



HELLENIC PRESIDENCY
OF THE COUNCIL OF THE EUROPEAN UNION
www.eu2003.gr

AD HOC GROUP OF EXPERTS ON BETTER REGULATION

REPORT

**to the Ministers responsible for Public Administration
in the EU member states
on the progress of the implementation of the Mandelkern Report's Action
Plan on Better Regulation**

ATHENS, MAY 2003

TABLE OF CONTENTS

- 1. The Mandelkern Group’s Mandate and Report and the ad hoc group of experts on Better Regulation**
- 2. A comparative analysis of the implementation of the Better Regulation Policies in the EU member states**
 - 2.1. Policy Implementation Options*
 - 2.2. Regulatory Impact Assessment*
 - 2.3. Public Consultation*
 - 2.4. Simplification*
 - 2.5. Access to regulation*
 - 2.6. Effective structures (and a culture of better regulation)*
 - 2.7. Implementation of European Regulation*
- 3. Progress on the implementation of Mandelkern Report recommendations in the Commission**
 - 3.1. Applying RIA to the EU level*
 - 3.2. Consultation in the EU*
 - 3.3. European simplification program*
 - 3.4. Access to European regulation*
 - 3.5. Effective Structures*
 - 3.6. Implementation of European regulation*
- 4. Better Regulation Policies in EU member states**
- 5. Resolutions of the ad hoc group on Better Regulation – Suggestions to the Ministers of Public Administration**

1. The Mandelkern Group's Mandate and Report and the ad hoc group of experts on Better Regulation

Improvement of the quality of regulations is considered a high priority for all governments of member-states in the EU. With constant interventions, changes and reforms of regulatory systems, we seek to shield Democracy and institutions from any threat, to create a sense of safety for citizens and to upgrade the social and economic prosperity of our countries.

Since 1985 the European Union realized that in order to become the most dynamic knowledge-based economy in the world, it was essential to improve the quality of regulation at both EU and national levels.

The search for better quality regulation took on a more systematic form in the middle of the 90's. A protocol annexed to the Treaty of Amsterdam (1995) was evidence of the importance expressed at both the European and the Member States level. It became apparent that action coordinated between the European and national level was necessary in order to improve the "regulatory chain" right from the concept of the regulation up to its actual application stage. This approach was taken up by the Lisbon European Council and followed by the Strasbourg meeting of Ministers of Public Administration in 2000.

The Mandelkern Group was formed by a Resolution of the Ministers of Public Administration at Strasbourg, which gave it the "mandate to develop a coherent approach to this topic and to submit proposals to the Ministers, including the definition of a common method of evaluating the quality of regulation". The final Report of the High-Level Advisory Group was welcomed at the Laeken Summit of the European Council. Parallel to this, the Commission published its Action Plan for improving and simplifying the regulatory environment in June 2002.

Important steps have been taken for the implementation of the Mandelkern Group suggestions, but many more remain. For this reason, at the last meeting of the Ministers of Public Administration in La Rioja, in May 2002, it was agreed the issues of Better Regulation to be included to the agenda of their next meeting that will take place in June 2003 in Rhodes. According to La Rioja conclusions Ministers "*stress the need to maintain an effective co-ordination and exchange of experiences with respect to the implementation of Better Regulation tools within the Member States. Request that the Directors of Better Regulation and the Mandelkern group experts*

continue to meet together on a regular basis under the name of Mandelkern Group on Better Regulation, ensuring the coherence of their work with the above mentioned Action Plan. The group in question will report to the Ministers responsible for Public Administration and Better Regulation on the results of the implementation of better regulation tools in Member States and on the Action Plan”.

In order to prepare in the best way the resolutions of the meeting of the Ministers of Public Administration, the Greek Presidency established an ad hoc group of experts with the task of studying systematically the initiatives taken so far by the member-states and the Commission within the scope of Better Regulation and to recommend actions for its further development.

The ad hoc group gathered twice during the Greek Presidency, on 4th April 2003 and 15th-16th May 2003, in order to prepare the following report to the Ministers responsible for Public Administration and Better Regulation, which is to be presented in Rhodes at the 6th of June 2003. The report informs Ministers on the progress that has been made by the European Union as regards the implementation of the Mandelkern’s Action Plan on Better Regulation.

The Madlekern Report identified the six main aspects of a better successful regulation programme, on which this approach is based.

The six main aspects are:

- Policy implementation options
- Regulatory impact assessment
- Consultation
- Simplification
- Access to regulation
- Effective structures

Taking into consideration the six main elements of a better successful regulation, all governments or administrations, European, national, regional or local should draw their policies in accordance with some common principles introduced by Mandelkern Group. Those principles would facilitate policy makers aims in introducing new regulations.

2. A comparative analysis of the implementation of the Better Regulation Policies in the EU member states

The Mandelkern Report (MR) had a quite positive echo in the member states of the EU. For most of the countries, the recommendations of the Report were a good starting point either to launch better regulation policies or to re-examine existing policies on better regulation issues.

The most important input of the MR is that a coherent policy on better regulation seems to be feasible and, all the time, more and more administrations, elected politicians and citizens believe that only a more systematic intervention can tackle the problems produced by bureaucracy and red tape. Regulatory inflation has been tackled either by ad hoc simplification programs in several policy fields or by using other instruments of better regulation, such as codification, RIA's, etc. –depending on the specific administrative and political culture of each country.

The emerging emancipation of civil society has also been reflected in better regulation policies. Public consultation during the design, the implementation and the evaluation stage of a regulation is developing all over Europe as a single methodology of better regulation. Member States have moved towards the implementation of common principles in line with national legal traditions and administrative culture.

The clearest example of this is RIA. More and more countries follow, nowadays, some kind of RIA, proving that the prediction of the consequences of the regulations can be compatible with their implementation. In that sense, the contribution of better regulation policies to fill the schism between the normative and factual side of the law should be clearly stressed.

The implementation of many of the recommendations of the MR, as will be analysed in detail in the following sections, proves that there is an on going process of the European countries moving away from a legalistic approach of regulation and administration. The relations between Economy and the Law, between State institutions and the Economy have been called into question on several occasions and a climate of suspiciousness has been cultivated because of different policy choices during the last decades. For this reason, regulatory reform has been a welcome and concrete outcome of the move to better governance in the E.U. Better regulation proves to be a fruitful field of co-operation among different existing social systems, while keeping their independence and on the basis of their mutual profit.

2.1. Policy Implementation Options

According to the Mandelkern Report alternatives to regulation are an important instrument to ensure regulatory quality. The alternatives support a clear formulation of objectives. They should be studied prior to the decision process and therefore should be considered as part of the regulatory impact assessment. Among possible alternatives are included self-regulation, contractual regulation and mutual recognition.

Member states apply different kinds of regulatory alternatives according to their prevailing legal and administrative culture.

