

Society for Risk Analysis
Resources for the Future
New Ideas for Risk and Regulation
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Quality Regulation for the 21st Century Best Practices and Recent International Trends

An OECD perspective

This presentation represents the views of the author,
not the official position of the OECD.

Mr. Stephane Jacobzone

OECD Regulatory Policy Division



ORGANISATION FOR ECONOMIC
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Presentation outline

1. OECD and the quality regulation agenda
2. An evolving policy context
3. Some international comparisons
4. The risk agenda
5. The way forward

OECD and the Regulatory Reform Agenda

- The OECD: An increasingly **global organisation**:
 - **Currently 30 countries: Europe, Asia, North America**
 - **Accession** (Chile, Israel, Estonia, Slovenia, Russia)
 - **Enhanced Engagement** (China, Brazil, SA, India, Indonesia)
 - Close work on regulatory reform with key US partners, Mexico, Korea, Brazil, China, Japan, Canada, India next
 - Current EU15 project
 - APEC: joint Checklist
 - Project for Middle East and North African Countries (10 countries)
 - Involvement in Eastern Europe (SIGMA, Stability Pact)
- A focus on **analytical purposes** but also serving **global outreach**
- **Different priorities for different groups of countries (risk, red tape)**



Promoting Quality Regulation at international level: The role of the OECD

- The role of the OECD is to function as a clearing house
 - Comparisons between countries
 - Sharing good practices
 - Country reviews with recommendations for action (Australia, EU countries)
 - Comparing practices and deriving best practice: “soft law”
 - Quantitative and qualitative information: data, country reports
- Promoting OECD practices to non OECD countries through mutual exchange and policy dialogue
- Identifying new and emerging issues : risk, governance for quality regulation
- Co-ordinating with other international organisations: EU Commission,



An evolving policy concept

From Deregulation to Quality Regulation

➤ ***Three sets of principles***

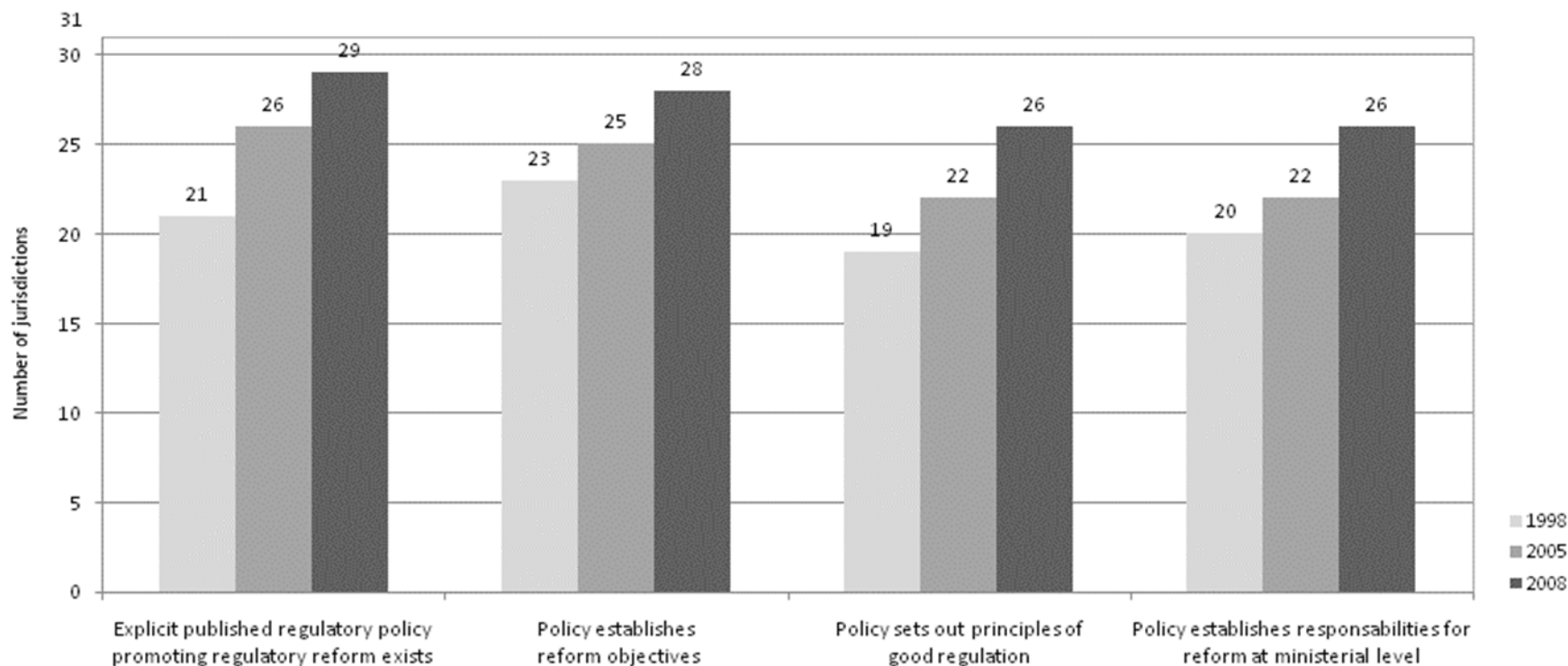
- 1995 Principles
- 1997 Policy Recommendations
- 2005 Guiding Principles for Regulatory Quality and Performance

Regulatory quality is the driving principle behind reform today:

- Deregulation where markets work better than governments, Efficient markets and good governance
- Re-regulation and new regulatory institutions where markets cannot work without governments
- More efficient government and social regulations to achieve high standards of health, safety and environmental protection at lower economic cost
- ***Risk, distributional concerns ...***

