



Guide for Formulating a Policy (Investment Friendly Local Regulation)



FORD FOUNDATION

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IN COOPERATION:

FORD FOUNDATION

and

Regional Autonomy Watch

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I. INTRODUCTION

I.1. What is meant by a Regulation?

According to the OECD, a regulation is defined as “a diverse group of instruments used by the government to establish certain regulations on companies and citizens. Regulation includes laws, decrees and low-level regulations issued by all levels of government, and rules issued by non-governmental agencies and self-regulatory organizations that have been authorized by the government”. From the above definition can be concluded that regulation also describes the authority possessed by the government.

In principle, based on predetermined field, regulation can be grouped into three categories:

- Economic regulation sets the framework of economic actors, companies, and markets (for example, healthy competition and monopolistic restriction)
- Social regulation formulates standards of health, safety, environment, and the mechanism for its manifestation (for example, environmental protection)
- Administrative regulation relates to formalities and the administration of government, or often called ‘red tape’ (for example, licensing)

I.2. Explosion of Regulations at the Time of Regional Autonomy

After the implementation of the regional autonomy law in 1999 which became a milestone in the introduction of regional autonomy, Districts/Cities get broader authority to issue regulations. Generally, it is in the form of specific regulations for the region concerned. This is based on the regulation of the formation of local regulations for the survival of autonomy in regions regulated by Law Number 32 of 2004 concerning Local Government. Although later in the hierarchical order of laws and regulations, local regulations come under national level regulations, but local regulations remain the spirit of regional autonomy.

Laws and regulations state that the local government has the authority to regulate and administer trade and industry, and therefore is entitled to administer trade and industry-related regulations such as licensing and levies. However, local regulations made often do not aim to solve problems and are often conflicting with higher laws and regulations. TKED 2011 study showed that approximately 72% of local regulations have problems in getting the latest judicial references. Furthermore, sometimes local regulations made are not aspirational and participatory, and the substance is often a burden to society, especially the business world. This is not independent of the preparation of draft local regulations that are not based on clear planning, not integrated and not systematic, and often times not associated with RPJPD, RPJMD/SKPD Strategic Plan, especially related to development planning at the national level.

Another problem that arises is that the establishment of local regulations has not been supported by the competence of policy makers (legal drafters) and or the minimum number of drafting experts of laws and regulations to comprehensively understand

the substance of the problem. With the lack of competence of policy-makers, local regulations issued are not necessarily a problem solver, but often cause new problems.

I.3. Regulatory Burden on the Business World

With the explosion of these regulations, there are many regulations that burden the business world. The burden faced by the business world includes cost inefficiency and legal uncertainty. The form of local regulations that raised burden is among others regulations related to levies (taxes and user charges). In addition to regulations relating to levies, regulations governing permits also may incur expenses, if the set regulations only add to the procedures, time and cost for obtaining a license.

I.4. Deregulation to Increase Competition

Economic globalization has made deregulation important, because an appropriate regulation will bring efficiency. Deregulation is reduction or elimination of regulations that may pose a burden to society, especially the business world. Deregulation, in order to eliminate the main causes of high cost economy in Indonesia, is one mechanism that can help Indonesian businesses to be more competitive internationally. However, there are some obstacles in creating an environment conducive to business:

1. Indonesia does not have laws that govern business procedures that can be implemented in general; each agency has its own procedures. This has become a problem because there are no statutory standards that must be met by a regulation in order to be considered valid.
2. There has been no assessment of the impact of regulations so that often regulations issued by the government failed to solve the problem.

II. REGIONAL LEGISLATION PROGRAM (PROLEGDA)

II.1. What is meant by Prolegda?

Article 1 paragraph 10 of Law No.12 of 2011 states that “Regional Legislation Program hereinafter referred to as Prolegda is a planning instrument program for the formation of Provincial Governments or District/City Governments arranged in a planned, integrated, and systematic manner”. Before formulating a regulation, planning is required as part of regulation forming management. Planning has a strategic significance in preparing the substance of needs and priorities that are in line with RPJMD and RPJPD. This stage is a stage that determines the success of a policy product. Without good planning, complications may arise from the implementation of a regulation so that the regulation concerned will not be able to solve the problem. At the local level, this planning process is set out in the Regional Legislation Program (Prolegda).

II.2. What Are Prolegda Functions?

Several functions of Prolegda are:

- Provide an objective picture of the general condition of problems in the establishment

- of Local Regulations;
- Establish priorities for Local Regulation drafting of a long-term, medium- or short-term as a guideline for the establishment of Local Regulations;
- Organize a synergy between agencies/institutions/SKPDs that are authorized to establish Local Regulations;
- Speeding up the process of establishing Local Regulations with focus on preparation activities to Draft Local Regulations according to the priorities set;
- Become a means of controlling formation activity of Local Regulations.

II.3. What are Prolegda Objectives?

Some of the objectives to be achieved in the preparation of Prolegda are:

- Provide objective overview on the general condition of Local Regulations to be established
- Formulate priorities as a sustainable and integrated program with RPJP, RPJM, RPJPD, and RPJPD
- Build consistency synergistic with higher regulations.

II.4. Principle: “There is No Local Regulation Outside Prolegda”

The principle of Prolegda is no local regulation outside Prolegda. This means that all local regulations to be formulated should be based on Prolegda. Thus, a regional head should not file draft Local Regulations outside Prolegda unless there are certain circumstances that require the Regional Head or Regional Parliament to propose Local Regulations beyond that. This is based on Article 81 paragraph (3) and (4) of Government Regulation Number 16 Year 2010.

Keep in mind that Prolegda is not just a list of Local Regulation titles because substantively Prolegda should be able to reflect the direction of the vision, mission and policy to be achieved in accordance with regional and national development plans. Some substances of Prolegda can be viewed in the table below:

Prolegda Substances
<ol style="list-style-type: none"> 1. Background of problems and purpose of drafting, including linkages with other legislation (vertical/horizontal). 2. Targets to be realized by preparation of local regulations (long, medium, short) 3. Main ideas and scopes to be set 4. Regulatory direction outreach (who will be affected and what influence the presence of the regulation have)

II.5. Prolegda, Academic Paper dan Regulatory Impact Assessment (RIA)

To support the achievement of Prolegda with good substances, an academic paper will be required. In Article 33 of Law No. 12 of 2012, which is the legal basis for the existence of an academic paper, it is mentioned that preparation of a good academic paper should be conducted through a study. Through the study is expected to be able to answer a number of questions about what subject matter should be regulated, how they interrelate

with the regulation (vertical-horizontal), which relevant units are involved, and target timeframe/priority. The academic paper will later describe the points of Prolegda. These descriptions are later reflected in the articles of the local regulation. Several things that underlie the importance of an academic paper as the basis for the establishment of local regulations are:

Questions to help guide the preparation process of an academic paper are as follows:

- How to determine the main substances?
- How to determine regulatory status (new or revision)?
- How to determine linkage between regulations (vertical-horizontal)
- How to determine the relevant units involved?
- How to determine target timeframe/priority?

In order to answer these problems, in the preparation of Prolegda can be used the RIA (Regulatory Impact Assessment) method/stages. In practice, RIA can be used in the preparation of all policies including Prolegda. Of the entire group stages of the RIA, Prolegda is included in Pre-RIA group. Although just Pre-Ria/preparation of planning/Prolegda, the stages of public consultation should be carried out due to the importance.

Although Pre-RIA is an important element in the preparation of Prolegda, but the implementation in the regions has its own challenges. This is among others associated with RIA implementation funding. However, there is a breakthrough using as primary legal basis Article 33 of Law No.12 of 2004. With sufficient political support, RIA funding in the preparation process of Prolegda can be included in the budget.

After going through a number of processing stages, including RIA in formulating Prolegda by the local government, next is to proceed filling in a form as stipulated in the Regulation of the Minister of Home Affairs No. 153 of 2011 (see table below).

No	Type	Subject Matter (Title)	Main Substance	Status		Implementation	Related Unit/ Agency	Delivery Target (Year)	Info
				New	Change				
1	2	3	4	5	6	7	8	9	10

Information:

1. Completion serial number.
2. Local Regulation and Regional Head Decision.
3. Title of Local Regulation and Regional Head Decision.
4. Subject substances to be regulated.
5. New regulation.
6. The regulation is only a change.