	ALTERNATIVES EXAMINED THROUGH RIA		CO-REGULATION		SUNSET	
	Yes	No	Yes	No	Yes	No
AUSTRIA						
BELGIUM		1	1		1	
DENMARK						
FINLAND	1			1	1	
GERMANY	1		1			
GREECE						
LUXEMBOURG		1				
IRELAND		1	1			1
ITALY	1		1			1
NETHERLANDS	1			1		1
SPAIN	1		1			
SWEDEN	1		1		1	
UK	1		1		1	

2.2. Regulatory Impact Assessment

According to the recommendations of the MR an RIA should be based on coherent guidelines across all policy areas within the administration containing among others:

- a clear statement of the risk or problem being addressed,*
- a description and justification of different options considered,*
- an identification of affected parties, and*
- a particular reference to the impact on small business.*

A preliminary assessment identifying the main risks/problems, the probable impact, the possible options and the sectors/actors affected should be produced at the earliest point in the policy development process. The detailed assessment should be revised at appropriate stages as the policy development process proceeds to reflect changes and the results of consultation.

The Regulatory Impact Assessment (RIA) is an insight analysis of policy making. It provides a structured framework of options available for handling policy problems and the advantages and disadvantages associated with each. The RIA is a preliminary assessment, and an integral part of the policy making process. It does not replace the need for political decision but affords the factual information essential to a good policy development process and a well-informed final decision. In order to be provided with an effective RIA, the policy makers have to take into consideration some “prerequisites for successful RIA”. The RIA should facilitate the decision of whether action is appropriate and if regulation is the best method of addressing the problem (a combination of RIA and policy implementation options).

In the absolute majority of the member states there exists a Regulatory Impact Assessment. Nevertheless, even in the countries where no RIA is required, or it is still in an experimental stage, it has been positively evaluated. In most of the cases, the RIA is required for new regulations. Among them RIA is applied to the primary Laws and only in a few cases it is extended to secondary legislation. Although the replies of member states to the questionnaire do not enable a definite assessment of which of the new laws are subjected to a RIA, it seems that there are only a few cases where an RIA is executed for all kind of regulations.

It should also be mentioned that the existing RIA's mostly concern the initial stage of a new regulation. That means RIA is still to be understood as one shot action in the preparatory stage of the Law. A full RIA, executed in all stages of implementation and evaluation of the regulatory results therefore, is still missing in most cases. In

some member states, not all specific elements are to be included in the RIA, but some are taken into account through other means such as cross-departmental cooperation.

Existing RIA's differ as far as it concerns the criteria of measuring the impact of regulations. Among the common indicators are the impact on the economy and especially on small and medium enterprises, the impact on the environment, the negative impact on the citizens through the establishment of new Bureaucracy, and the negative impact on the consumers. In this way, RIA's are a feature of policy development in almost all member states but in all of them there are still questions about their quality and full compliance with the process.

In most cases, the Ministries competent for the specific regulations are supervising RIA's execution. In many cases, there is an overall supervisory role for some central or ad hoc specific agency or structure as recommended by the Mandelkern Report. Difficulties in introducing and using RIA that have been mentioned are their time consuming character, the difficulty of finding proper indicators and the hesitation of the administration to adopt open and transparent systems of administration. It was noted that with the full implementation of the Commission's impact assessment system due in 2004, it would be necessary for member states to develop their capacity for RIA in order to contribute to the Commission's assessment and to indicate, wherever possible, the likely broad impacts of significant and substantial amendments that they wish to make during negotiation of European regulation.

	REGULATORY IMPACT ASSESSMENT		RIA ON SUBORDINATE LEGISLATION		RIA CRITERIA							SERVICE RESPONSIBLE FOR RIA		
	Applied	Pilot experimental	Yes	No	Administrative Burdens	Budgetary Burdens	Impact on Citizens	Impact on employment	Impact on Markets	Impact on Environment	Impact on SMEs	Prime Minister's Office	Responsible Ministry	Ad Hoc Agency
AUSTRIA	1		1		1	1	1	1	1	1	1		1	
BELGIUM	1		1		1	1							1	
DENMARK	1			1	1	1	1	1	1	1	1		1	
FINLAND	1	1	1		1	1	1	1	1	1	1		1	
GERMANY	1		1		1	1	1	1	1	1	1		1	
GREECE		1		1		1							1	
LUXEMBOURG		1		1	1	1							1	
IRELAND		1		1	1	1	1		1		1		1	
ITALY		1	1		1	1	1		1			1		
NETHERLANDS	1		1		1	1		1	1	1	1		1	
SPAIN		1	1		1	1	1	1	1	1	1		1	
SWEDEN	1		1		1	1			1	1	1		1	
UK	1		1		1		1		1	1	1	1	1	

2.3. Public Consultation

According to the MR's recommendations consultation should be transparent and all interested parties should be involved as early as possible. The comments made by the consulted parties should be forwarded to the regulatory bodies as soon as possible. A standard minimum consultation period should be established and the actual consultation period used should be appropriate to the matter being consulted upon.

In order to ensure high-quality regulation it is required that groups and organizations, which will be affected by new regulation, be consulted at the appropriate stages of the regulation process. Consultation should be understood, according to the Mandelkern Report, as an interaction between the bodies responsible for regulation and parties that are likely to be affected by or interested in the regulation in question to permit the latter to contribute their views, experience and expertise.

This is an essential process towards open governance. It gives the possibility to all parts concerned to propose and consult the Member States and the Commission policy makers in order to implement effective regulation.

Public Consultation systems exist all over Europe. Some of them are embodied in formal legal requirements; in other cases they are based in administrative practice which may in fact be mandatory. In all cases, regulatory process is considering more and more as a collective output of the stakeholders. Public Consultation is used before the approval of new regulation, in most cases as soon as a competent authority produces the first draft of the regulation concerned.

Different forms of public consultation are used. Among those that have been referred are written statements, the circulation of documents, and the use of Internet. Different stakeholders are also being consulted in different countries. Among them are public bodies, advisory committees and single citizens. Not all European countries are using the Internet for public consultation but it seems that its use is getting, all the time more and more interest. The consultation period varies, sometimes it is not defined and is correlated to the nature of the issue that is under consultation but in most cases it is defined in a time period between 3-12 weeks. The policy makers take the output of public consultation into account and, in some cases it is used by the MS during the

legislative procedure. The publication of the results of consultation seems to gain support, since through the publication the opinions of the stakeholders can be, communicated even more widely.

	PUBLIC CONSULTATION		PUBLIC CONSULTATION THROUGH			STAKEHOLDERS PARTICIPATING IN PUBLIC CONSULTATION						CONSULTATION PERIOD		PUBLICATION OF RESULTS	
	Mandatory Formal	Non mandatory	Public Notice	Circulation of Documents	Internet	Public Bodies	NGOs	Interest Groups	Business Organisation	Advisory Committees	Citizens	Defined	Not Defined	Yes	No
AUSTRIA	1			1	1	1	1	1	1	1	1	1		1	
BELGIUM	1		1	1	1	1	1	1	1	1	1	1(*)	1	1(*)	
DENMARK		1	1	1		1		1					1	1	
FINLAND	1			1	1	1	1	1	1	1	1		1	1	
GERMANY	1			1	1	1	1	1	1		1	1		1	
GREECE		1	1	1	1	1					1		1		1
LUXEMBOURG	1				1	1			1				1	1	
IRELAND		1		1	1	1	1	1	1		1		1		1
ITALY	1					1		1	1	1			1		
NETHERLANDS		1	1	1	1	1	1	1	1	1			1		1
SPAIN	1		1	1		1	1	1	1	1	1	1			1
SWEDEN	1		1	1	1	1	1	1	1			1		1	
UK	1			1	1	1	1	1	1		1	1		1	

(*) Defined for formal mandatory consultations. In this case the advices are formally published.

