ERERA FORUM 2012 ARREC
November 20 - 21 Novembre, Dakar - Senegal

- **NERSA Benchmarking Project**

BY

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A. Overview of NERSA's mandate

- The **National Energy Regulator (NERSA) is a regulatory authority** established as a juristic person in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004).

- NERSA's mandate is to regulate the following industries:
  - ✓ **ELECTRICITY** - Electricity Regulation Act, 2006 (Act No. 4 of 2006)
  - ✓ **PIPED-GAS** - Gas Act, 2001 (Act No. 48 of 2001)
  - ✓ **PETROLEUM INFRASTRUCTURE -** Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)

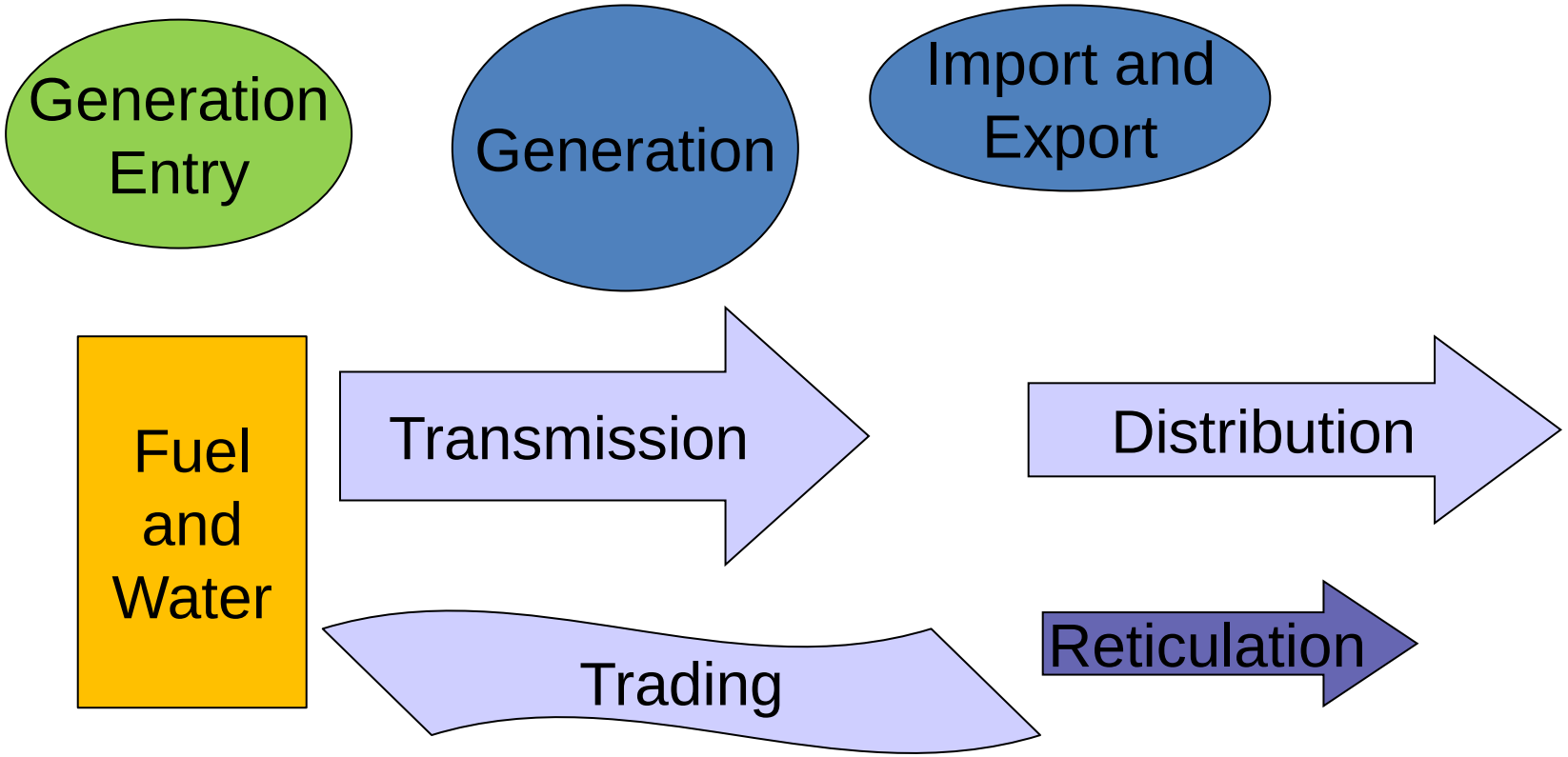
The National Energy Regulator

- Established 1 October 2005 by the NERSA Act.
  - Independent Regulator; Decisions based on reasons, facts and evidence; Public meetings; Significant enforcement powers
- Mandated to regulate the electricity, piped-gas and petroleum pipelines industries in terms of three “industry” Acts
- Five part-time and four full-time members regulates the industries as a collective.
- The Minister of Energy designates the members as follows:
  - One part-time member as chairperson and another as deputy chairperson;
  - One full-time member as the Chief Executive Officer (CEO)
  - Three full-time members to be primarily responsible for each of the regulated industries.
  - Three other part time members