7. The regulation is a delegation/command of a higher regulation.
8. Related work units/agencies with regulation substances to be established
9. When is the year of completion?
10. Matters relating to Local Regulation and Regional Head Decision

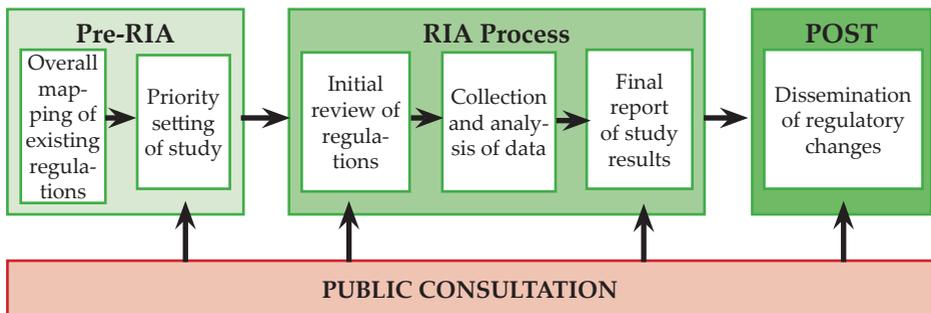
III. REGULATORY IMPACT ASSESSMENT (RIA)

As mentioned above in order to produce a good regulation it is necessary to have an academic paper as support. To produce a quality academic paper, the Regulatory Impact Assessment (RIA) method can be used).

III.1. What is Meant by RIA?

Regulatory Impact Assessment (RIA) is a methodology to improve the quality of existing regulations and new regulations. The methodology provides an opportunity for users to check whether the regulations are in accordance with the quality criteria set out in the checklist developed and recommended by the OECD (1995). By way of the RIA method will be reviewed existing regulations and transform bureaucratic procedures into a smart procedure through the formulation of better regulations so that they can be attractive in terms of investment for the region.

III.2. What is RIA Phasing Like?



There are three stages in the RIA process, namely: Pre RIA, RIA Process, and Post RIA. For Pre RIA, this includes the activity of overall mapping of existing regulations and study priorities. Mapping of existing regulations is done entirely to get the big picture of existing laws and regulations for matters that will be regulated. With the big picture of existing regulations, it can be determined what kind of regulations will be formulated, including the scale and type of regulation.

After the Pre RIA stage, the RIA process will be done. The RIA process is divided into 7 stages as follows:

1. Formulation of problems or issues that may raise the need to issue a policy (take action);
2. Identification of objectives and targets to be achieved by the policy;
 - 2a. Risk Assessment;
3. Identification of various alternative actions (options) to achieve targets and objectives;
4. Assessment of benefits and costs (gains and losses) for each option, seen from the point of view of the government, communities, businesses, consumers, and the economy as a whole;
5. Consultation and communication with stakeholders at all stages of the foregoing;
6. Determination of the best option (selected);
7. Formulation of strategy to implement and revise the policy.

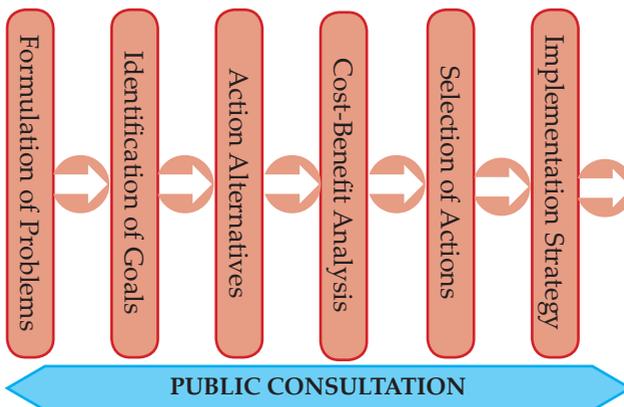
III.3. What are the Benefits of RIA?

There are several benefits in establishing a policy using the RIA method, namely:

- RIA gives decision makers the ability to weigh the benefits that must be balanced in any action related to the issuance of a regulation;
- RIA connects high-quality regulations with good governance and economic development;
- RIA provides empirical data to make appropriate regulatory decisions;
- RIA provides clear guidelines for consultation with stakeholders to improve transparency, build trust and public accountability;
- RIA findings are associated with the lowest-cost solution to help reduce implementation costs for the government as well as transaction costs for businesses.

III.4. What are the Implementation Stages of RIA?

There are seven steps in conducting Regulatory Impact Assessment (RIA) both in policy making and in conducting policy review. These steps are:

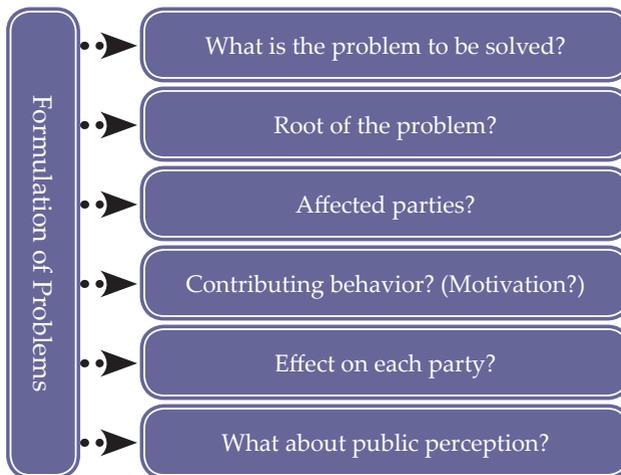


III.4.1. How to Identify Problems?

- At this stage, issues are identified to be resolved through a policy
- Differentiation of needs is to be established between Main Issues vs. Symptoms

Perhatikan: Masalah sebagai perbedaan (*gap*) antara situasi yang terjadi (*actual*) dengan situasi yang diinginkan (*desired*). Perumusan masalah dalam *review* kebijakan mencakup penentuan '*gap*' tersebut dengan tepat, dan mengidentifikasi 'penyebab' masalah, yakni hal-hal yang menimbulkan terjadinya perbedaan antara situasi yang *actual* dan *desired*.

To make it easier in formulating a problem, there are some key questions as stated in the following diagram:



Always Remember 2 Things:

- Regulation (policy) is made to address a problem.
- The identified problem is often only a symptom, not the root of the problem.

Several things that must also be identified when formulating problems are:

- Who are the affected parties?
 - Identification of affected parties includes the number (population) and how large is the influence.
- How is public perception about the problem?
 - Good problem formulation must consider the perception of various parties (stakeholders).
 - By looking at the perception of various stakeholders there are several benefits:
 - Ensure that the problem is really there (real) and not just a 'perception'

(assumption) to a problem.

- b. Determine the seriousness of the existing problem, particularly from the point of view of stakeholders.

Always remember not to lead to the 'method' to solve problems

- There should not be a direction or emphasis on methods to solve problems, such as suggesting that a problem can only be solved through the issuance of a regulation.

CASE EXAMPLES OF PROBLEM IDENTIFICATION:

Several cocoa commodity problems unearthed from consulting cocoa stakeholders in Majene are as follows:

- a. **Pests and diseases**
- b. **Means of production are still lacking**
- c. **Low motivation of farmers in tending cocoa farms**
- d. **Cocoa marketing is individual**
- e. **Lack of cocoa farming venture capital**

In consultation with the stakeholders, it has been concluded that these problems occur because of the **low capacity of farmers from the aspects of knowledge, skills, attitudes and capital**. Several parties that affect the root of this problem are Extension Workers, Regional Budget Drafting Team (TPAD), Local Governments, Banks, Farmer Groups and Private Parties.

EFFECT ON COCOA FARMERS

The low human resource capacity of farmers ultimately affects:

- a. Low productivity
- b. Low income and welfare of farmers

III.4.2. How to Identify Policy Objectives?

The objective of the policy is to determine the target to be achieved through the formulation of a policy. A policy is indeed to solve problems, but if the problem happened to be quite complicated and cumbersome, thus in such circumstances, the government policy is usually only intended to address some of the problem encountered. Moreover, it also needs to be seen whether the government has the authority to create such policy and whether the policy is consistent with applicable laws and other regulations.

There are several questions as a reference to identify policy objectives to be applied as follows:

a. Is Government Intervention Necessary?