2.4. Simplification

According to the MR's recommendations the establishment of a systematic targeted and preferably rolling programme of simplification of existing regulation in all areas, should cover the regulation that impacts on citizens and on public bodies and has to be implemented on business as well. Simplification should become a general policy of Member States and EU institutions. Regulators in Member States should in parallel with the Commission, simplify their regulation (including regulation transposing European legislation), refrain from introducing unnecessary detail or over-complex administrative requirements, adapting them to their respective national circumstances.

The above mentioned recommendations can be implemented in the existing body of regulation and, at the same time, be considered at the stage of introducing a new regulation.

By simplification we refer to the process of reform of existing regulation, which seeks to streamline administrative procedures and to reduce the burden of compliance on citizens, businesses and the public sector itself, while preserving the intended (political) goals of the regulation.

Member States' governments need to take action to update and simplify the modern mass of regulations in the legal systems. This process intends to make existing regulation clearer to understand, easier to apply and comply with. Reviewing of existing laws, rules and regulations is essential in order to streamline the outdated and over-burdensome national legislative systems.

Over the past few years significant efforts to simplify programs have been introduced in many European countries.

It is not the case that in all member states there exists a simplification policy, although in all member states there are simplification programs, running under RIA's or specific policy goals, such as those for the support of small and medium enterprises.

It seems to be a matter of policy in all the member states for the various state- central, regional or local- agencies to revise and to simplify their regulatory environment. This comes out from the different action plans and programs that are used in the Administrations of the member states. There is flexibility as far as concerns the indicators which are used in the different simplification programs, but there seems to be a convergence in the main principles used. Anyhow, the variety of the techniques used for simplification purposes (e.g. techniques of elimination and rationalization of administrative procedures, sunset clauses, etc.) should be seen as a challenge for transferring know how and the exchange of best practices.

The responsibilities of the Agencies included for monitoring are also split among the central units for that purpose (Prime Ministers Offices) and line Ministries. Coordination among the Agencies, which have the overall responsibility for the monitoring of the process and the ad hoc responsible line Ministries or Agencies remains at a rather lower level and can be further developed.

	DEFINED SIMPLIFICATION POLICY		RESPONSIBLE SERVICE		
	Exists	Not exists	Prime Minister's Office	Responsible Ministries	Ad Hoc Agency
AUSTRIA	1			1	
BELGIUM	1		1	1	
DENMARK	1			1 ^(*)	
FINLAND		1		1	
GERMANY	1			1	
GREECE	1			1	
LUXEMBOURG		1			
IRELAND		1		1	
ITALY	1		1		
NETHERLANDS	1			1	
SPAIN	1			1	
SWEDEN		1 ^(**)		1	
UK	1			1	

() The Danish Ministry of Finance has a co-ordinating role.*

*(**) The Government prepares an action plan to be presented in the autumn 2003.*

2.5. Access to regulation

The Mandelkern Report recommends that each Member State should provide a public service (either free or for a reasonable fee) giving access to the texts of laws and regulations and should train the officials responsible for the drafting of texts, for the simplification of the language therein and for the development of methodological tools suitable for codification.

Over recent years the conditions under which people can gain access to the law have changed significantly with a view to facilitating access to regulation that is unwieldy for ordinary citizens, due to its constant proliferation. Firstly, there has been the development of information technology and the computerization of bodies of regulation and case-law and, secondly, a movement towards improved guarantees of citizens' rights and greater transparency in the operation of democracy. These have boosted the work of the policy makers to improve coherence, clarity of the form and language of the regulations, practical access to legal information and understanding of the rule of the law by the user or the beneficiary of the regulation.

Three key procedural operations are consolidation, codification and recasting. By using those three at the same time and having as an important tool the growing use of the Internet, we would easily achieve better access to understandable regulations.

Codification as a defined specific policy for better regulation is a fact for some member countries. Although in other countries a specific codification policy does not exist, several kinds of codification –in the three different forms mentioned above- are followed. There is not a uniform picture as to the state agencies responsible for codification, since in some cases some line Ministries are responsible, while in some other cases, the Prime Minister's Office or ad hoc established Committees or Agencies carry out the relevant programs.

	DEFINED CODIFICATION POLICY		RESPONSIBLE SERVICE		
	Exists	Not exists	Prime Minister's Office	Line Ministries	Ad Hoc Committee
AUSTRIA	1				
BELGIUM		1		1	
DENMARK	1			1	
FINLAND		1		1	
GERMANY	1			1	
GREECE	1		1		
LUXEMBOURG		1			
IRELAND		1		1	
ITALY	1		1		
NETHERLANDS	1			1	
SPAIN	1				1
SWEDEN	1			1	
UK	1			1	

The use of ICT and the Internet is quite widespread all over Europe. Websites and Internet-based contact points, facilitating the access of the citizens to the existing regulatory staff exist in all the member states. In some cases, there are not only public but also private websites, where the interest groups or single citizens can find the relevant pieces of legislation that they are concerned with. One point that should be further mentioned is that of charging those interested in regulatory matters; to what extent access to regulations should be free of charge and to what extent access should be charged for.

	GOVERNMENTAL SITES FOR REGULATION		ACCESS TO REGULATION		OFFICIAL GAZETTE ON LINE	
	Exist	Not exist	Free of Charge	With charge	Yes	No
AUSTRIA	1				1 ^(*)	
BELGIUM	1		1		1	
DENMARK	1		1		1	
FINLAND	1		1		1	
GERMANY	1		1		1	
GREECE	1			1	1	
LUXEMBOURG	1		1		1	
IRELAND	1		1		1	
ITALY	1		1		1	
NETHERLANDS	1		1		1	
SPAIN	1		1		1	
SWEDEN	1		1		1	
UK	1		1		1	

(*) will be ready from 1/1/04.

2.6. Effective structures (and a culture of better regulation)

According to the Mandelkern Report the Member States and the Commission should make better regulation a strategic issue and a common priority, putting an emphasis on the question of structures. Piecemeal efforts are not promising – a strategic overall approach is necessary. For the establishment of regulatory effective structures there should be a balanced mix of decentralized assessment and centralized management/monitoring within the administration. A primary unit within the administration should be considered, preferably at/or near the governmental centre. The main tasks of this body should be the development and management of strategy, tools, advice and monitoring and the co-ordination of the better regulation programme.