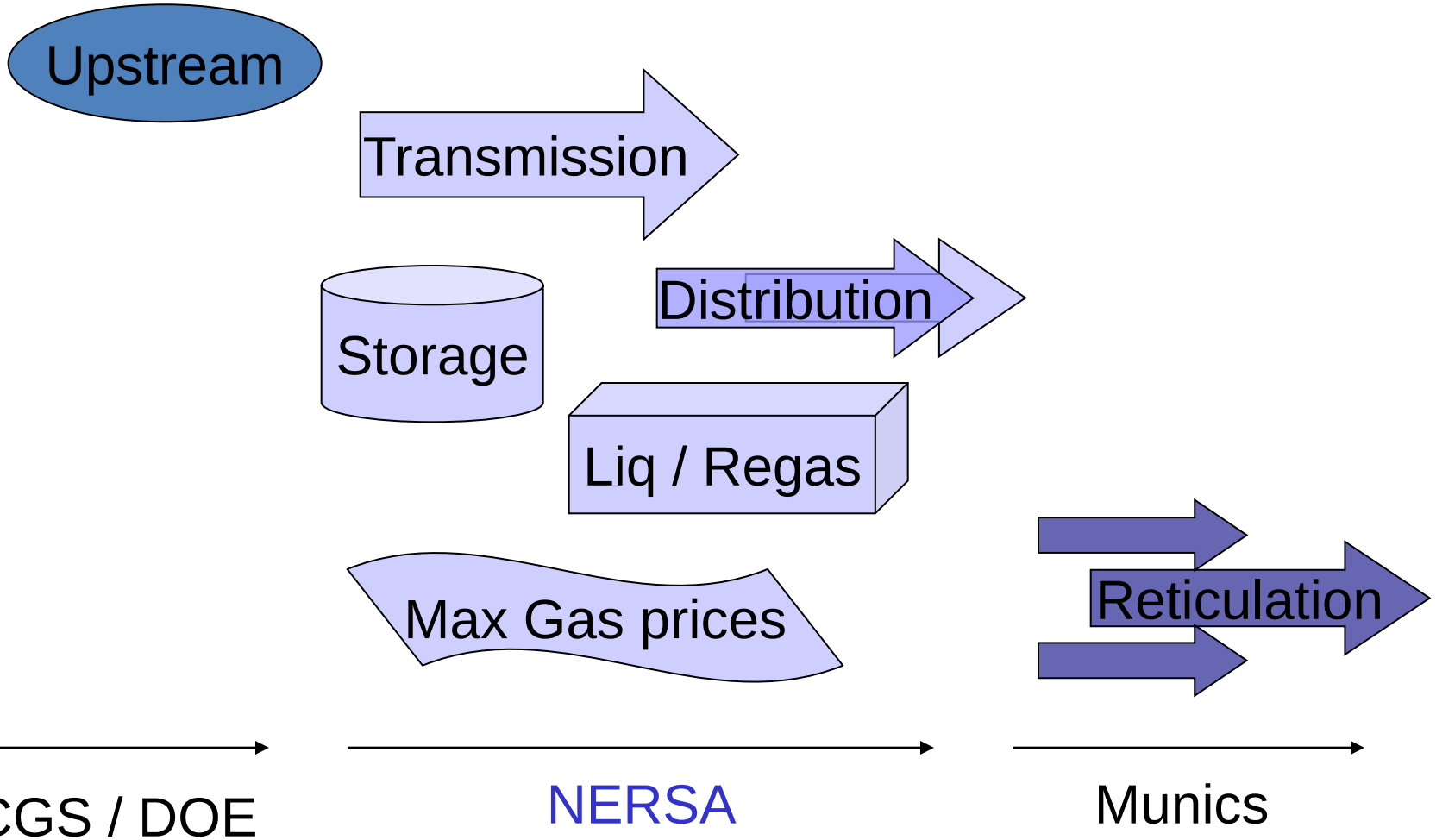
Functions of Energy Regulator

- The functions of the Energy Regulator is defined in the respective industry legislation. It comprises:
  - Licensing: Construction, operations; trading;
  - Setting of tariffs and price structures;
  - Setting of conditions of supply and standards;
  - Monitoring compliance with licence conditions
    - separate accounting provisions;
    - third party access and interconnection provisions;
    - Non-discrimination;
    - Safety, environment, health and security standards
  - Handling of non-compliance
    - setting penalties and fines for non-compliance;
  - Investigate complaints;
  - Mediate or arbitrate in disputes;
  - Gather and store industry information

