below are focused on developing and specifying the recommended IIA methodology. The “steps” need not imply a rigid sequence of mutually exclusive phases; in practice, there are likely to be feedbacks and interactions between some of them.

It is assumed that an office like the NEDA Governance Staff, the Department of Budget and Management (DBM), or a composite group will be initially charged with formulating and implementing the strategy, plan of action, and at least the first three steps in Chart 2, until a more permanent oversight and administrative staff is formed.

The initial survey should be comprehensive, covering government agencies at national and subnational levels. It should focus on problems and issues of agency performance of their functions and goals, especially those traceable to their organizational and administrative patterns and characteristics. These should be approached from the standpoint of the agencies’ wider institutional framework, including their legal, policy, and regulatory mandates.

In the light of the survey results, the group in charge should next formulate the agenda, methodology, guidelines, and a general template adaptable to particular sectoral and spatial contexts in national and subnational jurisdictions. They should identify criteria for determining when non-governmental entities should be included in IIA applications. Moreover, IIA could be a part of a more comprehensive IA scheme (e.g., with RIA) but should retain its distinctive focus and features. Additionally, the following points should be considered:

- Review and research situations calling for improvements in policymaking, planning, and implementation structures and processes to enable public agencies to better achieve their development, conservation, service, and/or regulatory goals
- Develop the criteria and standards for setting the thresholds of need for IIA, and Identify the government jurisdictions where IIA may be needed as a matter of priority or urgency.
- Ascertain if the research results indicate persistent or recurrent problems that justify IIA application. Use the need criteria and standards to make a decision.

IIA should be useful for both ex ante assessment and ex post evaluation, for proposed and existing measures with significant organizational or institutional implications,, with priority to policies, regulations, bills or laws, development projects and government decisions and orders of major consequence.

Three-State Application of IIA. Any new proposal deserving IIA scrutiny may be subjected to it at *three* stages: (a) ex ante, extracting its organizational and other institutional implications, and

comparing and evaluating options; (b) monitoring the adoption of IIA recommendations including further organizational modifications needed before implementation; and (c) ex post, evaluating organizational impact on agency or interagency performance, with relevant benefits as well as cost-effectiveness considered. (See the charts in the next two pages).

For existing measures already implemented for some time, impact evaluation should suffice without prejudice to the consideration of previous assessment efforts. The appropriate evaluation research model should be used - the “before-and-after” framework targeting the same agency or set of agencies, or the more complicated “with-and-without” framework comparing “treatment” with “control” agencies. Impact pathways and outcomes analysis should also be used, not only for interagency contexts but also within agencies, so that the characteristic structures, functions, roles and relationships, and behavior of each agency could help explain performance levels.

Once the IIA methodology has been tested, such as in the pilot trials suggested in Chart 2, there should be a determination of where it should be located organizationally and “institutionalized” for regular administration. At the national level, the DBM may be a suitable “home” for IIA, given its old responsibilities for organization and management (O&M) analysis (care should be taken against centralization and politicization of IIA as well as RIA results, though). At the local government levels, IIA may be housed in the HRD office or a composite staff under the chief Administrator, who is charged with implementing organizational and career development programs. Each IIA unit should be adequately “capacitated” to do a good job. Outside consultants may help, particularly with impact evaluation.

MORE TIPS ON SPECIFIC ACTIVITIES

1, The organizational implications beforehand or extracted from policy, regulatory, or development proposals should be validated against the results of situational assessments and in-depth studies as well as existing knowledge and experience. The need of a proposed policy or program for a new agency or the overhaul of the existing implementing agency may stand out up front, but organizational options should be articulated along with the corresponding, requisite goals, functions, activities, personnel, equipment, logistics, and budgets. The options may pertain to the “governing structure” (single head or collegial board), specialization and distribution of functions, and linkages among units or agencies sharing goals, functions, or resources.

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Chart 3. APPLYING EX ANTE IIA IN PARTICULAR CASES

1, Ascertain the need for and scope of
IIA in specific cases

8, Select, offer the best option

2, Identify collaborating unit

7, Discuss options with stakeholders

3, Consult with stakeholders

6, Formulate and evaluate
Institutional options

4, Develop and apply the research
and design instruments

5, Analyze organizational impacts
on agency performance

Chart 4. MONITORING AGENCY ADOPTION OF IIA RECOMMENDATIONS

1, Monitor approval of proposed measures*
and IIA recommendations

8, Monitor and evaluate IIA changes
during implementation

2, Assess changes made or
needed in IIA proposals

7, Review, revise M&E plan
to incorporate approved changes

3, Determine proposed or likely
future changes that may affect
agency performance

6, Secure stakeholder, decisionmaker
approval for preferred option

4, Formulate new IIA recommend-
ations for adoptions prior to
implementation of measures

5. Identify and evaluate IIA options

*Proposed policies, laws, regulations, development projects, service programs, or reorganization or administrative reforms likely to significantly affect agency performance.