	HORIZONTAL POLICY ON BR		OVERALL RESPONSIBILITY		SECTORAL POLICIES ON BR	
	Exist	Not exist	Prime Minister's Office	Line Ministries	Exist	Not exist
AUSTRIA	1		1	1	1	
BELGIUM	1		1	1	1	
DENMARK	1		1			
FINLAND	1			1	1	
GERMANY	1			1		1
GREECE		1	1		1	
LUXEMBOURG	1			1		
IRELAND	1		1		1	
ITALY	1		1		1	
NETHERLANDS	1			1	1	
SPAIN	1			1	1	
SWEDEN	1		1		1	
UK	1		1		1	

The majority of the member states have introduced and implemented horizontal policies on better regulation issues. The Prime Minister's Offices often fulfil the overall responsibility for the horizontal policies. In some cases, line ministries, such as the Ministry of Justice or the Ministry of Finance, execute the competence for the implementation of better regulation policy aspects. Even in the countries with a federal structure where better regulation policies are executed by regional authorities, the overall responsibility remains at the top policy level.

For the countries, where a horizontal policy does not exist, it seems that the main reason for that is the presence of a prevailing culture of strong line Ministries. Since, nowadays, the regulatory process and the regulatory outputs do not come as outputs only from the central ministerial administration but also from the independent regulators, the recommendations of the MR for a horizontal policy on better regulation are still worthy.

Sectoral policies on better regulation also exist in many cases and in different policy fields crucial for the economic and social life. In these cases, responsible authorities are, mostly, the competent regulatory bodies (Ministries, independent regulators).

The implemented policies are evaluated, generally, as positive. Though a quantitative evaluation of the results of better regulation policy is difficult, there is, in some cases, a clear positive outcome.

Training programs are used by the member states as a basic instrument for developing the culture of better regulation. The better regulation issues are either included in training programs containing other reform issues as well, under the label of Public Management, or they are separate, including legislative methods and techniques. Ad hoc manuals and other supportive material is giving to the trainees in some cases. The range of the trainees varies from senior officials to lower administrative levels as well as being targeted to officials working on regulation.

	SPECIFIC TRAINING PROVIDED		SPECIFIC GUIDELINES/ MANUALS		LEVEL OF TRAINEES	
	Yes	No	Given	Not given	All levels	Senior level
AUSTRIA	1				1	
BELGIUM	1		1			1 ^(*)
DENMARK	1		1		1	
FINLAND	1		1		1	
GERMANY	1			1	1	
GREECE	1			1		1
LUXEMBOURG	1		1			1
IRELAND	1			1		1
ITALY	1		1		1	
NETHERLANDS	1		1		1	
SPAIN	1		1		1	
SWEDEN	1		1		1	
UK	1		1		1	

() Training for people dealing with regulation or interested in better regulation.*

2.7. Implementation of European Regulation

According to the recommendations of the MR's Report all parties should pay more attention to the precision, clarity and coherence of European legislation during the negotiating process. Member States should pay increased attention to more formal procedures to facilitate incorporation of European legislation. Member States need to give higher priority to the incorporation of European legislation and when transposing a Directive, should consider their position very carefully before introducing extra requirements in the legislative measures that they adopt. The dialogue between Member States and the Commission should be intensified by way of informal (systematic and ad hoc) contacts regarding compliance and enforcement problems, with the aim of finding practical solutions.

The implementation of European regulation into national law is a very important process, which leads to common policies through different national constitutional procedures. Namely, implementation is both a national and a European concern. The role as a guardian of the Treaties is given to the Commission.

The problems that are faced are multiple and most of them vary according to the national legal systems. They include internal co-ordination, the methodology used, time limits, problems of terminology, fitting into the legal system of MS, co-ordinating between the negotiation and implementation phases.

As far as the transposition of the European legislation is concerned, the member states do not follow a unified strategy. EU legislation is transposed to the national legislation by using primary and in some cases secondary legislation. There are significant differences among the member state, as far as the methodology of transposition is concerned. In some cases the European legislation is transposed word for word while in other cases a method of elaboration is used. The overall responsibility regarding the transposition process also varies. In some cases the line Ministries are responsible for that, while in some others, the Ministries of Foreign Affairs are supervising the relevant process.

	RESPONSIBLE SERVICE			METHOD OF TRANSPOSITION	
	Ministry for Foreign Affairs	Line Ministries	Ad Hoc Agency	Word for word	Elaboration
AUSTRIA		1		1	1
BELGIUM	1 ^(*)	1		1	1
DENMARK		1			
FINLAND		1			
GERMANY			1		
GREECE	1			1	
LUXEMBOURG	1				1
IRELAND		1		1	1
ITALY			1		
NETHERLANDS		1			
SPAIN	1				
SWEDEN		1			1
UK		1		1	1

() The Ministry of Foreign Affairs has a co-ordinating role.*

3. Progress on the implementation of Mandelkern Report recommendations for the Commission and the other EU institutions

In addition to the proposals made considering national governments, the Mandelkern Group recommended better practices for EU legislative activity and in particular for the Commission.

With the June 2002 Action Plan on Simplifying and Improving the Regulatory Environment, the Commission recognised better regulation as a clear priority and embarked on a horizontal policy for better regulation. The Action Plan covers a wide range of measures, including impact assessment, public consultation, simplification, making better use of available regulatory instruments and alternatives to regulation, improved transposition and application of Community law and promoting a new culture within the institutions. The actions proposed by the Commission integrate the vast majority of the recommendations of the Mandelkern Group. In order to ensure continued momentum, the Commission intends to report annually, starting in 2003, on progress in implementation of the Action Plan. It has also, in its Internal Market Strategy Priorities 2003-2006, invited the Council to establish a horizontal working group on better regulation with whom the Commission can interact on a regular basis. The Action Plan reflects the fact that better regulation is a shared responsibility of the Community institutions and the Member States and therefore requires attention at all phases of the regulatory cycle – from conception and preparation of EU initiatives, over negotiation and adoption, to their transposition and application, as well as feedback for the benefit of subsequent initiatives. Accordingly, the Commission took initiative to an inter-institutional agreement with Parliament and Council on better regulation which is currently under negotiation. The European Council, on 20/21 March 2003, called for conclusion of the Interinstitutional Agreement on better regulation before its June 2003 meeting.

3.1. Regulatory impact assessment

The Mandelkern Report, recommended that the Commission should continue to move rapidly towards a new, comprehensive and suitably resourced impact assessment system covering its proposals with possible regulatory effects. This system should include an initial screening process with a publicly available preliminary assessment,

followed by a more detailed, proportionate assessment in appropriate cases. The Council and European Parliament should not consider proposals unless they are accompanied by a detailed regulatory impact assessment(or, if appropriate, the preliminary assessment demonstrating there is no need for a detailed assessment)

The Commission is progressively introducing, during 2003 – 2005, an integrated system for impact assessment for all major legislative and policy initiatives, to assess sustainability (economic, social and environmental impacts) of planned action. The procedure for impact assessment in the Commission are set out in the Communication on Impact Assessment of 5 June 2002 (COM(2002) 276. Preliminary impact assessments form the basis for selection of initiatives requiring an extended impact assessment which also draws on input from all Commission services. The Commission's impact assessments is transmitted to the legislator and other interested parties, at the time of adoption and at the latest when the Commission presents its proposals. Impact assessment makes it easier, both for the Commission and subsequently for the legislator, to decide whether action should be taken at Community level and the best form or instrument to apply in respect of subsidiarity and proportionality. The new framework will integrate and replace all existing sectoral and partial assessment procedures. The Commission has published a list of 42 measures for which extended impact assessment are scheduled in 2003, of which, by end May 2003 it has already published one, while others are the subject of inter-service discussion.