Scope of electricity regulation

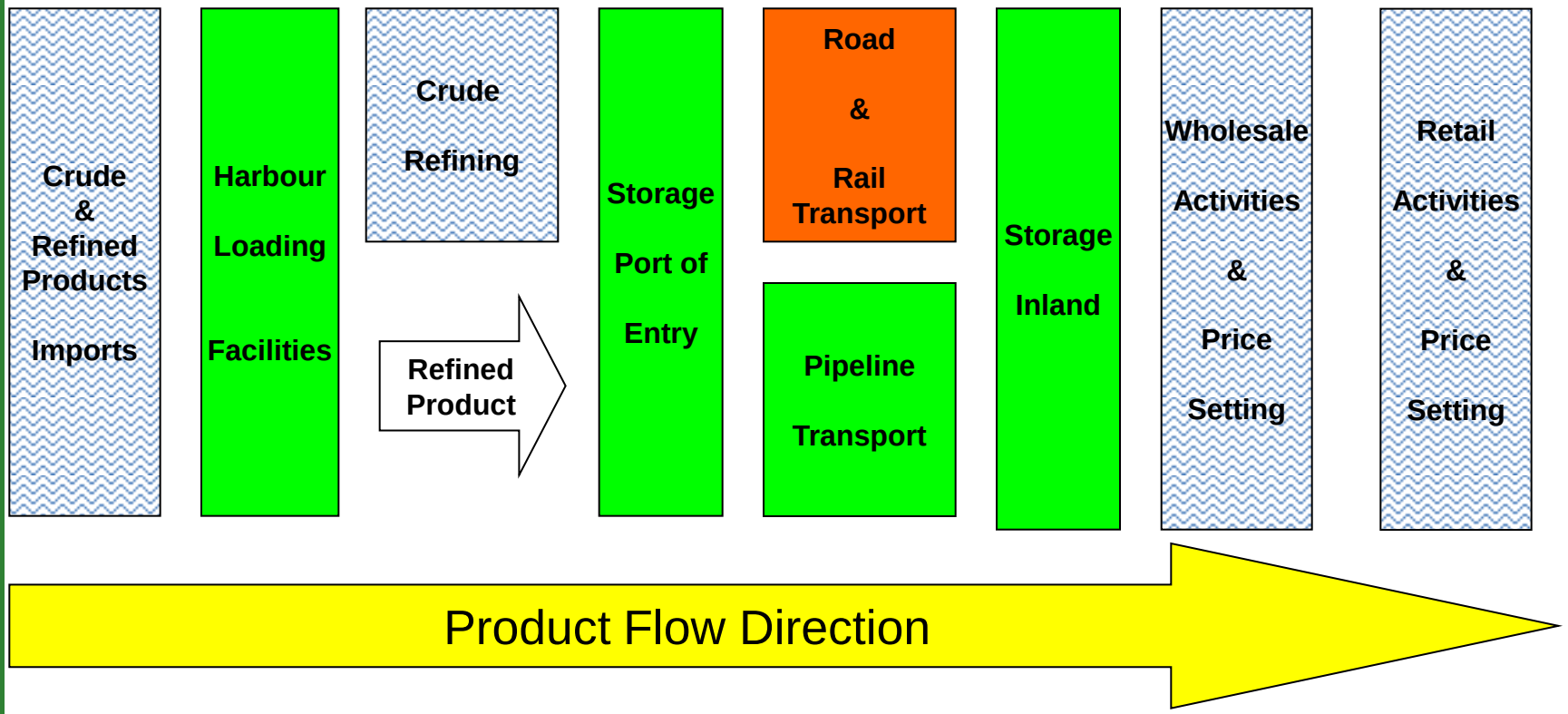


Scope of Piped Gas regulation



Scope of Piped Gas regulation

NERSA mandate in the *petroleum supply chain*



B. Benchmarking the Energy Regulator

Why is Benchmarking Important?

- Benchmarking assists energy regulators to:
  - Learn by comparing practices to external stds
  - Improve regulatory competencies and attain superior performance
  - Promote investor and consumer confidence
  - To achieve
    - Authority
    - Autonomy
    - accountability

C. Why would you want to Benchmark a Regulator?

- **Regulators exist in a unique space with no competition**
  - They need to know if they are doing the right things
  - They need to know if they are doing things right
  - They need to know that the industry is healthy and sustainable
- **Not for ranking Purposes!**
  - That is a very short sighted approach
  - Gives satisfaction or dissatisfaction for a short time
  - What does it change?

D. The Basis for Benchmarking

- **All Regulators at a fundamental level do the same things**
  - **License and set licence conditions**
  - **Monitor and enforce compliance**
  - **Set tariffs and/or Prices**
  - **Collect data**
  - **Assist consumers**
- **Regulatory Principles, Processes and Practices are also fundamentally the same**
- **However, Regulatory Objectives and Environments are different**

The Basis for Benchmarking- 2

- **To benchmark you can:**
  - **Determine a list of best practices, processes and methodologies and measure whether the best practices are done, how mature are the processes and whether the methodologies used are correct.**
  - **Compare Regulatory Principles and evaluate differences**

- **To measure Performance you can measure the industry performance against Regulatory Objectives**

E. NERSA's Reasons for Benchmarking

- NERSA aims to be a world class regulator
- To achieve this objective, NERSA must identify what world class regulators do
- At the same time, NERSA's performance must be evaluated in relation to its mandate
- This project will benchmark NERSA's performance against both its mandate and against good practices adopted by world class regulators
- The benchmarking methodology is to become integrated into and ingrained in NERSA's processes and culture

F. The NERSA Benchmarking Project

- **Following an open tender process NERSA engaged The Allen Consulting Group from Melbourne, Australia**