There must be a good reason to intervene through the issuance of a regulation (justification for government intervention is indeed necessary and appropriate).

b. Part of the problem to be solved

Identify clearly which part of the problem is being 'targeted' by the regulation to be issued.

c. Desired objectives (target)

Having established part of the problem to be solved, the determination of the target



(objectives) of the policy becomes easier. The policy objectives are of course to improve the conditions of the problem.

d. Identification of key actors (key players)

First of all identify the individuals (key player) associated with the problem at hand. Who are they? What is their interest in this case? How do they behave? The more information you get, the greater the chance of developing a successful policy. Usually, to handle a group of different people may need a different policy (alternative/solution).

e. Desired behavior

At this stage, the desired behavior change must be translated into policy objectives. In addition, it should also be set out how significant is desired behavior change. This question encourages policy makers to look at the reality so that target behavior change can be achieved.

IDENTIFICATION SAMPLES OF POLICY OBJECTIVES:

The root of several problems experienced by cocoa commodity in Majene is the low capacity of farmers from the aspects of knowledge, skills, attitudes and capital. To enhance the capacity of farmers, government intervention would be required in regulatory and non- regulatory form targeted on two cocoa commodity actors, namely farmers and extension workers. As the result of policy setting, it is expected that changes occur in behavior of farmers and extension workers asfollows:

- a. Farmers, it is expected that by enhancing the capacity of farmers, there are several behavior changes such as:
 1. Caring for the farms as recommended by good cocoa cultivation techniques
 2. Carry out strengthening of farmer group organizational functions
 3. Conduct joint marketing with other farmers through farmer groups/UPH
 4. Open access to partnerships with other parties (private, corporate, NGOs, banks)
 5. Conduct access to information or communication (local governments, banks)
 6. Independence of capital (not relying on middlemen, merchant collectors)
- b. Extension workers, behavior changes expected are:
 1. Conducting intensive counseling
 2. Adequate technical knowledge of cocoa extension workers

III.4.3. How to Identify Alternative Actions/ Settlement?

Once policy objectives have been identified, the next step is to identify alternative actions/ settlement. The main objective at this stage is to generate a list of various methods or ways to solve the problem. However, at this stage it is not intended to specify which method (action) must be chosen. Before determining alternative actions, there are some questions that can be used as a basis to develop alternative actions, namely:

- What options are there to solve the problem?
- Is Government action really necessary or is there another way to solve the problem?
- If regulation is necessary, what are the models of choice? Create new or revise or do nothing? Regulation at the national or local level?

Basically RIA opens up views to identify various problem-solving alternatives.

In identifying alternatives, we consider whether there are alternative actions other than regulation (non-regulatory; alternative to regulation) which can solve the problem in question. What are meant by non- regulatory alternatives are alternative actions that do not require a framework of laws and regulations such as laws, government regulations, and local regulations. In addition, if the problem will be resolved through a regulation, we also still have to consider what form of regulation provisions can be applied (alternative forms of regulation).

Several types of non- regulatory alternatives are as below:

Government spending (including subsidies)

The government increases government expenses (spending) through grants, subsidies, compensation, or purchase of certain goods.

1. Loans and loan guarantees

The government gives financial incentives through lending with credit terms that lead to behavioral change according to its desire. The government can also act as a guarantor for a loan.

2. Tariff (user charges)

User charges are fees levied against persons (parties) who use or consume products, services, or collective facilities.

3. Ownership by the State

The government can take over ownership of a company in the industry that is 'sensitive' to achieve public policy objectives, such as state ownership of the State Electricity Company (PLN).

4. Persuasion

In terms of persuasion, the government does not make a regulation requiring certain behavior, but encourages such behavior voluntarily. In terms of persuasion the government is trying to ensure that the perpetrators understand the reasons why such behavior is necessary. In terms of regulation, the perpetrators run certain behavior for fear of the penalty that will be imposed on them by the government. While in terms of persuasion, certain behaviors are run because the perpetrators understand the reasons.

5. Insurance

The government can make or encourage insurance schemes to protect the interests of certain parties (for example, consumers) from something risky.

Several examples of non- regulatory alternatives can be viewed in the table below:

Instrument	Example
Government spending	<ul style="list-style-type: none"> • Buying certain commodities to maintain price stability • Grants to cover the costs associated with planting new rice varieties • Subsidies for the purchase of equipment to reduce pollution
Loans and loan guarantees	<ul style="list-style-type: none"> • Loan guarantees to cover the cost of research and development on technologies or new products • Loans to help with the costs of training and education of workers
User charges	<ul style="list-style-type: none"> • Fee for disposal of waste (according to the amount discharged) • Fee on water consumption
Government ownership	State-owned Enterprises (<i>BUMN</i>)
Persuasion	<ul style="list-style-type: none"> • Encouraging a code of conduct for franchise associations • Environmental awareness program • Promoting the use of domestically produced products
Insurance	<ul style="list-style-type: none"> • Insurance on workers compensation • Professional liability insurance

Considerations in selecting (screening) alternatives

In this screening activity we eliminate alternatives that are clearly ‘deserved to be eliminated’, and select several superior alternatives for further evaluation. Considerations that are often used in screening alternatives are:

1. **Legality:** whether the government is legally entitled to take that action? Legality includes legal under domestic and international law (for example, WTO agreement).
2. **Costs:** how much costs are incurred (occurred) to perform the actions? These costs cover fees and losses incurred by the government, consumers, businesses, and SMEs.
3. **Impact on communities:** covers how much influence from such acts against society. Considerations of impact among others include:
 - (i) **fairness & access for the poor:** whether people see these measures as fair and not a hindrance to any access of the poor to basic facilities;
 - (ii) **intrusiveness:** whether the regulation is too intrusive to community activity? (government intervention is too much);
 - (iii) **the factors of health, safety, and the environment:** how are the actions affecting health, labor safety, and environmental protection;
 - (iv) **scope:** whether affecting a few or many people (spread of impact);
4. **Visibility and possibility of achieving target:** to measure how far the action can help the government achieve policy objectives.
5. **Barriers to fair business competition:** to measure how much the alternative influences (inhibits) business competition.

At the end of the screening process, the analyst will conclude which alternative is viable for further analysis. Evaluation is done in two ways, namely qualitative and quantitative

(scoring) to indicate the final conclusion of the evaluation based on various criteria.

IDENTIFICATION SAMPLES OF POLICY OBJECTIVES:

In order to achieve policy objectives, the identification of the alternative interventions that might be done, both in regulatory and non- regulatory form is as in the table below:

Identification of Alternative Policies	
Regulatory	Non-Regulatory
Revision of Local Regulation on SOTK	Budget allocation for training of extension workers
Local Regulation on Institutional Cocoa Farmer Groups	Institutional strengthening of KPPK
Regent Decree on Distribution of Fertilizers	Strengthening coordination between SKPDs for programs on capacity building of farmers
	Increasing the number of extension workers and improvement of extension worker recruitment system
	Capital assistance through KTNA

Of the overall alternatives, screening is done on relevant alternatives for further analysis. Relevant alternatives are:

1. **Revised Local Regulation on SOTK Majene to form the Executive Agency for Agricultural Extension, Fisheries and Forestry in accordance with the desired nomenclature in Law No. 16 of 2006 on the Executive Agency for Agricultural Extension, Fisheries and Forestry.**
2. **Establish Local Regulation on institutional farmer groups as the implementation of Minister of Agriculture Regulation No.273/KPTS/2009 and Law No. 16 of 2006.**
3. **Capacity building program for extension workers**

III.4.4. What is the Importance of Cost-Benefit Analysis?

Cost-Benefit Analysis is important as primary basis for alternative selection and a tool to clarify whether problem identification and application purpose of the predetermined regulation is appropriate.

III.4.4.1. How Do You Conduct Benefit Analysis?

The benefits of an alternative that will be proposed are depicted in the form of a reduction or disappearance of the problem underlying the alternative formulation. Benefits also sometimes appear indirectly. The number of each type of regulatory benefit alternatives

being considered may be different and each alternative may result in multiple benefits. Therefore, when identifying benefits, all benefits must be identified either directly or indirectly from any regulatory alternatives being considered.

There are two possible problems that arise when estimating benefits:

1. It is difficult to find the desired data, particularly on the benefits that could not be quantified. The solution to this problem is to utilize the available data at a maximum. If there are no available data that directly measure the benefits, search for data that can be made substitute or proxy of such benefits .
2. The second problem arises when a qualitative normative assessment should be made (value judgments).