The Commission proposes that the other EU institutions also make impact assessments of substantial amendments to Commission proposals, and that Member States make impact assessments when transposing Community law into national law. In the context of the inter-institutional agreement on better regulation currently under discussion, Parliament and Council have also, in line with the Mandelkern recommendations, opened for the possibility of performing impact assessment of important amendments proposed to Commission proposals. The Competitiveness Council on 30 September 2002 stated its intention, in principle, not to consider substantial regulatory proposals without proportionate impact assessments,

3.2. Consultation

The Mandelkern Report called for a strengthened dialogue at an early stage between the Commission and the interested parties and Member States. Before formal introduction of a to Council and Parliament the Commission should, within its sphere of competence, present a specific, yet still preliminary text for the interested parties. Uniform minimum standards for consultation should be established, with a web-based register of all ongoing EU consultations and networks for specific consultation processes.

Consultation at the EU level is a significant element in the regulatory process and also required by the Amsterdam Treaty (Protocol on the application of the principles of subsidiarity and proportionality). The Mandelkern Group did not recommend adoption of legally binding rules for consultation at the EU level but rather a code of conduct to set uniform standards and to help prevent any privileged access for particular groups.

In its 2001 White Paper on European Governance and in its 2002 Action Plan on Simplifying and Improving the Regulatory Environment, the Commission recognised the importance of efficient, transparent and inclusive consultation of the public, stakeholders and other interested parties.

These orientations were spelled out more concretely in the Commission's December 2002 "general principles and minimum standards for public consultation". These minimum standards set out a framework for Commission services' consultation of civil society and stakeholders, ensuring transparency, access to consultations, a minimum delay of 8 weeks for comments and feed-back to contributors. A web-based register of all on-going public consultations is now available. The Commission is also developing, with Member States, a European Business Test Panel, to allow direct electronic consultation of businesses on important proposals that will affect them.

In addition to broad public consultations, the Commission relies extensively on targeted consultation to prepare future initiatives and policies. Targeted consultation takes different forms but is often carried out through expert groups. Such expert groups often gather governmental experts from the competent Member State authorities that will subsequently have to implement Community measures nationally.

3.3. Simplification

According to the Mandelkern Report's recommendations, there should be the establishment of a rolling and targeted programme of simplification of all existing European regulation. EU institutions should reach an agreement setting out the conditions under which the resulting proposals will be fast-tracked through the codecision process according to existing Treaty provisions for agreement after First Reading.

Several efforts have been made to simplify EU legislation but little was achieved in the past. The most important was the "SLIM" initiative, but the Mandelkern Group considered it to be too limited as it dealt only with Internal Market regulation.

In February 2003, the Commission adopted a Communication, setting out a framework for action on "up-dating and simplifying the Community *acquis*". This framework has two broad objectives. First, it aims to consolidate, codify and remove obsolete and outdated legislation, leading to considerable reduction in the volume of the Community law without changing the law as such. Secondly, it aims to start a process of gradual modernisation and simplification of existing legislation and policies – not to deregulate or cut back the *acquis* but to replace past approaches with better adapted regulatory instruments. This simplification program is not limited to the internal market but covers all Community legislation. It proposes certain selection criteria, on the basis of which the Commission, in consecutive phases, will identify policy sectors to be screened for simplification potential. The Commission has initially fixed 3 such phases in the period up to end-2004.

The Commission has also proposed to adapt working methods and procedures in and between the institutions to facilitate simplification, and this is currently under consideration in the negotiation concerning an inter-institutional agreement on "better regulation". This could be combined with a consolidation of existing inter-institutional agreements on e.g. codification, recasting and quality of drafting.

3.4. Access to regulation

The Mandelkern Report recommended as a priority the implementation of a plan for the codification of the European law and for appropriate resources to be allocated to codification and recasting of European regulation by the Institutions and Member States

At the Community level, improved access to regulation is pursued at two levels: by rendering legislative text more legible and transparent and through improvements to the databases and reference instruments available for consulting EU legislation.

By end-2002, secondary Community legislation amounted to some 97.000 pages of the Official Journal. Since the foundation of the European Communities, this body of existing law has never been subject to a comprehensive review. A major effort is currently underway to consolidate and codify the entire stock of existing secondary Community legislation. The consolidation exercise is carried out by the Office for Official Publication of the EU and will be completed by mid-2003. This work has facilitated the preparation of the 2004 enlargement. The Commission's November 2001 Codification Programme aims to complete codification of all secondary EU law by the end of 2005, supported by the 1994 Inter-institutional Agreement on Accelerated Working Method for Official Codification and the 2002 Inter-institutional Agreement for a More Structured Use of the Recasting technique for Legal Acts. The Commission estimates that by these means the volume of Community legislation could be reduced by as much as 35,000 pages by 2005.

Once the existing stock of legislation has been consolidated and codified, further amendments to legislation will be subject to on-going consolidation and codification. For new legislation, an Inter-institutional Agreement on the Quality of Drafting aims to ensure that EU regulation is clear and comprehensible.

Access to regulation is also being improved through the development of reference databases. The European institutions jointly provide a complete reference of legislation in force is provided through CELEX and its sub-products. Pre-Lex gives access to information about the different steps of preparation of legislation from Commission proposal to final adoption by the legislator. EUR-Lex offers a broad access portal to Community law, including case law, and information about the inter-institutional legislative procedures. In recent years, the Commission has also improved access to the preparation of its initiatives through a public register on Commission document. Moreover, it will later in 2003 launch a public register and repository for certain categories of implementing measures under 'comitology'.

3.5. Effective structures and a culture of better regulation

The Mandelkern Report recommended that Member States and EU institutions should make better regulation a strategic issue and a common priority, with an emphasis on the question of structure. The Commission should establish an effective, well-resourced structure to promote and support its better regulation activities. If possible, this structure should have strong links to the Secretariat-General's strategic planning function. MR also emphasised the importance of training, including the possibility of joint training by the Institutions, in establishing a culture of better regulation.

Within the Commission, better regulation priorities have been reflected in a series of organisational and procedural adaptations. These include reinforced inter-departmental coordination, a stronger role for the Secretariat General, and new procedures as outlined in the preceding sections. These procedures facilitate the development and circulation of expertise and best practices on better regulation and their wide application. As these measures have been set out formally and in some detail, they are more transparent than previously and render Commission services more directly accountable.