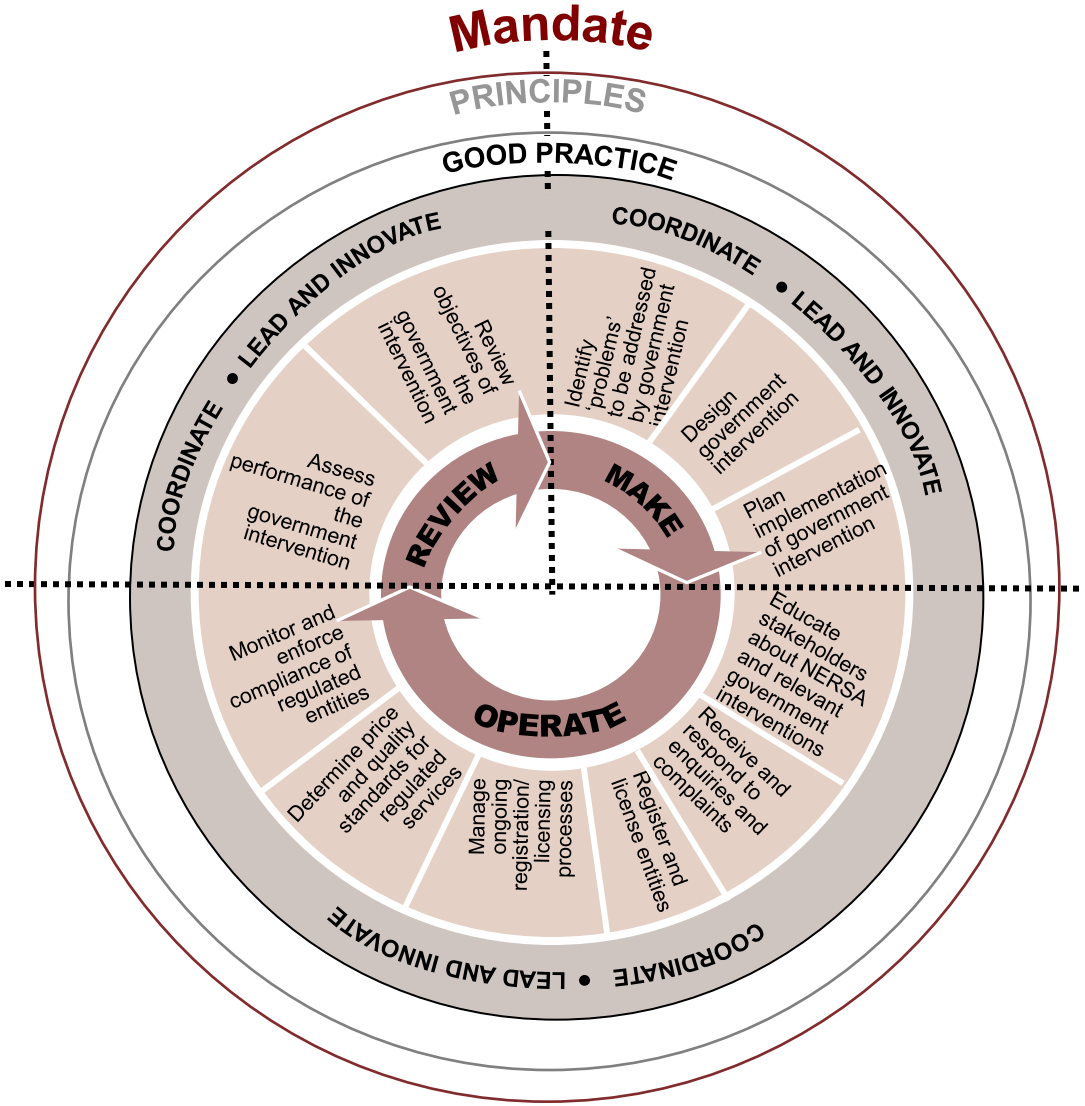
- **Project was divided into three Stages**
  - ❖ **Stage 1 - to set up the framework**
  - ❖ **Stage 2 - to evaluate NERSA**
  - ❖ **Stage 3 - to draft a plan to address shortcomings**

The NERSA Benchmarking Project –Stage 1

Stage 1 resulted in:

- **The review of the Regulatory Principles adopted by NERSA**
- **The review of the Strategic Objectives to align with the Regulatory Objectives given in the Acts (Doing the right thing)**
- **The Establishment of the framework of best practice activities summary as shown graphically in the next slide**

The NERSA Benchmarking Better Regulation Framework



The NERSA Benchmarking Project –Stage 2

- **Thus the basis for evaluation in Stage 2 was to analyse:**
  - **Expenditure of effort around the Regulatory Cycle: where do NERSA departments spend their time**
  - **Process Maturity of Tasks performed**
  - **Good Practices performed**
  - **The Risks faced**
  - **Principles of Regulation adopted**

The NERSA Benchmarking Project –Stage 2

- **Stage 2 resulted in:**
  - **Meeting with every department and determining what best practices were performed and the maturity of the processes based upon evidence**
  - **The effort per good practice was also determined**
  - **The Risks in the strategic risk register were aligned to the standard good practices which would mitigate them and they were evaluated**

The NERSA Benchmarking Project –Stage 2 Analysis of Results

- **Four types of analysis were done**
  - **Process Maturity**
  - **Good Practices**
  - **Effort**
  - **Risk**

The Basis for Benchmarking - 2

Process maturity describes five levels of regulatory process development

Source: The Allen Consulting Group (Melbourne Australia)

The NERSA Benchmarking Project –Stage 2 Results of Analysis

- **Process Maturity was not high but consistent around the regulatory cycle because methodologies were still at the development stage**
- **Some good practices were not done but most were done**
- **There were some gaps in the Effort around the Regulatory Cycle notably in the review phase**
- **Some low risk items had a lot of effort associated with them and some high risk items had low effort associated with them resulting in blind spots**