The steps in analyzing benefits are:

➤ **Step 1: Identify the Benefits**

Of each alternative that has been chosen, identify the benefits derived by each stakeholder. The benefits here are the consequences of actions that make a person or group better. It is important to bear in mind when identifying benefits that almost all regulations are intended to make changes.

➤ **Step 2: Establish Those Who Benefited**

Assign groups, organizations and individuals which will each receive the benefits that have been identified in Step 1. Several examples of groups who benefit from the policy -setting of cocoa farmers institutional strengthening are:

- a. Cocoa farmers → Get benefits if the local regulation concerning cocoa farmers is defined.
- b. Cocoa farmer groups → Farmer groups
- c. Extension agents → Becomes easier in providing counseling, because farmer groups can be identified more easily.

There are several steps in determining who gets the benefits of each alternative, namely:

- a. Determine the number (population) of each group of beneficiaries
 - Identify beneficiary groups from the general public, businesses and the government.
 - Note: If the group who will benefit could not be identified, it is likely that the planned regulation is still premature → collect information as much as possible
 - Review the data to estimate the number of persons or parties who will receive benefits
- b. Pay attention to beneficiaries (direct and indirect beneficiaries)
 - Classify beneficiaries into two categories: direct beneficiaries and indirect beneficiaries.
- c. Confirm the list of benefits to the beneficiaries
 - Reconfirm the list of beneficiaries.

Reasons :

1. If approved by the respective parties, the list of benefits will be more convincing and the parties that have not been defined can be identified and included as beneficiaries.

2. If the beneficiaries are not convinced with the beneficiary list, the list should be reconsidered. If beneficiary groups could not be convinced that they are receiving benefits, the planned alternative regulation will not be required anymore..

➤ **Step 3: Determine indicators for measuring each benefit**

So that benefits can be measured, determine the indicators that can be used to assess the magnitude of the benefits. There are several steps to determine indicators, namely:

a. **Determine the indicators for each benefit**

- ➔ Determine the indicators for each of the benefits that have been identified. Indicators should describe the magnitude of the benefits.

Note: Estimates in the form of figures will assist decision makers in assessing whether an alternative is feasible or not. In addition, the indicators will later be useful when evaluating the effectiveness of these regulations, if the regulations are applied.

b. **Focus on indicators representing benefits (measurable outcomes)**

Several things that have to be done at this stage are:

- ➔ Identify what data or indicators will be used to demonstrate the benefits that have been identified
- ➔ Focus more to find a number that can represent the benefits identified in Step 1 (identification of benefits)

Note: It may be found that the value of an indicator depends on several things. If this happens, you may need to do some work to produce an estimate of benefits, for example Majene District Government efforts to preserve cocoa farms in Majene of which the indicator to be used is cocoa productivity level. To be able to estimate the value of these indicators, it is necessary to collect information about the current number of cocoa trees, classification of cocoa tree age, and so on.

c. **Use a *proxy* indicator for benefits that are difficult to measure**

- ➔ *Proxy* indicator is used if information of an ideal indicator could not be obtained. This *proxy* is an indicator that provides an indication of a desired number because both indicators are closely correlated.

Note: It may be impossible to estimate the magnitude of the clean river program, but this may be obtained by the reduction of patients who come to the clinic around the watershed with complaints related to diseases linked to polluted river water. Estimates with these data may not be perfect, but using them will be much better than not using any data at all.

**** If it also remained difficult, use qualitative data, and make a note at the end of the report**

➤ **Step 4: Measure the baseline of each indicator (no action)**

- ➔ At this stage, should have been determined what indicators to be used to measure the benefits identified in Step 1

- Compare the estimated value of each indicator with and without regulation (value of benefits = value of the benefits obtained after a regulation is implemented - value of benefits at the time the regulation has not been implemented)
- If the government is not doing anything, the value of the indicators used will be equal to the value of the indicators at this time.
- In order to isolate the estimated effect for each alternative, the indicator value used should be estimated with and without each of these alternatives

Example:

In Majene, to measure the increase in productivity, it takes one point in time to start measuring the increase. Data taken from one point in time will later become the basis of data for calculating the increase in cocoa productivity. Simulation calculations are performed for each indicator.

➤ **Step 5: Estimating the Indicator Figure if Measures are Implemented**

- Calculate changes that will occur when regulation is implemented
- Make approximate time span of the emergence of benefits
- Using the same time span should be for all alternatives so that they can be compared

Time span of analysis (planning horizon)

- Estimate time span for each alternative, especially in terms of benefits.
- Time span between benefits and costs should be the same.

Always remember !!

Benefits arise if the implemented regulation is adhered to. In other words, the absence of compliance with the regulation will cause the non-realization of the benefits expected. Therefore, in this case, be realistic in estimating how much percentage is the compliance level of regulated parties.

Note:

If the amount benefits and costs is the same every year, just calculate for a single year. The case may be different, in the sense that costs must be incurred in the early years of the implementation of the policy, while benefits will be earned many years after the policy was implemented. In such a case, it is necessary to use a longer time span and also discount technique for the rate used.

There are four practical guidelines and accuracy in estimating indicators, namely:

1. Spend more time and funds on a proportionate analysis with a rough estimate of the total costs that have been determined previously.
2. Stop allocating more time and funds for an alternative that is not better than other alternatives.
3. Reduce allocation of time and funds to alternative costs that clearly exceed benefits.
4. If the analysis conducted shows that one alternative is clearly better than the others, allocate less time and funds for alternative analysis because obviously benefits outweigh costs. At the moment what to do is clear, and there is no more use to gather additional information.

Note:

- Let the analysis that has been carried out lead to appropriate recommendations rather than vice versa.
- Be sure to always make use of a broad viewpoint, and ask yourself whether the assumptions used matched throughout the analysis process.
- If uncertainties are found of the actual value of one or more of the variables used in the analysis model, perform a sensitivity analysis.

SENSITIVITY ANALYSIS

Sensitivity analysis is a simple tool that can be used to see the extent to which indicators used are dependent on the value of some specific variables. The thing to do is to repeat the calculation if there is a change in one or more variables that is realistically difficult to determine with certainty. Of this analysis it will be able to conclude whether the estimation results are sensitive or not to the change of several specific variables.

In conducting a sensitivity analysis, the results should be presented in the form of a range of estimates. Ranges of variables that could not be ascertained moved from the lower limit to the upper limit. What should be concluded is whether the recommendations generated depend on the uncertain value of the variables. If yes, then the report should state it clearly. If not, then there is nothing to worry about.

If conclusion obtained is the result of a sensitive calculation on changes in a particular variable, then it deserves to conduct a repeat sensitivity analysis in order to obtain a more accurate estimation result. If it is necessary to discount the calculation that has been performed, then the sensitivity analysis should be performed based on the value that has been discounted.

➤ **Step 6: Translating to the Same Unit**

Ideally, all benefits and costs should be measured against the same unit in order to make it easier to decide whether an alternative can be implemented or not. Use the same measurement unit, not necessarily monetary unit. If the benefits could not be assessed, in terms of intangible benefits, use a proxy based on the goods and services being marketed.

➤ **Step 7: Summarizing Benefit Analysis Results**

As the final stage of the entire steps in benefit analysis, summarize the results of business analysis for each alternative. For each year in the time span used, determine who gets what. Make notes also of several benefits and costs that have not been quantified for each alternative. If there is a note on the accuracy of several estimates, the majority of these problems should have been coped with the sensitivity analysis. But for the issues that still leave high uncertainties they need to be raised as a consideration for decision makers.

CONTENTS OF BENEFITS ANALYSIS SUMMARY:

- ⇒ Step 1 ►► List of benefits (better condition)
- ⇒ Step 2 ►► Who receive the benefits
- ⇒ Step 3 ►► Determine indicators for each benefit
- ⇒ Step 4 ►► Calculate indicator value if nothing is done (baseline)
- ⇒ Step 5 ►► Forecast of indicator value if action is taken
- ⇒ Step 6 ►► Translated value in the same units of measurement

DO NOT MISS SOME OF THE THINGS THAT MUST BE PRESENT IN THE ANALYSIS SUMMARY RESULTS AS FOLLOWS:

- Write down who gets what in each year.
- Note the benefits that have not been quantified and provide the best assessment.
- Report assumptions that you use and record of forecast accuracy made.

III.4.4.2. Cost Analysis

In simple terms the cost of something can be defined as how much was sacrificed to obtain something in the shape of benefits.