Chart 5. EX POST INSTITUTIONAL IMPACT ASSESSMENT

1, Review any changes made in agency organization
or institutional framework before and during
implementation

8, Secure approval of preferred
option from decisionmakers

2, Hire outside evaluators,
secure agency cooperation

7, Communicate, discuss options with stakeholders, management

3, Formulate the impact research design, assess options*

6, Design and evaluate IIA options for institutional improvement

4, Gather, analyzed data from documents, surveys, interviews, etc.

5. Evaluate the effects of organizational variables on agency performance** [see next page for footnotes]

2, Consult with stakeholders once the results of the initial situational assessments are available to inform them of the IIA project and to elicit their views on the problems and possible solutions. Key agency personnel, professional experts, and client or consumer groups directly affected by the work of the agency or agencies involved should be notified and invited to attend the consultation process. However, care should be taken against “packing” the process with participants with a strong bias for or against any one option. Such bias from vested interests should be balanced with the (hopefully disinterested) perspectives of outside experts and academics. The consultation results should be impartially documented, published, and used during deliberations on the organizational and policy options.

3, Organizational options should be more clearly defined, designed, and evaluated comparatively in terms of their impact on agency performance on the basis of primary and secondary data, qualitative and quantitative. How would different combinations of the organizational elements “stack up” in achieving project and policy goals and complying with legal standards? The assessment techniques should include those familiar to management consultants and public administration scholars (e.g. Mintzberg’s *Designing Effective Organizations* 1983 and Hood’s *Administrative Analysis* 1986), others ranging from simple advantages-disadvantages comparison and SWOT analysis to CBA, IPE, and computer simulation, where relevant and feasible. Differences between concrete and service outputs of government should be considered, since they may have different implications in terms of how, by whom, and when they can best be produced (e.g. between transport infrastructure construction and traffic-related service operation and regulation). (See Pritchett and Woolcock 2002).

4, The factors or variables should include temporal and spatial dimensions underpinning the organizational forms and capacities. The options may reflect differences in human and material resources, technological equipment, functional abilities, and organizational and political culture, which may play out at different points in time or venues. Aside from an immediate, one-shot change process, evolutionary or incremental change may be considered, giving policy decision-makers the latitude to choose based on assessment of resource availability and “local” preferences. The latter may reflect normative or cultural biases for bureaucratic or democratic management styles, centralized or decentralized structures, geographically concentrated or distally located offices.

----- [footnotes to Chart 5, previous page]

*I.e., evaluation design “models,” such as between “before-and-after” analysis and “with-and-without” comparison. Use of impact pathways and outcomes analysis should also be considered.

**Goal-achievement and outcomes may also be considered since non-organizational or “non-policy” variables may significantly share influence with organizational variables on agency performance. Outcomes imply long-term implementation, but some significant impacts may be felt early on.

5, Prepare and run supporting programs to help sustain the implementation of the preferred organizational option/s. Training, organizational development (OD), career development (CD), and other capacity-building programs should be deployed to complement the IIA prescriptions. The legal bases of the agencies or programs concerned (statutes and local ordinances and codes) should also be reviewed and revised behind the prescribed organizational reforms or innovations as well as basic policy objectives.

6, IIA should have a regular monitoring and evaluation (M&E) scheme for an ex ante-starting process that anticipates and allows needed organizational and policy adjustments. The monitors should be authorized to make or recommend (and justify) mid-stream changes to ensure effective implementation. This would mean a departure from the “planning fallacy” that implementation should and could remain faithful to “the (equally immutable) plan.” (See Andrews *et al.* 2012).

7, In ex post impact evaluation, organizational changes that occurred during the implementation process should be taken into account to help determine their influence on agency performance. IIA may have to extend beyond cost-effectiveness analysis to some form of CBA, if only to make the results more meaningful. However, bear in mind that this would make the attribution of impact or consequences to causes more difficult as it allows more influences (including non-policy variables) to be considered.