The NERSA Benchmarking Project –Stage 3 Addressing the shortcomings

- **A Structured process was followed as shown on the next slide**
- **Improvement Opportunities were developed with each department**
- **These were written up as projects and were prioritised**

Good Practice Analysis

1) Examine Good Practices not done
2) Identify improvement opportunities
3) Write up into projects ready for Business Plan

Analysis of Effort around Regulatory Cycle

1) Examine effort around the regulatory Cycle
2) Identify improvement opportunities
3) Incorporate "new" opportunities

Analysis of the Risk

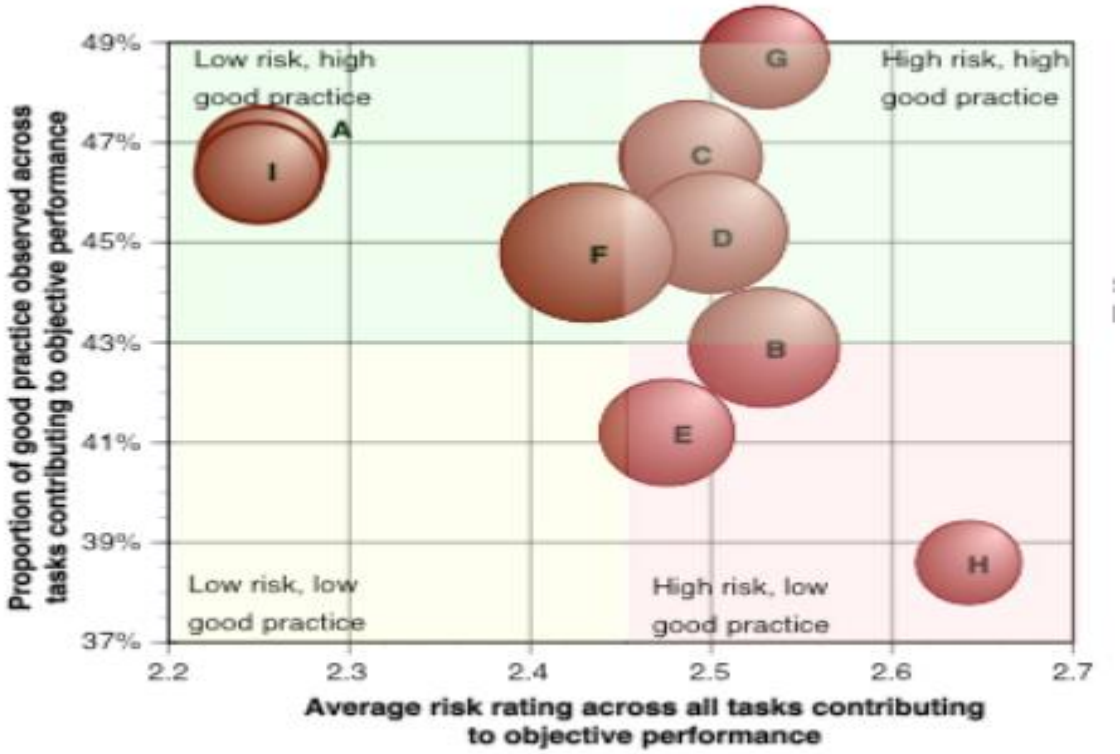
1) Examine the identified risks
2) Identify improvement opportunities
3) Incorporate "new" opportunities

Prioritisation of Improvement Opportunities

1) Prioritise using prioritisation framework
2) Incorporate into Business Plan

An Example

Risk vs Effort



- The Regulatory Objective H - “Ensure security of supply” it shows vulnerability

- It highlights a NERSA “Blind spot”