As proposed by the Mandelkern Group, the Commission has taken initiative to adaptations of existing inter-institutional procedures and internal procedures of Parliament and Council to promote better regulation, and to give a formal status to such adaptations in the form of an inter-institutional agreement that could ensure transparency and make the institutions more accountable.

3.6. Implementation of EU legislation

The Mandelkern report paid special attention to the implementation of European legislation, recommending that, as regards the Commission, it should provided Member States with more certainty as to whether they have transposed a European Directive correctly and fully; create a free of charge online database of legislation requiring implementation and the current state of play in each Member State; develop a system for online notification of implementation by Member States; and include in regulatory impact assessments systematic and early consideration of administrative and enforcement effects.

Better implementation of Community action requires better transposition and application of Community law. In its Action Plan, the Commission proposed enabling the electronic transmission of national notifications. And, as part of its better regulation initiatives, the Commission announced in its Communication on better monitoring of Community law on December 2002 a series of measures to strengthen prevention of infringements and to improve cooperation with Member States in this field. The actions that have been brought forward include e.g. priorities to be applied in the Commission's investigation of possible breaches of Community legislation, within the Commission's treaty-based powers. The actions aim at improving information, transparency and knowledge of Community law, increasing cooperation before expiry of the transposition deadline and improving notification of those measures. To the list of existing actions, new initiatives have been identified in order to complement proceedings for failure to comply with EU legislation.

4. Better Regulation Policies in EU member states

On the following pages we will try to sum up the efforts made by each EU Member State in response to the Mandelkern Report recommendations. The results of these implementations for a better regulation should be introduced by June 2003 in a final state report, which will present the national changes produced by the policy makers to correspond with the six main Mandelkern Report elements for a better regulation policy.

All Member States used a questionnaire based on the Mandelkern Report demands in order to present their national system, their efforts made and their plans for implementation of better regulation.

The questions helped us to clarify the plurality of national legislative systems, working for the same goal. On our answering questions following the 6 main elements of Mandelkern Report, common problems have been revealed and common progress has been made.

In total, significant efforts have been made for better regulation, despite the plethora of problems faced.

Taking into consideration the questionnaires as well as the dissimilarity that each Member State presents for the accomplishment of a better regulation, we will try to present all efforts made by each EU Member State.

AUSTRIA

POLICY IMPLEMENTATION OPTIONS

In Austria there is a horizontal policy for promoting better regulation. The responsible body in the administration is as well located at central level as it is at regional one (federal structure of AUT). At central level its responsibilities are to promote effective tools for better regulation through guidelines, circulars and training.

The Austrian government has sectoral policies in order to reduce administrative burdens, and cut red tape. They are following the recommendations of Mandelkern Group suitable in a federal organised state (e.g. examination of alternatives to regulation, consultation, RIA).

Responsible for the sectoral policy on better regulation is the federal ministry competent for the relevant sectoral policy; the ministries in principle consult organizations concerned.

REGULATORY IMPACT POLICY

RIA is as well required for primary laws as for subordinate regulations. It is mandatory and the ministry responsible for its implementation is the ministry of drafting the legislation. All costs and benefits should be covered by it. Its structure is CBA (costs of administration and businesses, employment, effects to national economy).

Their main drawbacks are the lack of resources, lack of instruments and training.

Until now the RIAs promoted a good regulatory quality but an integrated RIA approach is needed.

PUBLIC CONSULTATION

Public consultation is mandatory and it is used after the responsible ministry has drafted a new regulation. Citizens, public bodies and target groups are usually been consulted. The consultation process is realized formally and via Internet. It lasts at least four weeks and all results are used by the ministry responsible for finalizing the draft regulation. All results are published.

SIMPLIFICATION OF EXISTING REGULATIONS

A simplification policy is mentioned structured by codification of law, sunset clauses, and elimination of obsolete regulation.

CODIFICATION OF EXISTING REGULATIONS

There is a codification policy.

ACCESS TO REGULATION

There is an Internet site.

TRANSPOSITION OF EUROPEAN REGULATION

There is no specific procedure for transposing community law. The responsible body is the competent ministry or the regions.

The main problems encountered in this procedure are the lack of clarity, the uncertainty about the content of community regulation.

Training the public servants for developing better regulation skills: There is an administration academy, which is in the course of restructuring.

To recapitulate:

- In Austria there is a horizontal policy for promoting better regulation. The responsible body in the administration is as well located at central level as it is at regional one (federal structure of AUT).
- Sectoral policies on better regulation exist.
- RIA is as well required for primary laws as for subordinate regulations. It is mandatory and the ministry responsible for its structure is the ministry of drafting the legislation.
- Public consultation is mandatory and it is use after the responsible ministry has drafted a new regulation. Citizens, public bodies and target groups are usually been consulted.
- There is a simplification policy.
- There is a codification policy.
- Internet site for public access.
- There is no specific procedure for transposing community law.

BELGIUM

POLICY IMPLEMENTATION OPTIONS

The Government has a horizontal policy for promoting Better Regulation. Its main goals are the reduction of administrative burdens for businesses and citizens in order to make regulation more effective and stimulate entrepreneurship and the reform of the public administration in order to make it more efficient and client orientated.

The agency for administrative simplification (AAS) is located in the Prime Ministers' Office. The Ministry of Public Affairs is responsible for the reform of public administration. Still, every department is responsible for the implementation of simplification projects and for better lawmaking.

The responsibilities of the Agency are:

- To put forward proposals to reduce administrative burdens (better regulation, IT solutions, comprehensive texts).
- To stimulate and co-ordinate simplification projects in the federal public services.
- To encourage the co-operation between the federal public services.
- To create an external network with business organizations, universities, scientific institutions, European and international organizations, the regions, etc.
- To develop a method to measure administrative burdens for enterprises.
- To develop tools to improve the quality of regulation.
- To co-ordinate horizontal e-gov. projects for enterprises.
- To report to the ministerial task force on the progress of simplification projects and possible bottlenecks.

The AAS has made several preparatory analyses concerning possible simplification effects of e-government projects e.g. business register, unique business number, etc. which have been taken into account during the implementation phase. An action plan on start-ups has been approved and is now implementing. The AAS has developed a method to measure administrative burdens that will be published this year. A network of simplification agents in every department has been set up. About 100 simplification projects have been implemented from 1999 until now. In 2002, a ministerial task force chaired by the Prime Minister was created to monitor the progress of simplification efforts.

The problems arisen are the insufficiency in human resources and the difficulty to establish a change of culture in the departments.

They have sectoral policies for promoting better regulation, e.g. in the sectors of social security, tax and fiscal procedures, enterprise policy, and employment policy.

In the field of social security the means and procedures applied are the harmonization of concepts used in the different fields of social security (unemployment, sickness, invalidity streamlining declaration procedures in order to reduce the number of declarations, on line declaration of labor costs and working hours etc.).

In the employment policy: streamlining partial employment measures into targeted and structural measures etc.

In Tax and fiscal procedures: corporation tax and VAT declaration on line, fiscal ruling etc.