Strong underpinnings for regulatory reform in many OECD countries

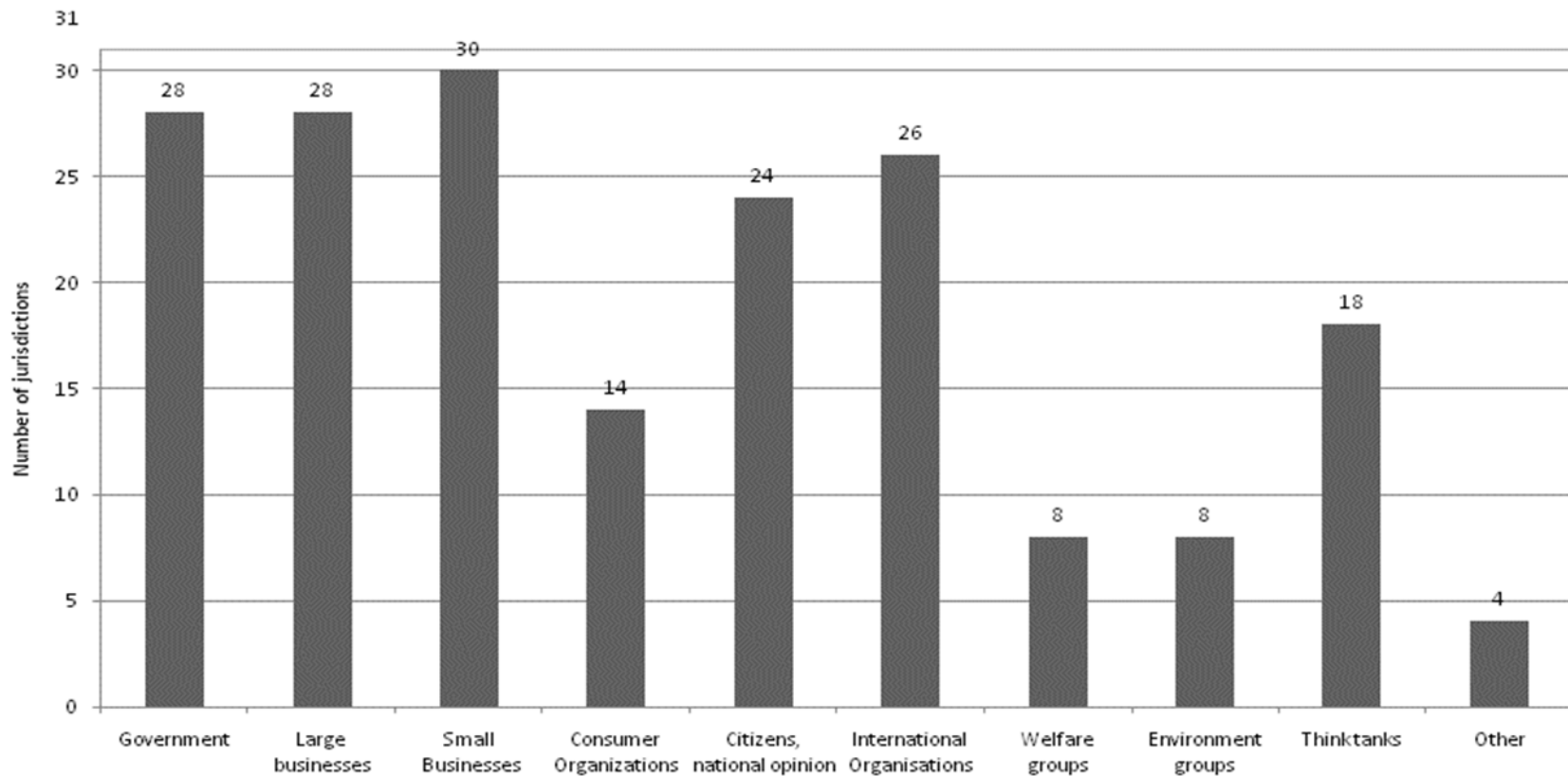
Explicit regulatory policy promoting government wide regulatory reform (1998-2005-2008)



Note: The sample includes 31 jurisdictions for 2008 and 2005. For 1998, 27 jurisdictions are included as no data was available for the EU, Luxembourg, Poland and Slovak Republic.

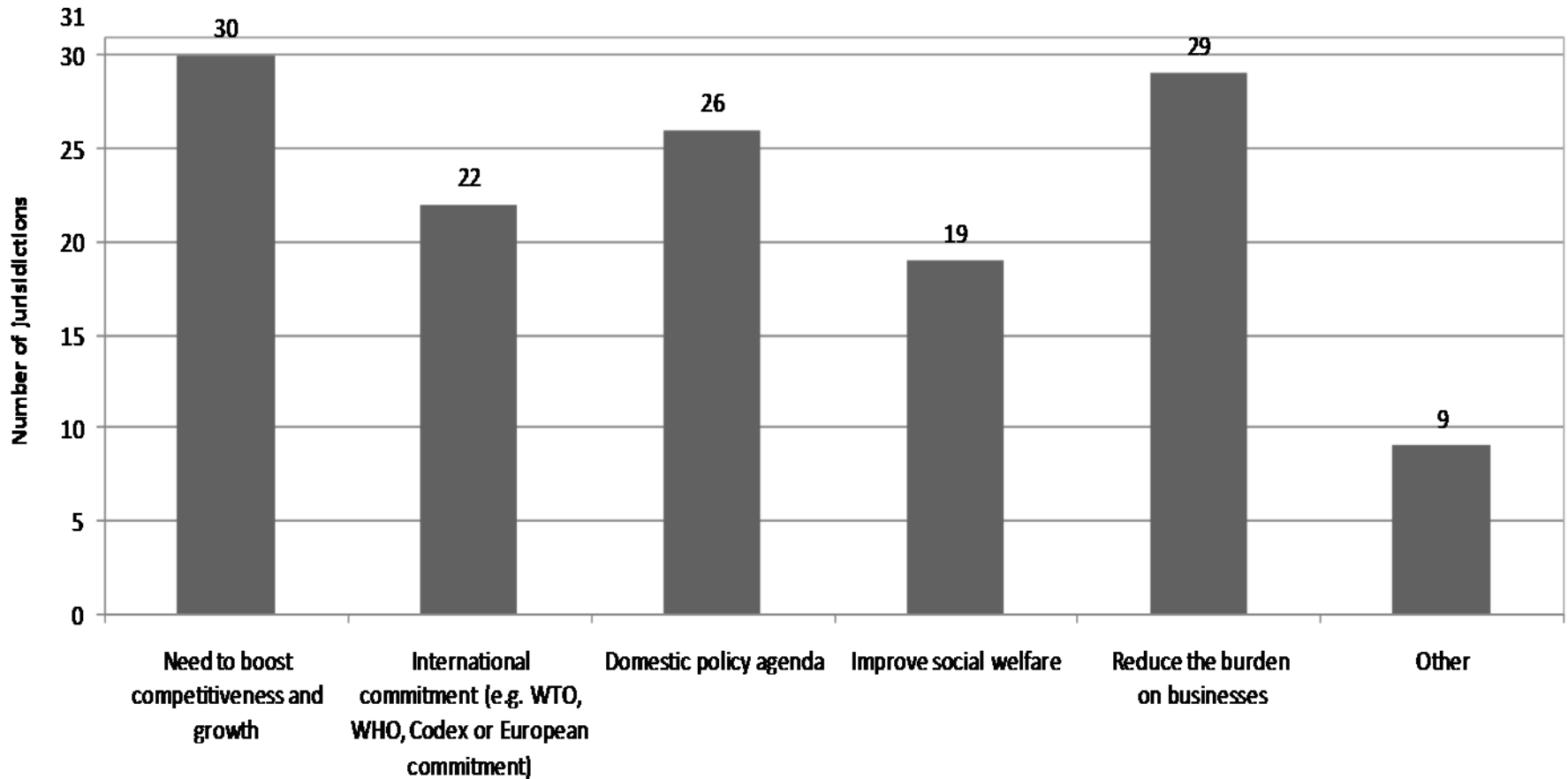
Supported by a number of policy drivers

Drivers for reform, 2008



Main motives for reform, (2008)