Cost = 'How much must be sacrificed to get something (benefit)'

The steps in cost analysis are exactly the same as the steps in benefit analysis, namely:

- **Step 1:** Identify the costs arising from the implementation of a regulation. The cost of a regulation is influence that causes a reduction or decrease in the level of benefits. Consultation with stakeholders will enrich the list of identified costs by adding things that have not been thought of before and removing from the list of costs other things that practically are not going to happen on the field.
- **Step 2:** Decide who is to bear the costs. Be sure to clarify to those who are expected to bear the costs, whether they agree with what we expect.
- **Step 3:** Decide how to measure costs. Select the indicators to measure the costs from year to year during the specified time span.
- **Step 4:** Set the basis of comparison (baseline). Predict what will happen to the various indicators used if the regulation is not implemented (status quo). This estimate will be the basis for comparison to see the effect of the implementation of a regulation. In many cases, the situation before the implementation of a regulation can be used as baseline comparison. But not infrequently, it is of more sense if expected conditions will not remain as they are now if the regulation is not implemented. Conditions that occur can be worse or better than current conditions if the regulation is not implemented.
- **Step 5:** Predict what will happen. Perform a prediction of change in each indicator if the regulation is implemented.
- **Step 6:** Convert as maximum as possible the various sizes of cost into the same unit so it can be compared.
- **Step 7:** Summarize the obtained results by stating, for each alternative, the cost to be borne, by whom, when, and how if compared with baseline

III.4.4.2.1 “Accounting concept versus economic concept”

Accountants will see regulation costs in the form of how much costs will be incurred by each party affected by the regulation to adapt to meet the requirements of the regulation. Economists think further about what should be sacrificed by each party (impact).

KEY TERMS IN COST ANALYSIS

- ⇒ Reaction (response) of affected parties
 - ▶ Need a new appliance? Longer bureaucracy? More administration? (how is it now & how is the reaction)
- ⇒ Identification of Costs that may arise
- ⇒ Estimated value
- ⇒ Use the same period as the period used to measure the benefits
- ⇒ Avoid *double-counting*:
 - ▶ Increase in production costs ▶▶ Profit? Employee salaries? Prices for consumers? Prices for suppliers?

For an alternative proposal of a small scope, maybe we can think like an accountant. However, for a large proposal, the scope of thinking of an economist may be more extensive. Cost is usually the part that is more easily identified, at least if using the accounting concept, if compared with the benefits of a regulation. One thing to keep in mind in cost analysis is to avoid double counting.

III.4.4.2.2. What Should be Considered in Performing Cost Analysis?

a. Reaction (response) of affected parties

The key in assessing costs is estimating how everyone affected would react if a proposed regulation is implemented.

b. Impact of Costs on Multiple Parties

As mentioned above, in the implementation of a regulation there are those who will be affected. The impact may be the cost to each party. These parties include the community as well as businesses and consumers, and the Government itself.

➤ Cost to business

Some of the things to consider in calculating the cost of a regulatory application to businesses are as follows:

CHECKLIST FOR IDENTIFYING COSTS TO BUSINESSES:

- Is the regulation going to affect the production costs or the business environment in Indonesia?
- Will the regulation make companies in Indonesia more difficult to adapt to changing market conditions? For example, whether it is more difficult to introduce new products or to improve existing products in order to meet consumer desires?
- Will the regulation cause companies in Indonesia to be burdened with demands not faced by companies overseas?
- Will the regulation lead to decreased levels of competition between companies?

➤ **Cost to Consumers**

Many regulations affect price, quality or availability of goods for consumers. These effects must be studied carefully because consumers usually are not too keen to express their interests. Evaluating the effects of a regulation on consumers potentially misleads the analyst because consumers are not uncommon to respond to price changes and availability of goods economically rather than politically. They do not express their disagreement by taking to the streets but they would buy fewer goods and switch to substitutes. In more extreme cases, they may commit smuggling or avoid taxes. RIA analysts must take into account the possibility of consumer reactions to each of the alternatives considered.

➤ **Cost to Government**

Many alternative regulations require the government to allocate funds in implementing the regulations. These funds are needed to cover administrative costs, implementation costs, and equipment costs so that a regulation can be run. These costs also remain to be expected even if they relate to cost recovery, where for example facility users are required to pay. The amount received from the payment can be included in the benefits.

III.4.4.3. How to do a Comparison of Benefits and Costs?

At this stage, there should be enough information and data collected for each alternative action considered. The value of benefits and costs each year for each alternative is estimated within the specified analysis time span. Similarly, those who incur costs and earn benefits should also have been identified. Because of the uncertainty element, several estimates have to be presented in the form of a range. Moreover, several benefits and costs that are difficult to quantify should also have been identified.

The next job to do is to summarize and present the information that has been gathered to assist decision makers in determining the selected alternative.

Question 1: Which is the best alternative?

Question 2: What are the benefits of the best alternative in closing costs?

Before answering the above questions and write the report, it should be considered whether the data and information obtained requires further processing. In particular, one or more of the following jobs should be done:

- a. Perform discount to the estimated results to take into account the time value;
- b. Assess the distribution of benefits and costs; and
- c. Assess the reliability level of your results.

a. **Performing Discount**

The value of benefits and costs depends on when the parties receive benefits they have to pay a fee thus it is necessary to neutralize the effect of time in advance before comparing the benefits and costs. Performing discount can be regarded as converting all benefits and costs to the same basic data so that they can be compared

To decide whether to process discount to an estimate, the following tests can be used:

- ➔ For each alternative, calculate the benefit-cost ratio for each year in the predetermined time span.
- ➔ If the ratio of benefits and costs for each alternative has changed with the passage of time, the discount should be carried out to the predetermined estimate.
- ➔ If the benefit-cost ratio is constant over time, the discount process is not required. Simply use whichever year to compare benefits with costs or one alternative with another alternative.

b. Assessing the Distribution of Benefits and Costs

In each policy issued, there will always be groups disadvantaged either directly or indirectly by a policy. There are no clear rules that define when the redistribution of benefits and costs can be justified or not justified. But clearly, decision makers must be given information about the distribution of benefits and costs. Consequently, it may be necessary to conduct further analysis. The next step is to show who is helped and who is harmed by an alternative policy along with the reasons.

c. Assessing the Reliability of Analysis Results

The answers to question 1 (which is the best alternative?) and question 2 (whether the benefits of the best alternative exceed the costs?) may be highly dependent on several variables that contain uncertainty or the accuracy of some of the assumptions used. Assess whether it is true. If yes, then it is necessary to conduct further sensitivity analysis.

If the conclusions are not so sure, it may be necessary to consider whether collecting more data will be able to increase the level of confidence of the conclusions obtained. This means whether it is viable for the key variable uncertainty level used to be reduced or test the accuracy of the main assumptions underlying the conclusions of the analysis conducted.

III.4.4.4. How to Present Analysis Results?

The purpose of presenting analysis results is to summarize the options considered in the analysis, including the option to not do anything, in a way that can facilitate decision-making. Recall that in RIA it should be clearly demonstrated that the best alternative among a variety of regulatory and non-regulatory alternatives has been selected and the estimated benefits of the alternative cover cost estimates. The benefits should be aligned with the costs to be paid and an explanation must be given that the proposed alternative is for the benefit of the people of Indonesia.

When presenting analysis results, consider the following:

- ↻ Try to focus on aspects where each of the alternatives is different or in other words the same things on these alternatives do not need to be highlighted.
- ↻ Do not forget to describe and discuss the benefits and costs that cannot be quantified.
- ↻ Provide information about who gains and who loses.
- ↻ Report basic assumptions used and the results of sensitivity analysis done. In particular, if the answer to one of the questions (question 1 or 2) depends on several

variables that are uncertain or are based on certain assumptions so that the conclusion is not so convincing, then explain these things.

- ↪ If subject to discounts, report all estimates of benefits and costs in present value and sensitivity analysis should be performed based on the values that are already discounted.

After arguments have been presented to recommend an alternative action, the final judgment is with the decision-maker. Here will appear judgments that are more subjective such as political considerations. This can still be justified because as stated earlier, not all benefits and costs can be quantified, relative to justice concepts and often the beneficiary is different from the injured party.