8, The results and methods of IIA applications should be adequately documented and reported in terms understandable to a wide range of audience, ranging from insiders to the general public, and yet precise enough to be useful. The IIA record and the way it is communicated should thus be a clear input into deliberations and decisions about institutional and substantive issues.

9, Monitors and evaluators should regularly follow up on decision-makers’ actions on their recommendations so that they can analyze and improve their adoption record as well the ultimate impact of their recommendations.

CONCLUSION

This paper has tried to show that a wide variety of impact assessment (IA) methods applicable at different levels in different areas of development and government have been adopted or proposed in many countries, including some in Asia. The Philippines has had long years of experience with Environmental Impact Assessment (EIA), some applications of Traffic Impact Assessment (TIA), and a pilot Regulatory Impact Assessment (RIA) project since 2012. However, these IAs may be viewed as still “works in progress,” with difficult problems and issues to solve. So are those IA methods developed in the U.S. and Europe and exported by bilateral and multilateral aid agencies to our part of the globe. Despite the advances they have made in analysis, adoption, and application, they have encountered limitations and problems of technical and institutional kinds. Even those IAs oriented to or focused on the institutional components of development, while gaining sophistication in conceptual scope and quantitative techniques, have left much to be desired in terms of organizational analysis, as demonstrated by the impact pathways and synergies approach reviewed in a preceding section. The present paper, therefore, proposes an Institutional Impact Assessment (IIA) method to fill this gap.

One issue raised against increasing RIA requirements has been the TransAtlantic Consumer Dialogue (TACT) contention that, in effect, the regulatory burden on business has been turned around to become the burden on government regulation. So, what would justify the addition of one more IA method to the already large “family” of IAs, particularly one, like RIA, that is directed primarily (if not exclusively) at public institutions.? To recapitulate our rationale briefly, aside from being in line with the growing acknowledgement of the crucial role of the “institutional component” of development, IIA could help clear the way for more rational or reasonable ways of designing and evaluating public policy and administration. It could deal with institutional obstacles or constraints against worthwhile innovations like RIA.

To paraphrase a British advocate’s defense of the “better regulation” movement: Only bad rules are a burden on those forced or expected to comply with them; better ones should lighten their load and facilitate enforcement and compliance. However, in the Philippine context, the institutional gaps may be deeper and larger than we have seen in specific agencies, though technical advances are possible. A regulatory *system* at different government levels is not yet in sight to guide such advances in analysis and implementation. One may well predict the disarray in implementation that the lack of rulemaking protocols could create. The simple APA model of rulemaking is one useful American invention that the Philippines has apparently failed to emulate. Filling this gap by law and meta-rules should induce more rational (e.g. more planning- and evidence-based) policymaking and help “rebalance” its social as well as economic impact.

The IIA method presented here is far from novel. It merely formalizes and outlines techniques of organizational analysis and policy design familiar to Public Administration and allied management disciplines, though certain new provisions have been inserted in our recommendations (e.g. inclusion of non-governmental agencies in some cases, removal or relaxation of the “planning fallacy,” and consideration of differences between concrete and service outputs of government). Nonetheless, it

is hoped that others would find the reviews of IAs useful and the proposed IIA deserving of refinement or improvement as a learning and practical “manual” for PA students and practitioners.

APPENDICES TO THE CRUZ IMPACT ASSESSMENT PAPER

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 Box 1. OECD CHECKLIST FOR REGULATORY QUALITY

1. Is the government action justified?
 2. Is regulation the best form of government action?
 3. Is there a legal basis for regulation?
 4. What is the appropriate level or (levels) of government for this action
 5. Do the benefits of regulation justify the costs?
 6. Is the distribution of effects across society transparent?
 7. Is the problem correctly defined?
 8. Is the regulation clear, consistent, comprehensible and accessible to users?
 9. Have all interested parties had the opportunity to present their views?
 10. How will compliance be achieved? (5)
-

SOURCE: Cruz, Cynthia R. “Regulatory Impact Assessment Adoption Determinants: A Diagnostic Framework,” *ILS Discussion Paper Series 2012*, Institute of Labor Studies, Department of Labor and Employment (DOLE). 5.

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 Chart 1. FRAMEWORK FOR RIA ADOPTIO PROCESS AND CAPACITY DETERMINANTS

Capacity Determinants	Adoption Strategy Characteristics		Critical Process Parameters	
Organization				Analysis
Capacity development				Consultation
Legal, economic,		V		Design
Socio-political context	-----	>		Dissemination

Regulatory instrument	I	I	Compliance Admin-
Regulatees' characteristics	I	I	istration
		I	Assessment
		I	Continuation/ Modification

SOURCE: Excerpted from Cruz 2012: 10.