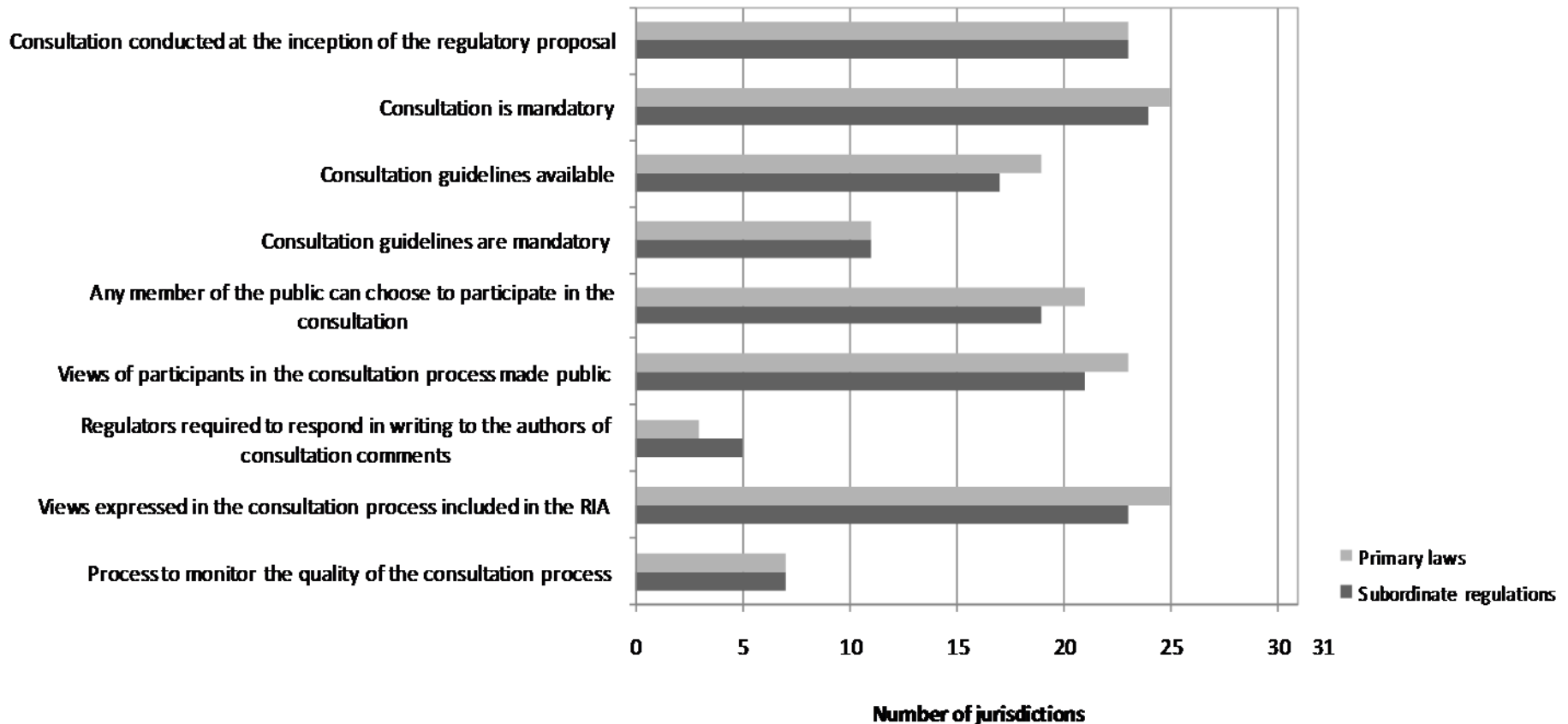
Main Motives for reform, 2008



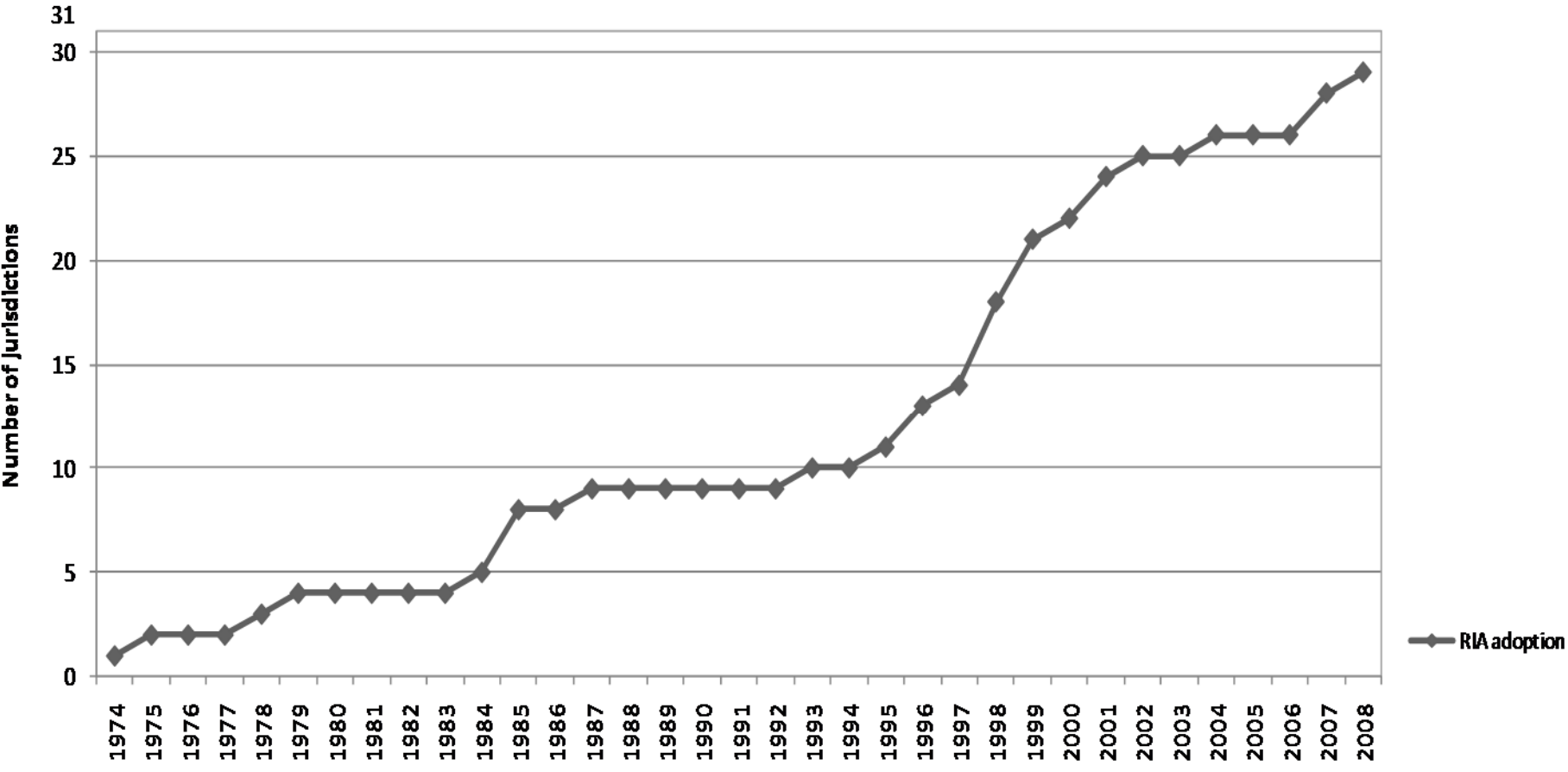
Formal consultation processes 05/08