CHECKLIST FOR THE STAGES OF COST-BENEFIT ANALYSIS:

- ☑ Who are the gainers and losers by each regulatory alternative? (the public, private sector, government, producers, consumers, and others)
- ☑ What is the form of benefits received and costs incurred by each party affected by the implementation of the regulation and how can each benefit and cost be measured?
- ☑ How is the magnitude of each aforesaid benefit and cost compared to the baseline used? (quantitative or qualitative measures).
- ☑ Taking into account all benefits and costs, either quantifiable or non-quantifiable, are the benefits of each alternative equal or exceeding the costs or vice versa?
- ☑ Of all viable alternatives (benefits exceed costs) which alternative has the highest benefit-cost ratio?

Example calculation of costs and benefits

To address the root of the problem of cocoa commodity in Majene, namely weak human resources of farmers and based on identification of problems and goals to be achieved, four alternative measures can be taken, as follows:

- ❖ **First Alternative:** *Do Nothing*
- ❖ **Second Alternative:** *Revision to Majene District Regulation concerning SOTK to form the Executive Agency of Agricultural Extension, Fisheries and Forestry*
- ❖ **Third Alternative:** *Establish a local regulation concerning institutionalization of farmer groups*
- ❖ **Fourth Alternative:** *Capacity building program for extension workers*

To select the best alternative measures for cost benefit analysis of each alternative. Below is a table of cost-benefit analysis of each alternative based on predetermined indicators. The amount of benefit or cost is indicated or measured with an index score based on a scale of -3 up to 3. A positive number indicates benefits obtained by each stakeholder and a negative number indicates costs/losses incurred by each stakeholder. While the number 0 (zero) indicates no costs or benefits (neutral) for the indicator in question, or the condition has not changed. The larger the number means greater benefits earned, and the smaller the number means greater costs incurred, as shown in the table below:

Benefits	Neutral	Costs
3 = Large Benefits	0 = Neutral/No Effect/No Change	-3 = Large Costs
2 = Medium Benefits		-2 = Medium Costs
1 = Small Benefits		-1 = Small Costs

Summary of cost-benefit analysis of each relevant alternative can be found in the table below:

Groups/ Stakeholders	Benefits / Costs	Alternative Actions			
		I	II	III	IV
Local Government	1. Additional Budget (Local Budget, APBD)	0	3	0	0
	2. Ease of Coordination between SKPDs	-1	1	1	2
	3. Efficiency and effectiveness of aid program implementation for farmers	-1	1	3	1
	4. Cost of establishing/revising local regulations	0	-3	-3	0
	5. Resistance among SKPDs	0	-3	0	0
	6. Political costs	0	-3	-1	0
	7. Operational costs (staff, facilities and infrastructure, socialization)	0	-3	-1	-1
	8. Coaching of target groups can be more focused	-1	1	3	1
	9. Supervision of the implementation of programs	-1	0	3	0
	10. Increased agricultural sector contribution to GDP	0	2	2	1
	11. Availability of clear organization data	-1	0	3	0
Extension Workers	1. Operational facility for extension workers	0	3	0	2
	2. Optimizing the implementation of mentoring	-1	3	3	3
	3. Mentoring implementation efficiency	-1	3	3	3
	4. Knowledge & skills of field extension workers (PPL)	-1	3	0	3
	5. Availability/adequacy of PPL in each village	-1	3	0	3
	6. Certification incentive	0	3	0	1
Regional Parliament (DPRD)	Distribution of the aspiration of constituents	0	1	2	0
Farmers	1. Increased knowledge and skills of farmers	-1	3	3	3
	2. Capacity building of farmers	-1	2	3	3
	3. Sustainability of training and mentoring programs to farmers	-1	3	3	3
	4. Advocacy of farmer problems	-1	2	3	2
	5. Cocoa quality and quantity levels	-1	2	2	2
	6. Access to capital/finance	-1	2	3	1
	7. Stability and standardization of cocoa price	-1	2	3	0

Groups/ Stakeholders	Benefits / Costs	Alternative Actions			
		I	II	III	IV
Farmers	8. Level of income and welfare	-1	3	3	2
	9. Capital cost of production	0	-1	-1	-1
	10. Access to price information and other information	-1	0	3	0
Merchant collectors	1. Ease of getting cocoa beans	-1	1	-1	1
	2. Cocoa quality and quantity	-1	2	2	2
	3. Standard price of cocoa	1	-1	-2	-1
	4. Gain/profit	1	1	-1	1
	5. Operational costs	-1	-1	-2	-1
Company	1. Ease (access to information) and certainty of getting raw materials	-1	3	3	1
	2. Cocoa quality and quantity	-1	2	2	2
	3. Standard information of cocoa prices	0	0	0	0
	4. Gain/profit	-1	2	3	2
	5. Operational costs	-1	1	1	1
	6. Access to other information	-1	0	3	0
Total		-24	43	51	42

III.4.5. Public Consultation

Pursuant to Law no. 12/2011 concerning community participation, the public has the right to provide input orally and/or in writing on the formation of laws and regulations. The input can be given through:

- a. Public Hearing;
- b. Working Visits;
- c. Sozialization; and/or
- d. Seminars, Workshops, and/or Discussions

In policy-making, each draft regulation or policy should be easily accessible by the public so that the public can provide input either orally or in writing. The underlying aspect of performing Public Consultation in any government policy-making is that the Government (regulators) does not have perfect information about public perception of the problem to be solved and the possibility of what would happen if the regulation

Experience shows that in industrialized countries, the institutionalization of public consultation is an effective mechanism to identify potential conflicts and build consensus. Learning various methods of consultation from the outside is a valuable resource for local leaders to build participatory governance. Indonesia has the practical experience of “deliberation”, which needs to be enriched. Law 34/2004 on Ombudsman is an important sample indicator of the growth of participatory and transparent governance

is enforced. Consultation with many parties will improve the quality of the resulting regulation.

The related parties (stakeholders) have a variety of positions. The main stakeholders are the parties that will be affected by a policy. Secondary stakeholders are intermediary institutions in the process of implementation. Key stakeholders are those who can influence the outcome in the process of drafting regulations. It is the government (executive and legislative) that ultimately makes the final decision and that will be held accountable. Public consultation is useful to close the gap between policy and public expectations. In the RIA process itself, public consultation covers the entire stages.

III.4.5.1. What is the Purpose of Consultation Process?

In general, the objective of performing consultation to the parties expected to be linked with a regulation is to improve the quality of regulation that later will be implemented. Better quality can be achieved due to:

1. Problems and root of the problems that occur can be studied more deeply.
2. Input from stakeholders can enrich problem solving alternatives with solutions that have not been thought of before and better in field operations.
3. Input from different parties of interest will help regulators to balance the different interests in the regulation to be implemented. A regulation is rarely able to please all parties. There will always be the beneficiaries and the losers. Consultation process can explore the different interests and accommodate them as much as possible in the regulations to be implemented.
4. At this evaluation stage of costs and benefits of each alternative solution, consultation will help regulators examine how realistic and accurate are the estimation of the costs and benefits.
5. Consultation will provide input on estimates of what would happen if a regulation is implemented. This estimate is useful to minimize the risk that previously has not been taken into account.
6. In the case of a regulation that only partially regulate or solve the problem, consultation will provide input on regulatory linkages with other regulations related to the same problem. This will prevent unnecessary overlap to solve the same problem or even a contradiction between the regulation and other regulations.
7. With accommodation of various interests as much as possible, it is expected that the level of acceptance of the regulation to be larger or at least can be predicted in advance.
8. Consultation will increase the credibility of regulations formulated because it gives the impression to the public that this regulation is not only formulated behind the counter. Although it is impossible to please all parties with any regulation, the consultation process would at least give the impression that the interests of the majority of the community have been taken into account and the harmful effects of the regulation have been anticipated.

III.4.5.2. Why Consultation Needs to be Planned?

Consultation plan must be prepared in writing outside the RIA process. This plan should be considered a flexible document and can always be changed in accordance with the

development of information obtained from participants. Consultation plan should at least include a list of parties to be consulted, the consultation mechanism and a list of information or issues that are planned to be consulted to each party.

III.4.5.3. How to Identify the Parties (Stakeholders) to be Consulted?

Perform the following steps in the identification of stakeholders to be consulted:

- a. Identification of separate groups that will be affected significantly by the regulation to be implemented.
- b. Group them into several smaller groups that are likely to receive different influence (government, consumer and producer/entrepreneur).
- c. From each group, split up into small groups, such as age, level of authority (central, regional) and others.