Table 1. DESCRIPTION OF CAPACITY DETERMINANTS

Related to organization

- | | | |
|--|---|---------------------------------------|
| 1. Clarity in decision-making process and Procedures | + | If rulemaking process is clear |
| 2. Formal integration of RIA innovation | + | If management reinforcement exists |
| 3. Nature of inter-office collaboration | + | If collaboration is clear and managed |
| 4. Capacity of implement staff | + | If implementation capacity is present |
| 5. Expertise related to RIA innovation | + | If RIA expertise is present |
| 6. Financial resources for RIA implementation | + | If resources are made available |
| 7. Availability of coordinating staff | + | If coordinating entity is present |

Continuing capacity development

- | | | |
|--|---|-----------------|
| 8. Management support for RIA implementation | + | If with support |
| 9. Supervisors' support | + | " |
| 10. Colleagues support | + | " |
| 11. RIA specialist's skills and knowledge | + | " |

Context

- | | | |
|--|---|--|
| 12. Decision making subject to legal limitations | - | If no room left for innovation |
| | + | If flexible and open |
| 13. Decisions influenced by economic, market forces | + | "Conforms to Quantification principle" |
| 14. Sensitive to appropriateness & legitimacy issues | + | "Conforms to Consultation principle" |

Nature of regulatory instrument

- | | | |
|--|---|--|
| 15. Frequency of issuance of regulation | + | "If very frequent (say annual), may raise process observance issues" |
| 16. Political value of regulation | - | "Political considerations may override the rationality principle" |
| 17. Regulation carries risks in existing situation | + | "Conforms to risk analysis principle" |
| 18. " seen as serving policy objectives | + | "Conforms to the public value principle" |

Regulatees

- | | | |
|--|---|--|
| 19. Extent to which regulatees can be targeted | + | "Conforms to stakeholder consultation principle and allows regulation design to be results-oriented" |
|--|---|--|

20. Regulatee influence on decision-making - If strong, “may lead to regulatory capture”
 If regulatees not properly represented, may lead to less than optimal results

 SOURCE: Excerpted from Cruz 2012: 12-13.

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 Box 2. DIAGNOSTICS FOR RIA CRITICAL PROCESS PARAMETERS

ANALYSIS

Determining need for state action: How does your unit decide on need to issue a regulation?

Setting the policy objective: Does your unit articulate the regulatory objectives? Use metrics?

Examining options to the default/mandatory mechanism: Does your unit consider other options (semi-regulatory, non-regulatory or regulatory) to the default mechanism in place? Does it examine and quantify direct and indirect impacts of each option the regulated community and the larger community before the preferred option is chosen?

Examining the preferred option: Does your unit examine it regarding:

- *"Proportionality to the issue being addressed"
- * Generation of the greatest benefit to the community relative to the other options
- * Contribution to competitiveness
- * Contribution to decent work
- * Consistency with and not duplicative of other regulations?"

Examining the administrative cost of the preferred option: Does your unit consider the cost of dissemination, implementation, compliance, monitoring and assessment in administering the regulation?

Examining impact on small business: Does you unit consider “the small business perspective in crafting the regulation?”

Examining impact on the physical environment: Does your unit consider “the environmental perspective ... ?”

Examining the gender dimension: Does your units consider “the gender dimension ...?”

CONSULTATION

Consulting regulatees and non-regulatees: Does your unit consult with both groups? How are they consulted and to what extent are their concerns considered?

INSTRUMENT DESIGN

Crafting the regulatory instrument: “What principles does you organization observe when crafting the regulatory instrument?”

DISSEMINATION

Securing approval and concurrence: “Who approves the regulation issuance in your organization?” How is approval secured?

Disseminating the new regulation: Does your unit have a “purposive dissemination strategy” when a new regulation is rolled out? What does it look like?

COMPLIANCE ADMINISTRATION

Monitoring compliance: “How does your organization monitor compliance to the regulation?”

ASSESSMENT

Assessing the implementation vis a vis objectives: When does your unit assess the efficacy of the regulation from its roll-out?

CONTINUATION/MODIFICATION

“If and when a regulation is deemed to be not working, how are modifications/corrections made?”

SOURCE: Excerpted from Cruz 2012: 11-12.

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