Separate results for laws and subordinate regulations

Formal consultation processes, 2008



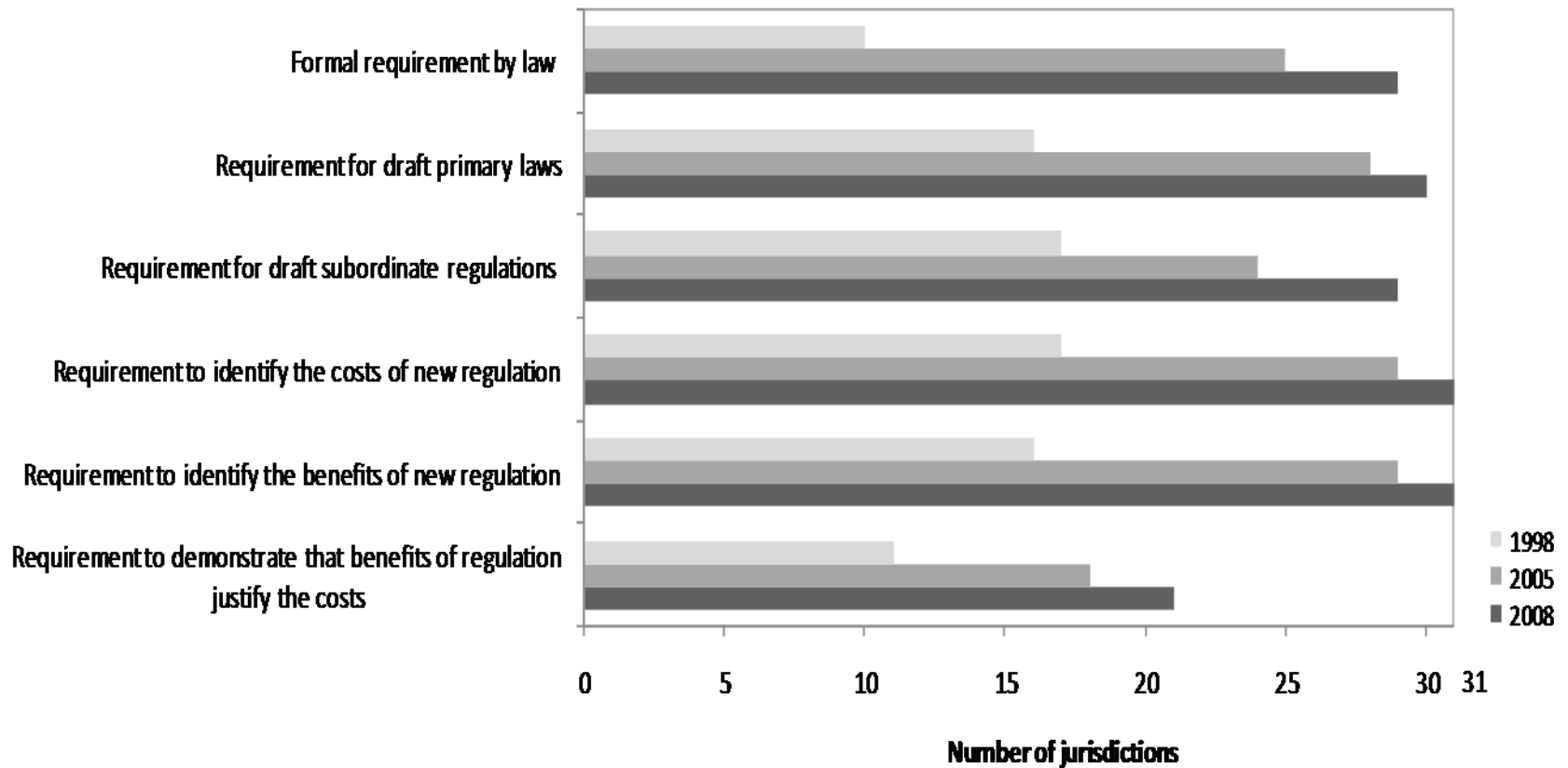
Trend in RIA adoption across OECD countries