The following questions may help identify who should have been consulted.

- ☞ To whom is regulation intended? (in other words who is expected to have to change behavior?)
- ☞ Who will be harmed indirectly? (This group may include companies in related industries, consumers, or anyone who eventually must pay some of the regulation costs).
- ☞ Who would benefit?
- ☞ Who have expertise in issues relating to the regulation being formulated?

III.4.5.4. What Are the Mechanisms of Consultation?

Consultation with stakeholders can and should be done with a variety of both formal and informal mechanisms. Choice of methods that can be done include:

- Publication of draft regulation with a request to provide input to the draft.
- Publication of RIA draft with a request to readers to provide feedback.
- Meeting with expert observers, who will be affected by the regulation and the general public. The meetings can be done in various forms such as formal or informal small meetings and large seminars and symposia.
- Appointment of a consultation body for ongoing consultation during the RIA process.
- Publication of relevant draft RIA on the internet with a plea to readers to provide comments via email.

III.4.5.5. What Are the Levels of the Consultation Process?



Dissemination of information: Provision of information unilaterally is the lowest level of involvement, conducted through leaflets, advertising, and so on.

a. Consultation:

Two-way communication, organized through public hearings, public debates, working groups, and so on.

b. Collaboration:

The institutionalization of consultation in the form of a permanent institution, among others national commissions, ombudsman, etc.

c. Delegation:

he delegation of specific functions is the strongest level of involvement. For example, the right of the hotel association (IHRA) to certify the classification of hotels; Indonesian Medical Association (IDI) to issue a license to practice,

III.4.5.6. How to Identify the Information That Will be Sought During the Consultation?

Before consulting, it is necessary to identify the information that will be explored during consultation. The identification of this information is based on the problems, the government's ability to cope, regulatory or non-regulatory options that can be used and so on. To obtain relevant information it is necessary to also identify the relevant groups. Information can be obtained through surveys, although such surveys may not fully be known as consultation because respondents were not given information on draft regulations being analyzed.

III.4.5.7. How About Other Countries?

Consultation in the RIA context is not always easy. Many people and groups in general do not trust the government. At first, concerned groups may not have much involvement experience in the RIA process and do not really understand how the information they provide will be treated. Therefore, it is necessary to first build on mutual trust so that the relevant groups would voluntarily participate fully in the RIA process.

OECD has compiled some of the lessons learned from their experience in conducting consultation process for RIA. In summary, the lessons learned is that consultation should be made as an interactive process that occurs throughout the implementation of RIA. Some of the lessons learned worth considering include:

- Consultation should be initiated as soon as possible.
- Participants in the consultation process should be informed as early as possible on the draft regulations that are being considered and on RIAs that is being done.
- The RIA implementation team should be proactive in finding relevant people and groups to participate in the consultation.
- In order to establish mutual trust between the participants with the RIA team, consultation should be designed more as an ongoing dialogue rather than as a single meeting.
- Consultation should be a transparent process; those who participate and how they participate must become information that can be accessed by the public during progress of RIA process and reported in the RIAs.

III.4.5.8. What Are the Key Principles of the Consultation Process?

- Generally consultation is intended to gather information, build acceptance of regulation by the party to be affected by the regulation, and increase the credibility of RIA implementation team as well as their analysis results.
- Consultation can and should be implemented in various ways, either informal meetings to large gatherings and formal seminars and symposia.
- Consultation must be planned in advance in writing prior to the implementation of RIA and the plan must be treated as a flexible document that can continue to change in accordance with the development of information obtained from participants.
- Consultation plan must contain the identification of experts, stakeholders, and the general public who will be invited to be consulted and information to be extracted from each party.
- Consultation should be used as an interactive process that is conducted continuously throughout the implementation of RIA.

CHECKLIST FOR CONSULTATION STAGES

- Whichever party is consulted? (individual, group, association, organization, etc.).
- What are the mechanisms used for each of the consultation process carried out? (direct meetings, publication of papers, seminars, etc.)
- What are the results of each consultation conducted and how is the proposed regulation change due to the results of the consultation?
- If after consultation there are still individuals or groups who do not support the regulation plan, who are the parties that are still opposed and what are the arguments that they raise?
- If for some particular parties consultation was carried out (when it should be done) or was very limited done, please mention these parties and the reasons why?

Examples of Public Consultation

Below is presented a summary table containing the points that must be considered in public consultation that will be undertaken to support the implementation of policy alternatives in cocoa problem solving in Majene.

PUBLIC CONSULTATION	
Check List Question	Local Regulation on Farmer Groups
1) Identify which are the relevant parties for consultation?	<ol style="list-style-type: none"> 1. Farmers 2. KTNA 3. Extension workers 4. KPPK 5. Banks 6. Agriculture related Technical SKPD 7. Regional Parliament (DPRD) (Commission II)

PUBLIC CONSULTATION

Check List Question	Local Regulation on Farmer Groups
	<ol style="list-style-type: none"> 8. Traders and Entrepreneurs 9. BSP WASIAT 10. Legal Division 11. Satpol PP 12. Diskoperindag
a) Whichever parties have greater influence over the regulation being drafted?	<ol style="list-style-type: none"> 1. Agriculture related Technical SKPD 2. Commission II of Regional Parliament (DPRD)
b) Whichever parties have extensive knowledge of the issues being discussed?	<ol style="list-style-type: none"> 1. Regent's Expert Staff in Agriculture 2. KTNA 3. Universities/Academics 4. Activists/NGOs
2) Identify which are the parties who support and those who are less supportive? What is the reason?	<p>Supporting Parties:</p> <ol style="list-style-type: none"> 1. Farmers 2. KTNA 3. Extension workers 4. KPPK 5. Banks 6. Agriculture related Technical SKPD 7. Regional Parliament (DPRD) (Commission II) 8. BSP WASIAT 9. Legal Division 10. Satpol PP 11. Diskoperindag 12. Bappeda <p>Inhibiting Party: Merchant Collectors Reason: Loss of income</p>
3) What is the appropriate mechanism to hold public consultation	<ul style="list-style-type: none"> • Publication of draft regulation with a request to provide the draft. • Meeting/consultation with expert observers, those who will be affected by the regulation, and the general public. The meetings can be done in a variety of forms, such as small meetings (informal or formal), large meetings (seminars or symposia).
4) How to use public consultation results	
a) Is there a publication of public consultation results	Publication of public consultation results is made in the form of "RIA Statement" in hardcopy and published through print

PUBLIC CONSULTATION	
Check List Question	Local Regulation on Farmer Groups
	media, distributed in public discussions, directly or in electronic media.
b) Can public consultation results change regulation contents or problems being discussed.	This document is a flexible document that can always be changed along with the development of information obtained from involved participants/stakeholders.

Note: Strengthening of Legislation Capacity Training Results, September 12-14, 2013

III.4.6. Implementation Strategy

Regulation which is as good as any would be useless if it is not applicable. The success rate of implementation will affect how much benefits are expected to be realized. This all depends on the compliance level. In the RIA analysis, the estimated percentage of compliance level should be taken into account. It could be that an alternative with large level of benefits will be outweighed by an alternative with small level of benefits due to differences in compliance levels.

Estimates in the form of figures will assist decision makers in assessing whether an alternative is feasible or not. Moreover, this indicator will be useful later when evaluating the effectiveness of a regulation, if the regulation is ultimately implemented.

III.4.6.1. Focus of Attention on Implementation Strategy

Because the implementation process is not as easy as assumed, it is necessary to formulate a strategy to be followed in the implementation of a selected alternative. The factors that should be the focus of attention in the formulation of implementation strategy are:

- The mechanism that can be used for the implementation of the selected alternative is based on:
 - Analysis of possible reasons for non-compliance;
 - Review the list of various possible implementation mechanisms for each regulatory and non-regulatory alternative.
- Cost effectiveness of each alternative implementation mechanism based on:
 - Compliance level that can be expected for each alternative mechanism;
 - Costs to be borne by the government for each alternative mechanism;
 - Costs to be borne by businesses and consumers for each mechanism.

III.4.6.2. Types of implementation strategy

Several types of mechanisms that can be used to force or encourage target groups to comply with regulations to be implemented include:

- ☞ Verbal or written warning;
- ☞ Tilang;
- ☞ Administrative sanction;
- ☞ Increased regulatory burdens (such as demands for more rigorous report generation, more intensive inspection, or the imposition of additional costs for additional inspection);
- ☞ Financial penalty;
- ☞ Public announcement of parties who did not comply;
- ☞ Sanctions in terms of licensing (such as suspension, revocation, and not allowed to renew license);
- ☞ Criminal lawsuit.