In Enterprise policy: codification of company law, electronic data exchange, reform of the start-up procedures in order to reduce time and costs to set up a new business, creation of a business register where public information about enterprises will be stocked. Each enterprise will receive a single identification number, which will replace all former enterprise numbers. This single identification number will make electronic data exchange between ministries easier and will drastically reduce administrative burdens for enterprises (since this information will no longer be collected from the enterprises themselves).

In Statistics: reduction of the number of surveys and re-use of the existing data and information.

Responsible bodies for the promotion and monitoring of sectoral policies are the responsible departments themselves. The AAS reports every three months to the ministerial task force about the progress made and indicates potential bottlenecks.

REGULATORY IMPACT ASSESSMENT

RIA is limited to the budgetary impact and the impact on administrative burdens. The latter obligation was established in May 2002 and initiated by the AAS.

The authorized body to review the quality of RIA is the AAS. It is only responsible for the assessment of administrative burdens. An evaluation will be made this year. This evaluation of the RIA system will be accompanied by a new proposal and working method.

The Government of Belgium needs according to Mandelkern Group recommendations to focus on the importance of the RIA in order to broaden the areas using RIA. It seems that the AAS has made significant efforts in the better regulation project.

PUBLIC CONSULTATION

The public consultation is mandatory and it is used before the approval of new regulation. Citizens, public bodies and advisory communities (comprised of citizens and business representatives) are consulted. Advisory Committees, composed of citizens and business representatives, are consulted before the adoption of new regulation. This kind of consultation is in most cases formal and mandatory. Occasionally citizens are informally consulted via Internet.

The consultation period of advisory committees is regulated by law and depends on the area of regulation. For other forms of consultation a standard period does not exist. The results of consultation (formal advices) are elaborated by the advisory committees themselves. The results are taken into account by the responsible departments and Ministers.

According to the AAS consultation on the practical implementation of the regulation could help to improve the ability of businesses or citizens to comply with the regulation.

SIMPLIFICATION OF EXISTING REGULATIONS

Existing regulation is not systematically reviewed but whenever it is reviewed the aim is to reduce administrative burdens and improve the use of ICT-tools.

Standard (formal) procedure is followed in revising existing regulation. The main principles followed are:

- outline of the objectives
- approval of the objectives and principles by the council of Ministers
- consultation
- drafting regulatory texts and administrative procedures
- approval of the texts by the council of Ministers
- discussion in Parliament
- Publication in the "Official Gazette".

A simplification methodology has been developed by the AAS, and will be tested, improved and generalized this year. The main purposes of it are:

- Simplification of regulation and procedures
- remove all redundant administrative burdens
- improve the use of ICT tools, electronic data exchange, etc.,
- make regulation more effective and efficient
- examine alternatives to regulation
- examine the possibility of codification or redrafting regulation.

Simplification policy also exists in the Walloon Regional Government. It has been created in March 2002 a special body called “Commissariat a la Simplification administrative”, with three full time experts to assist Government in simplification-making process. This special body works on a program defined by the regional Walloon Government based on partnership with representative bodies of citizens and entrepreneurs. This program contained a large scope of measures about the existing administrative procedures. Methodology is based on active partnership (work group) between the Ministers and the civil servants, with the view to achieve measures requested by the partner’s in relation to enterprises (“starters”, economical subsidies) and the citizens (request’s follow-up, acknowledgment). Other interests: appointment of committee to re-write administrative documents in order to improve readability. Also in Flanders a new agency responsible for better regulation has recently been created. In the second half of 2003, a platform to co-ordinate better regulation and simplification policies between the federal and the regional level will be set up.

CODIFICATION OF EXISTING REGULATIONS

Codification can be an option during the review and simplification process, but codification is not a goal as such. As codification is not a goal as such, it is not mentioned which are the main principles followed and how their efforts have been structured in order to codify and recast European and national regulation as it is recommended by the Mandelkern Group.

ACCESS TO REGULATION

All regulation is available on the Internet, on the website of the Ministry of Justice. Some departments have published regulation in their field on their website accompanied by comments and secondary law. Practical information on procedures can be found on the federal portal site.

TRANSPPOSITION OF EUROPEAN REGULATION

The procedure followed for the transposition of European regulation is identical to the one used for the drafting of national legislation.

Every department is responsible for the transposition of European directives. The overall responsibility belongs to the Ministry of Foreign Affairs.

Main problems encountered in this procedure: is the lack of impact assessment during the negotiation and drafting phase; coordination problems mostly due to the complicated federal structure of Belgium¹. To facilitate the procedure a research team is finishing its recommendations on how to improve the transposition process. The report will be presented in June.

Training the public servants for developing better regulation skills: The AAS informs public servants about new training programs. The AAS has organized training on better regulation, project management, quality of drafting, clear Internet language, etc. This year a training program on the simplification methodology, developing e-forms, etc. will be organized.

To recapitulate:

- Horizontal policy on better regulation exists. *Responsible body:* Agency for Administrative Simplification (AAS), located in the Prime Minister's Office.. About 100 simplification projects have been implemented from 1999 until now. In 2002 a ministerial task force chaired by the Prime Minister was created to monitor the progress of simplification efforts.
- Sectoral policies: Social security, tax and fiscal procedures, enterprise policy employment policy etc. Responsible bodies are the responsible departments themselves. The AAS reports every three months to the ministerial task force about the progress made and indicates potential bottlenecks.
- RIA exists. Impact assessment is limited. Authorized body to review the quality of RIA: AAS, but only for the assessment of administrative burdens.
- Mandatory public consultation before the approval of new regulation. Citizens, public bodies and advisory communities (comprised of citizens and business representatives) are consulted.

¹ The same problem affronts the German Government

- Simplification policy exists. A simplification methodology has been developed by the AAS. Simplification policy exists in the Walloon Regional Government as well. It has created in March 2002 a special body called “Commissariat a la Simplification administrative”. A new agency in Flanders responsible for better regulation has recently been created. Later this year, a platform to co-ordinate better regulation and simplification policies will be set up.
- Codification can be an option during the review and simplification process, but it is not a goal as such.
- All regulation is available on the Internet, on the website of the Ministry of Justice.
- The procedure followed for transposition is the same as for the drafting of national legislation.
- The AAS organizes training on better regulation, project management, quality of drafting, clear Internet language, etc.

DENMARK

POLICY IMPLEMENTATION OPTIONS

Denmark has a horizontal policy for promoting better regulation. The responsibility for the horizontal policy is shared among the Prime Minister's Office, the Ministry of Justice and the Ministry of Finance.

Since the early 1980s, regulatory reform has been pursued in Denmark through a number of structural reforms and modernization efforts under the oversight of the Prime Minister's Office. *The Prime Minister* has issued a document on mandatory procedures for quality control, which ensures that the Ministry of Justice and the Ministry of Finance review all proposals for regulations.

The Prime Minister's Office chairs a high level group of permanent secretaries on better regulation. Permanent secretaries from the ministries, mentioned above and from the Ministry of Economic and Business Affairs are members.