Requirement for Regulatory Impact Analysis

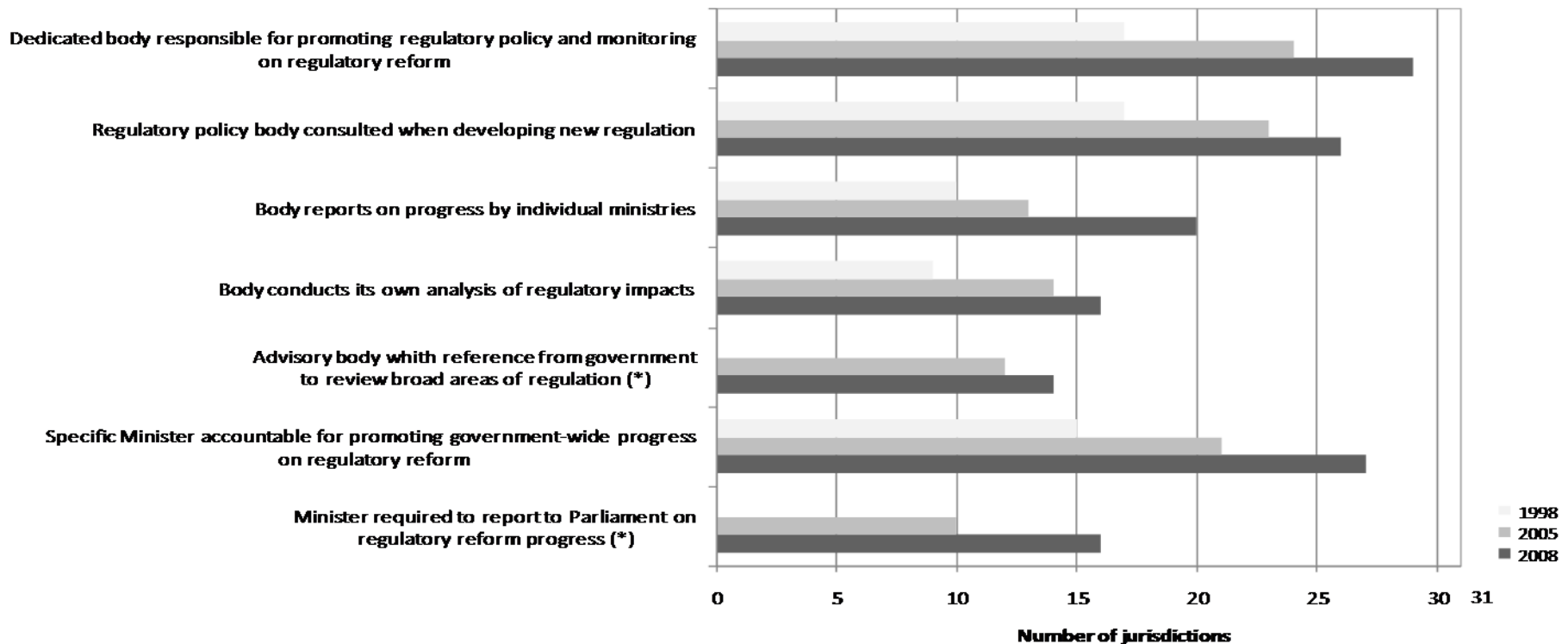
A strengthening of the requirements (1998-2005-2008)

Regulatory Impact Analysis: Requirement for RIA



Strengthening of the institutional setting for quality oversight (1998-2005-2008)

Institutional arrangements to promote regulatory policy (1998-2005-2008)

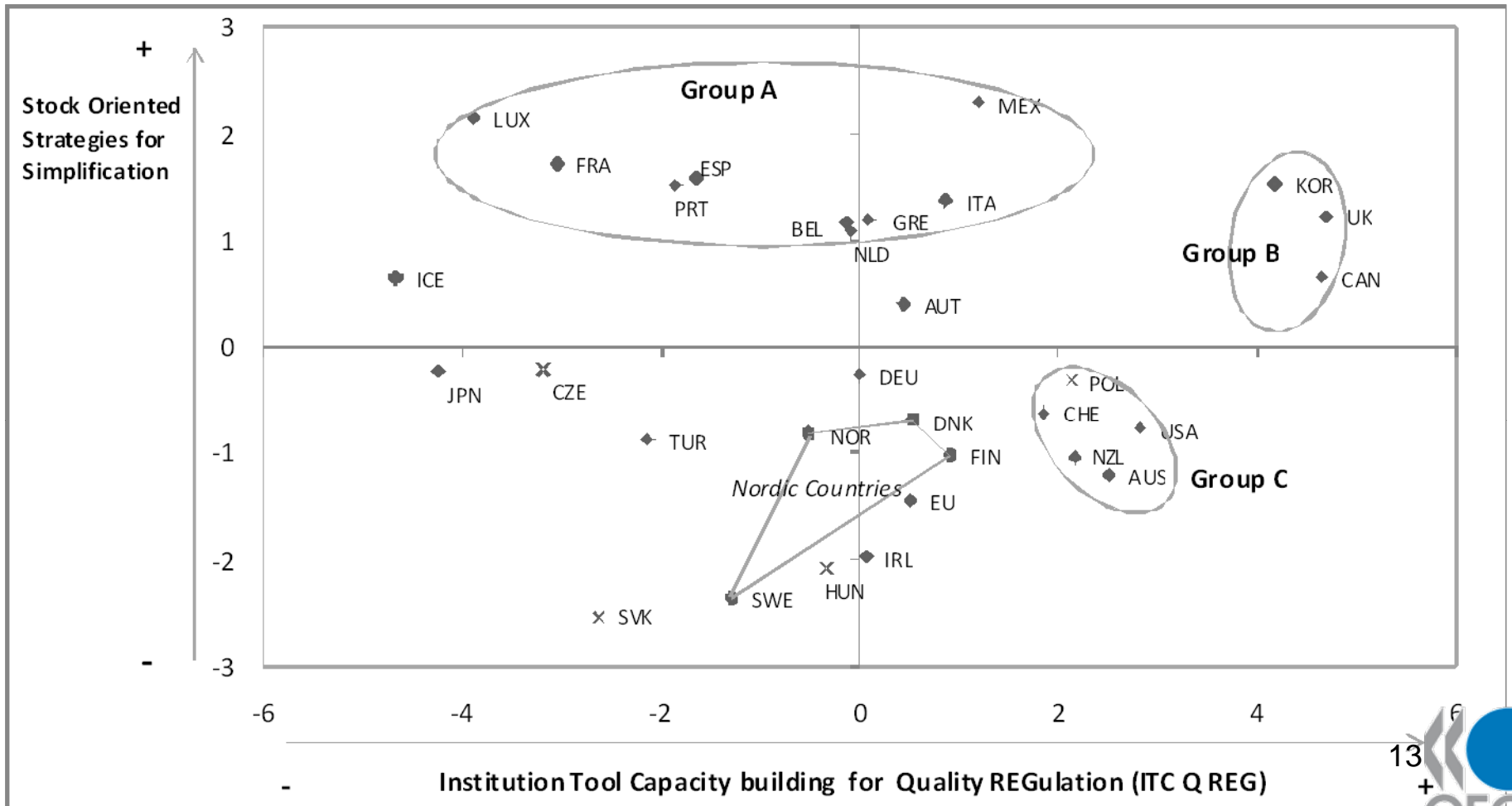


Note: The sample includes 31 jurisdictions for 2008 and 2005. For 1998, 27 jurisdictions are included as no data was available for the EU, Luxembourg, Poland and Slovak Republic
 (*) Questions only relevant for the years 2008 and 2005

How does the US compare ?