In addition to the sanctions and penalties mentioned above, the strategy to increase the degree of compliance should also consider the possibility of utilizing rewards and incentives for voluntary compliance. Incentive options that can be considered include:

- ☞ Reduction in the number of inspections;
- ☞ Offers to reduce penalty;
- ☞ Simplification of licensing for companies that have good record in complying with various provisions;
- ☞ Distributing rewards based on high compliance levels.

Based on the above considerations, the socialization process of a regulation becomes very important to be planned in the implementation strategy. For things that are very technical, a longer time span is needed to socialize the considerations to the target groups. If it is necessary for a regulatory process to be implemented perfectly, then the transition period must be included and anticipated in the implementation strategy.

Examples of Implementation Strategy

In Majene, in order that the implementation of the selected alternative can work well, a few things have been formulated related to the implementation strategy as listed in the concise table below:

IMPLEMENTATION STRATEGY	
1. What is the mechanism used to select an alternative action?	
a) Regulation or non-regulation?	Regulation in the form of local regulation (perda)
b) How is the analysis of the perception of compliance level?	<ul style="list-style-type: none"> The parties (stakeholders) are believed to adhere to the policy made, because this policy is derived from the aspirations of stakeholders from the bottom (Bottom Up). The existence of common consciousness to resolve problems faced by cocoa farmers in Majene.
c) How is cost-benefit analysis?	Based on cost-benefit analysis, it can be concluded that the benefits are greater than the costs.
2. What are the types of sanction used to encourage compliance?	To encourage the compliance level to regulations, an administrative sanction can be imposed. In fact, if required, a criminal sanction can also be imposed against offenders.

IMPLEMENTATION STRATEGY

3. What are the forms of socialization done to encourage compliance?	<ul style="list-style-type: none"> • Public Consultation (FGD or informal meetings) to the relevant parties. • Presentation of results/hearing/ meeting with the Regent or Regional Parliament (DPRD). • Publication is done through the print and electronic media.
a) How is the effectiveness of socialization?	Effective
b) How is the intensity of socialization?	7 times

IV. INVESTMENT FRIENDLY LOCAL REGULATION

As mentioned earlier, in addition to good planning mechanism, a policy must also have good substance. To produce an investment-friendly local regulation, in terms of substance it must meet two criteria, namely General Criteria and Specific Criteria for an investment-friendly local regulation.

A. General Criteria

The definition of general criteria is that the criteria must be present in all local regulations that directly or indirectly are related to the business or investment activity in the area. Some of the criteria included in the general criteria are:

1. Compliance with needs
 - » Set up only as needed to be regulated so that the resulting local regulation is strictly in accordance with the goals and objectives.
 - » Can be implemented, in the sense, that the local regulation must take into account the effectiveness of the laws and regulations on a philosophical, juridical or sociological basis.
 - » Helpful and efficient, this is because the local regulation was made for the conditions in the community in need of regulating. Not only that, the local regulation is also expected to be useful in regulating the life of society, nation and state.
2. Good Substance/Writing
 - » Well written substance, use of simple language and does not cause multiple interpretations. Having clarity of formulation in terms of legal language, terminology, and easy to understand.
 - » Relevance of judicial references and refers to the regulation or legislation governing the same objects
 - » Recency (up-to-date) of judicial references, in the sense that the local regulation must refer to the most advanced laws and regulations
 - » Juridical completeness, in the sense that the local regulation must have materially completeness regarding whatsoever should be regulated in a local regulation (minimum content). In addition there should be a clear objects and subjects regulated.

- » The consistency between articles and accuracy of material contents in the local regulation
- 3. Justice
 - » Ensure that all parties are equal before the law. There should be no provision that differentiates the treatment of local regulation subjects especially ethnicity, race, religion and class.
 - » Mention clearly the rights and obligations of local regulation subjects so that there is legal certainty. The substances contained in the local regulation should function to provide protection in order to create public tranquility.
 - » Taking into account the diversity of the population, religion, ethnicity and class, specific conditions of regions and culture.
- 4. Transparency
 - » The local regulation opens public/stakeholder participation not only in establishing but at the time of implementation.
 - » The local regulation should be easily accessible to the public to obtain critical information in decision making
 - » Do not obstruct access by communities to access economic resources
- 5. Fair Competition
 - » Open up opportunities for all walks of life, avoid unfair competition practices, and pay attention to the protection of consumers
- 6. Incentives for Businesses
 - » Containing incentives to communities and businesses in developing business in the area (relief of tax and or user charges, ease of licensing, capital or facilities and infrastructure incentives)
- 7. Efficiency
 - » Can provide at least 3 efficiencies for investors and the local government, namely: cost efficiency, human resources efficiency and bureaucratic efficiency
- 8. Good Conflict Management
 - » The existence of inter-party dispute resolution mechanisms that are clear, fast, inexpensive, binding and measurable.

B. Specific Criteria

The specific criteria in question are criteria specific to the types of local regulations associated with the economy. In this case there are four types of economic local regulation can be seen in the table on the side:

To implement an investment friendly local regulation, there are several things to note as follows:

- a. Local Regulation Effectiveness. Local government implementation must be effective (on target) in solving the problems that arise in society instead of adding new problems.
- b. Compliance with implementation on the ground. The implementation of an investment-friendly local regulation should be consistent and consequent with what have been set out in the local regulation as well as the implementation in the field.
- c. Compliance level of society. The implementation of an investment-friendly local regulation should be able to regulate investors and communities in reducing or eliminating violations as well as reducing other types of transgressions.

ECONOMIC LOCAL REGULATIONS

Local Regulation on Levies (taxes and user charges) and licensing	Regional Planning Law (spatial, RPJMD, etc.)	Local Regulation on Regional Budget (APBD)	Local Regulation on SOTK
<ol style="list-style-type: none"> 1. Contents of local regulation on levies, types of levies, and tariffs adjusted to the provisions of Law No.28/2009. 2. Contents of Local Regulation on Licensing provisions adjusted to Law No. 25/2007 on Investment. 3. Contain incentives to communities and businesses in developing business in the area (relief of taxes and or user charges, ease of licensing, capital or infrastructure incentives) 	<ol style="list-style-type: none"> 1. Preparation of RPJMD refers to RPJMN by observing the following factors: <ul style="list-style-type: none"> • Potential of region • Economic, social and culture of the community • Environmental capacity 2. Spatial local regulation contains spatial arrangement plan of an area with reference to Law No. 26 of 2007 	<ol style="list-style-type: none"> 1. Contain endorsement of regional budget to be used for the current budget year. 2. Contents of Local Regulation on Regional Budget refer to the Regulation of the Minister of Home Affairs No. 27/2013 and Government Regulation No. 71/2010 (PSAP). 3. Local Regulation on Regional Budget should be efficient, based on performance and encourage growth in the region. 	<ol style="list-style-type: none"> 1. Material contents regulated cover the amount and size of SKPD in the region. 2. Local Regulation on SOTK is based on Government Regulation No. 41 of 2007 on Guidelines for Organization of the Local Administration.

EXAMPLES OF INVESTMENT FRIENDLY LOCAL REGULATIONS:

1. Investment incentive local regulation in Balikpapan City:
 - provide incentives to investors based on business site region;
 - investors in KIK region are given incentives in the form of tax relief and/or relief of local user charges (25-75%), and 5-25% for investors who conduct business beyond KIK
 - processing ease of all licenses in the form of prioritizing issuance of all permits.
2. Investment protection local regulation in Barru District:
 - Provision of facilities: assist in processing licensing services, facilities, and preparation of land appropriate to allocation plan;
 - Tax/user charges ease and relief for a certain period;
 - Employment: Local Government must facilitate the provision of manpower requirements and mediate disputes;
 - Certainty of doing business: protection of civil rights of investors and guarantees

Some of the effects arising from the implementation of an investment-friendly local regulation are as follows:

- a. Social impact, such as order in society, the creation of broad employment, poverty reduction and so forth.
- b. Economic impact, in the form of economic improvement, increased investment, economic growth and so forth.
- c. Legal impact, in the form of a decrease in the number of dispute problems, the decrease in crime rate and so forth.





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