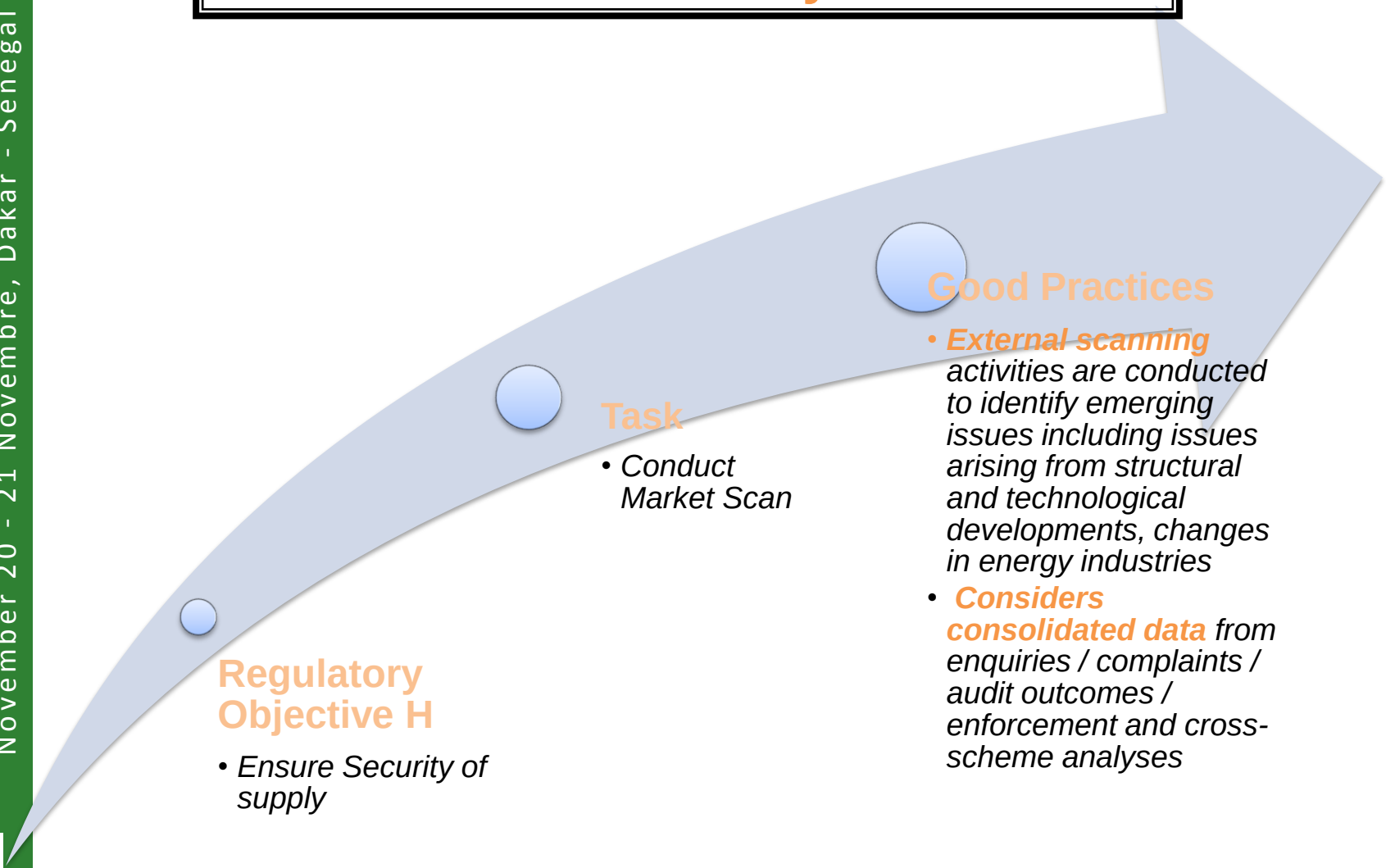
How to use this analysis?

We can identify the tasks which influence the “Ensure Security of Supply” objective

We can identify the Good Practices associated with these tasks

By way of example “Perform Market Scanning” is one of the good practices to address the security of supply blind spot

How to use this analysis?-cont.



‘Security of Supply’ is a high risk area for NERSA

Step 1: Identify tasks linked to indicator H

Step 2: Identify the good practices attached to each task:
•Relevance
•Done/Not done

Step 3: Identify the process maturity and effort allocated to each task

Step 4: Review the risk rating for each task to identify severity of risk

Step 5: Use the high level improvement opportunities identified

Project ready improvement opportunities

G. Concluding Remarks

- **By involving the departments there was a learning process which took place and made them aware of what was required**
- **Lack of industry data hampered the determination of industry performance measures**
- **Project governance was important and at critical times support from CEO made it succeed**

Thank You

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