Cross country Patterns

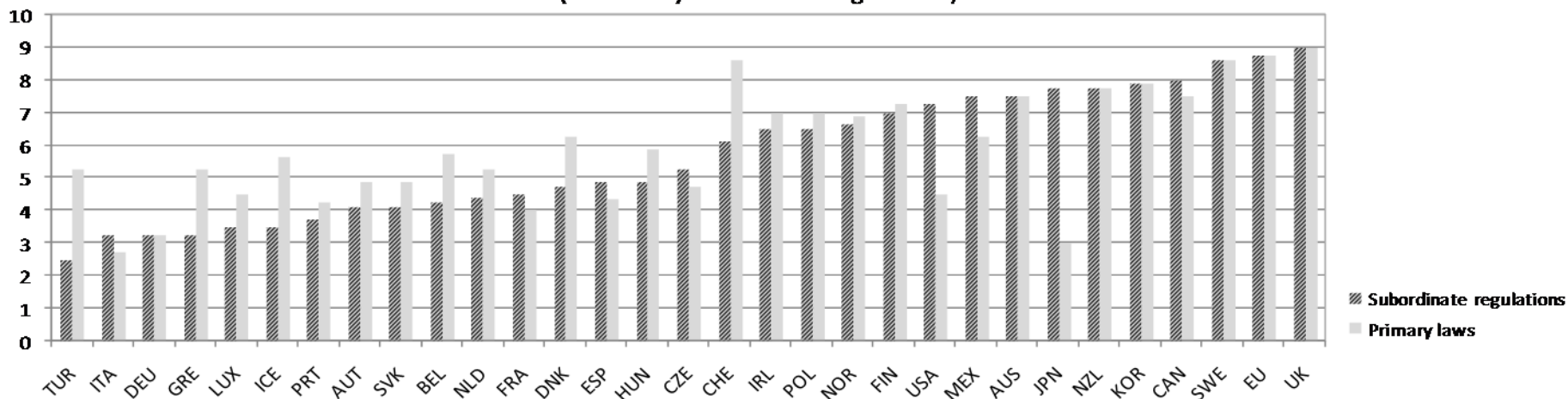
Regulatory management strategies in 2005



Formal consultation processes 2008

A mixed situation

Q9 Formal consultation processes, 2008
(ordered by subordinate regulations)



a) Is public consultation with parties affected by regulations a routine part of developing draft primary laws-subordinate regulations?

When is it conducted? a(i) at the inception of the legal proposal?

a(ii) during the drafting of a regulatory impact statement (RIS)?

If the answer is "always" or "in some cases" to a) Is consultation mandatory?

b(v) Are there consultation guidelines?

If so, are they mandatory?

b(vii) What forms of public consultation are routinely used:

- Broad circulation of proposals for comment? - Public notice and calling for comment? - Public meeting? - Simply posting proposals on the Internet? - Advisory group? - Preparatory public commission/committee?

b(viii) Can any member of the public choose to participate in the consultation?

c(i) What is the minimum period for allowing consultation comments inside government?

c(ii) What is the minimum period for allowing consultation comments by the public, including citizens and business?

d(i) Are the views of participants in the consultation process made public?

d(ii) Are regulators required to respond in writing to the authors of consultation comments?

d(iii) Are the views expressed in the consultation process included in the regulatory impact analysis?

d(iv) Is there a process to monitor the quality of the consultation process? (e.g. surveys or other methods, please specify in comments)

d(v) Is guidance available on how to conduct effective consultation?

See Question 9 / 2008 OECD Regulatory Indicators Questionnaire

Note: This indicator has been divided by 2, the weights presented have been adjusted

Weights:

No=0, In some cases=0.5, Always=1

No=0, Yes=0.75

No=0, Yes=0.5

No=0, Yes=0.5

No=0, Yes=0.5

No=0, Yes=0.5

If ticked, weight= 0.25, 0.5, 0.25, 0.25, 0.25, 0.25

No=0, Yes=0.5

1 week=0.125, 2 weeks=0.25, 4 weeks or more=0.5

2 weeks=0.125, 3 weeks=0.2, 4 weeks=0.25, 6

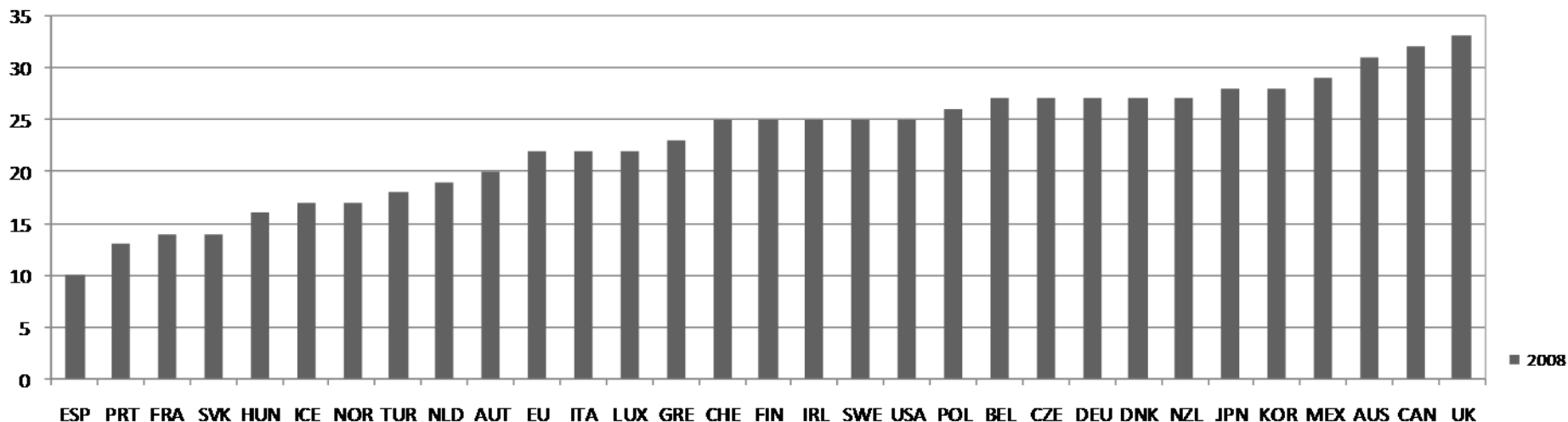
weeks=0.4, 8 weeks= 0.5, 12 weeks or more= 0.75

Until end: No=0, Yes=0.5

except d(ii): No=0, Yes= 0.25

Explicit RIA processes, 2005-2008

Q10 Explicit RIA processes, 2008 (RIA 1)



- a) Is regulatory impact analysis (RIA) carried out before new regulation is adopted?
 b) At what stage is the RIA prepared?
 b(i) Early in the development of a regulatory proposal?
 c) Is a government body outside the ministry sponsoring the regulation responsible for reviewing the quality of the RIA?
 d) As part of this review is there scope for:
 d(i) Revising the regulatory proposal?
 d(ii) Blocking the regulatory proposal?
 e) Is there a clear "threshold" for applying RIA to new regulatory proposals?
 If the answer is "yes": f) As a result of the threshold test is there a requirement for a simplified RIA as an alternative to a full RIA?
 g) Is guidance on the preparation of RIA provided?
 h(i) Is RIA formally required by law or by a similarly binding legal instrument?
 h(ii) Is RIA required for draft primary laws?
 h(iii) Is RIA required for draft subordinate regulations?
 h(iv) Are regulators required to identify the costs of new regulation?
 If yes: Is the impact analysis required to include the quantification of the costs?
 h(v) Are regulators required to identify the benefits of new regulation?
 If yes: Is the impact analysis required to include the quantification of the benefits?
 h(vi) Does the RIA require regulators to demonstrate that the benefits of new regulation justify the costs?
 h(vii) Are RIA documents required to be publicly released for consultation?
 k) Are *ex post* comparisons of the actual vs predicted impacts of regulations made?
 l) Is there an assessment of the effectiveness of RIA in leading to modifications of initial regulatory proposals undertaken?

Weights:

No=0, In some cases=1, Always=2

No=0, Yes=2

No=0, Yes=3

No=0, Yes=1

No=0, Yes=1

No=0, Yes=2

No=0, Yes=1

No=0, Yes=2

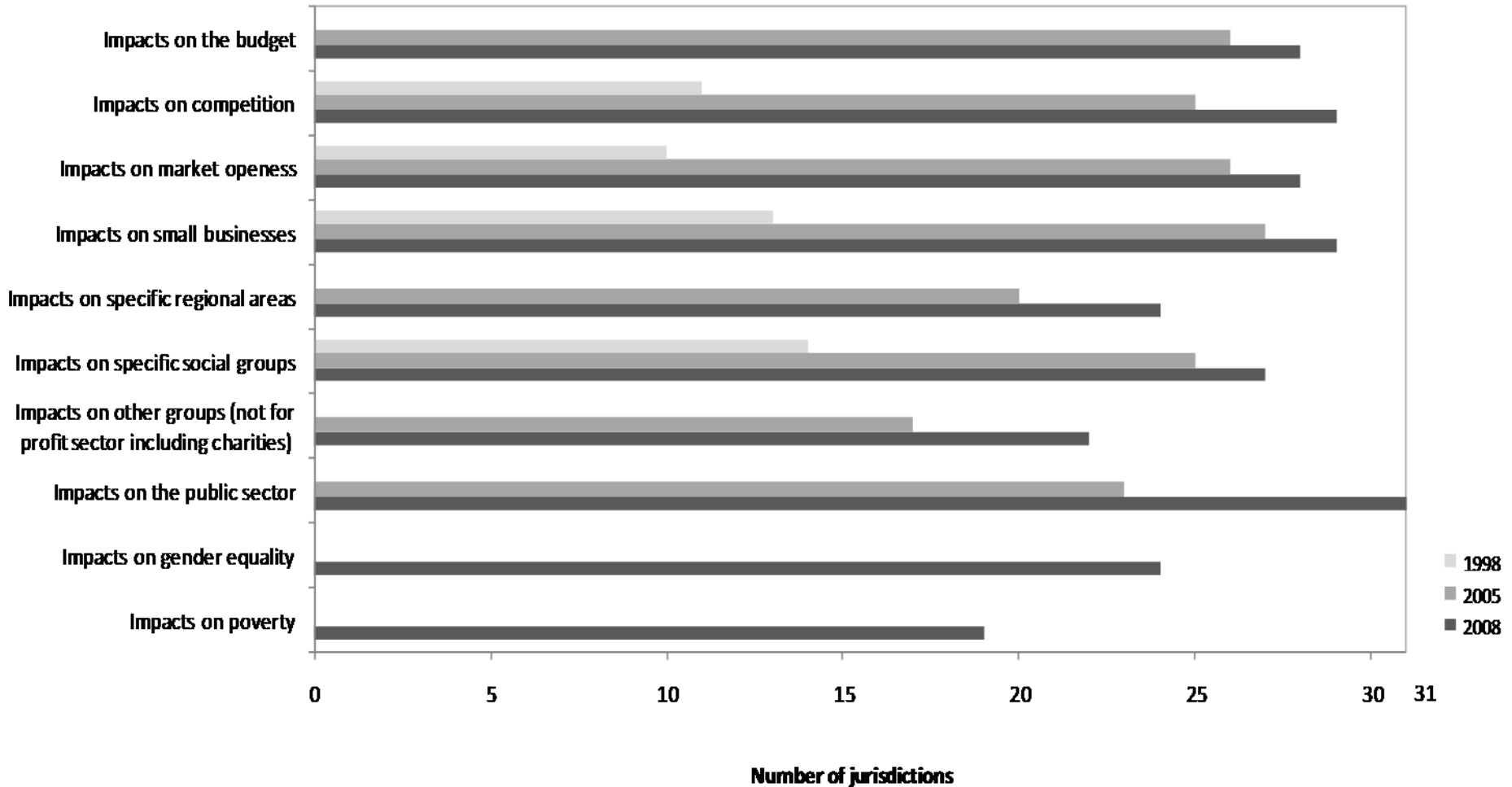
h(i) to h(vii): No=0, In other selected cases=1, Only for major regulation=1, Always=2

No=0, Yes=1

No=0, Yes=1

Explicit RIA processes, 2005-2008

Regulatory Impact Analysis: Requirement for policy impacts (1998-2005-2008)

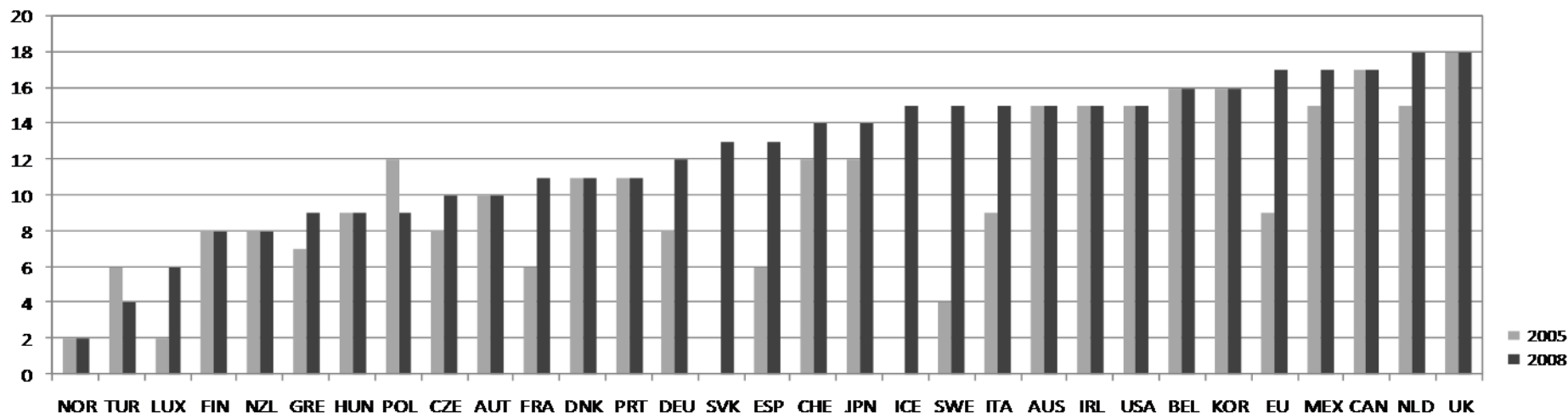


Regulatory Oversight Bodies

- *Institutional consolidation*

- *Significant change in some jurisdictions (EU)*

Q14 Institutional capacity for managing regulatory reform, 2005-2008



Weights:

- Is there a dedicated body (or bodies) responsible for promoting the regulatory policy and monitoring and reporting on regulatory reform and regulatory quality in the national administration from a whole of government perspective?
- Is this body consulted as part of the process of developing new regulation?
- Does this body report on progress made on reform by individual ministries?
- Is this body entrusted with the authority of reviewing and monitoring regulatory impacts conducted in individual ministries?
- Can this body conduct its own analysis of regulatory impacts?
- Is this body entrusted with an advocacy function to promote regulatory quality and reform?
- Is there an advisory body that receives references from Government to review broad areas of regulation, collecting the views of private stakeholders? (e.g. past bodies have included the Better Regulation Task Force in the UK, the External Advisory Council on Smart Regulation in Canada and the Regulatory Reform Council in Korea)
- If the answer is "yes": b(i) Does this body have a degree of independence from government (e.g. through a board or commission structure)?
- If the answer is "yes": b(ii) Does this body report its findings publicly?
- Is a specific minister accountable for promoting government-wide progress on regulatory reform?
- If the answer is "yes": c(ii) Is the Minister required to report to Parliament on progress?

- if yes, weight=3
- if yes, weight=2
- if yes, weight=2
- if yes, weight=2
- if yes, weight=1
- if yes, weight=1
- if yes, weight=1
- if yes, weight=1
- if yes, weight=1
- if yes, weight=1
- if yes, weight=2
- if yes, weight=2

See Question 14 / 2008 OECD Regulatory Indicators Questionnaire



Regulatory Reform and the risk agenda

- Risk management and good governance:
 - Assessment
 - Management
 - Review
- Few countries have an explicit whole-of-government policy or advisory body: UK
- Need to assess and manage risk
- Avoid excessive precautionary measures and balance costs and benefits
- Co-ordinate public and private responses
- Avoid short term responses in periods of crisis
- Single agency policies vs global gvt responses (Japan)

Designing successful strategies for regulatory reform: Lessons of experience

- Leadership as the most important ingredient for success
- Crises as catalyst for change
- Harmful effects of a short-term perspective
- Role of central regulatory bodies to change administrative culture
- Need for a communication strategy to build constituency for reform
- Getting the level of intervention right



Conclusion: The way forward

Quality regulation is high on the policy agenda and is becoming a dynamic permanent feature of public policy

All countries are making progress: the cost of no reform

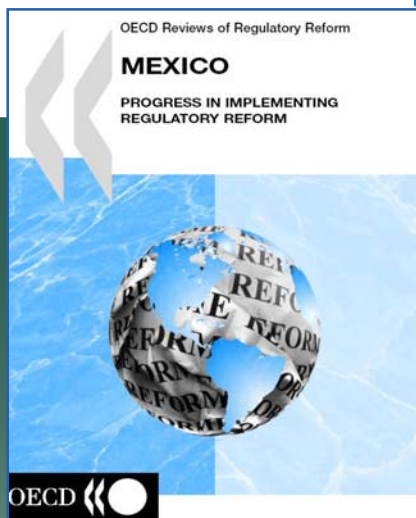
The political economy of reform

- Implementing timely reforms winning consensus
- Building support for reform
- Overcoming vested interests
- Sequencing reforms: short-term costs vs long-term benefits
- Need for communication strategies

OECD Sources and Publications on Regulatory Reform

Website: www.oecd.org/regreform

- OECD 2005 Guiding Principles for Regulatory Quality and Performance (www.oecd.org/regreform/principles)
- Regulatory Reform Reviews by Country (www.oecd.org/regreform/backgroundreports)
- Indicators
- Analytical reports: cutting red tape, RIA, risk





Thank you for your attention

Mr. Stephane Jacobzone

OECD Secretariat

Stephane.jacobzone@oecd.org



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