The Ministry of Justice is responsible for the overall guidelines on Better Regulation. The guidelines comprise advice on preparation of draft bills, impact assessments, considerations of alternatives to regulation and review of legislation. Furthermore, the Ministry of Justice reviews the legal quality of all draft legislation. This covers technical quality, constitutionality, and compliance with international obligations.

The Ministry of Finance reviews the administrative and financial consequences of new regulation and conducts budgetary analyses of different regulatory areas. In this context it assesses existing regulation. Furthermore, the newly established Division for Better Regulation is situated in the Ministry of Finance.

In the *Ministry of Economic and Business Affairs*, a unit on better regulation is dedicated to assessing administrative consequences for businesses, for instance by use of business test panels.

Regulatory processes' results:

The Prime Minister's Office has issued a *Circular concerning Comments on Regulatory Proposal and Procedures for the Preparation of Draft Bills, Acts, Executive and Ministerial Orders and Circulars*, which defines the mandatory aspects of a RIA.

Before each parliamentary year, the Prime Minister's Office gathers all ministries' proposals for new regulation in a law catalogue. The high-level group on better

regulation examines the proposals and background reports are produced covering expected costs and benefits.

The Ministry of Justice has produced a Guideline on the Quality of Regulation, which includes the procedures for amendments and RIAs.

The Division for better regulation in the *Ministry of Finance* published last year an action plan for simplification for all ministries. Several of the initiatives have already been carried through.

Problems faced:

Different ministries have different definitions of regulatory reform. This diversity of results would not have emerged if one strict definition dominated.

The responsibility of formulating and implementing proposal is decentralized. This method ensures ownership in the responsible ministries, but can also entail some negative aspects. There is no possibility of sanctions or other measures to make sure that proposals are carried through. On the other hand, there are several examples of ministries that have established regulatory reform units to push the development in their field.

REGULATORY IMPACT ASSESSMENT²

New regulation is subject to RIA and it is required only for primary laws. The ministries should consider the issues listed below if proposed laws have substantial implications. If there are no implications, this should be noted. The different aspect of the RIA should be summarized in a table. Each ministry is responsible for the RIA of its draft regulation.

The issues considered are:

- Administrative and financial implications for the public administration
- Administrative and financial implications for regional and local administrations
- Implications for the economy (should be considered in connection with bigger investment projects)
- Administrative and financial implications for businesses (in relevant cases)
- Consequences for citizens
- Consequences for the environment
- Coherence with EU legislation

² see annex RIA on amendment of the VAT

- Other relevant consequences (e.g. gender equality or regional consequences)

In the OECD Review of Regulatory Reform in Denmark (2000) it is stated that the preconditions for an effective RIA system exists. The Review points out at some areas, where more attention could increase the quality. E.g. the procedures for conducting RIAs could be more coordinated and the guidelines for conducting RIAs could include specific methods for making the assessments.

In Denmark there is no a special body with the authority to review the quality of RIA. In toto, RIA has helped to reveal important consequences of proposed regulation. This means that the proposals for new legislation are more thoroughly prepared and the basis for decision-makers is more comprehensive.

The procedures for conducting RIAs could be better coordinated and the guidelines for conducting RIAs could include specific methods for making the assessments.

PUBLIC CONSULTATION

Consultations are a normal part of the preparation of draft laws and are almost always taking place. Making it mandatory would thus not significantly increase the frequency of consultations.

The consultations are initiated after the departmental preparation of a bill, before bills are presented to parliament. Consulted parties include public bodies, NGOs, business organizations and other interest groups. The consultation process is performed formally, by circulating of documents, through the Internet, and by forming test panels. All ministries inform on ongoing consultations on their web sites.

The consultation period is normally for 2-4 weeks.

The department preparing the regulation incorporates the comments in the proposal, when possible and relevant. All the comments are furthermore forwarded to parliament as an attachment to the bill, and a summarized listing of the comments form part of the commentary in the bill. All the results are published.

SIMPLIFICATION OF EXISTING REGULATIONS

The government is committed to simplifying existing regulation. Each ministry is responsible for the simplification efforts on their field of regulation. The Division for better regulation has collected and coordinated suggestions from the different ministries for simplifications. These suggestions have been published in the form of a cross-ministerial action plan for simplification and reduction of administrative

burdens (August 2002). An update of the action plan will be published in the autumn (2003).

The target is to simplify existing regulation but the public administration as well. Digitalisation is an obvious way to simplify the administration of complex regulation, (the annual tax refund is fully digitalised).

CODIFICATION OF EXISTING REGULATIONS

As a consequence of the Danish political culture and political system, a number of amendments to existing laws are passed through parliament each year. This makes codification very important. A comprehensive guideline on this issue, published by the Ministry of Justice, has been in place since 1969.

The overall principle is that amendments are written into the original law and a statutory order is issued. Codification should always be made when amendments are of some substance and when the amendments concern legislation that is often used.

ACCESS TO REGULATION

Retsinformation (Legal information) is an on-line legal information system, operated by a directorate under the Ministry of Justice. It was established in 1985 and contains all Danish rules and regulations, i.e. all acts passed by parliament as well as statutory orders, circulars etc. issued by the administration. It also contains bills and most other documents from the legislative process in parliament, e.g. the debates, parliamentary resolutions and proposals for parliamentary resolutions (including the motives for the proposals) and more.

The Danish Ministries have the obligation to deliver rules and regulations within their portfolio to Retsinformation and to keep it updated. The parliament has no obligation to deliver documents to Retsinformation but in fact since Retsinformation has been established he does so.

Furthermore, at the home page of the parliament, it has since 1987 been possible to follow all bills through the legislative process.

TRANSPOSITION OF EUROPEAN REGULATION

Directives are mainly transposed in three ways. Firstly, they can be written into Danish law, when the provisions in the directive can be made in Danish law. Secondly, a reference to the directive can be made in Danish law, or thirdly it can be

ascertained that the existing Danish law is in conformity with the directive. Each responsible minister is following the process.

Difficulties are encountered in order to ascertain whether Danish law is in conformity with the directive.

The transposition procedure depends on the provisions made by the EU on transposition of European regulations and directives.

Training the public servants for developing better regulations skills:

The Ministry of Justice has issued guidelines on the procedures for drafting regulation. Furthermore, the ministry offers training in the technicalities and procedures concerning legislation and legal drafting.

To recapitulate:

- A horizontal policy on better regulation exists.
- The responsibility for the horizontal policy is shared among the Prime Minister's Office, the Ministry of Justice and the Ministry of Finance.
- Each ministry is responsible for the RIA of its draft regulation.
- Consultations are a normal part of the preparation of draft laws and are almost always taking place. The consultation period is taking place for 2-4 weeks.
- The government is committed to simplifying existing regulation. Each ministry is responsible for the simplification efforts on their field of regulation.
- Codification is a very important issue. A comprehensive guideline on this issue, published by the Ministry of Justice, has been in place since 1969.
- Retsinformation (Legal information) is an on-line legal information system, operated by a directorate under the Ministry of Justice.
- Directives are mainly transposed in three ways.

FINLAND

POLICY IMPLEMENTATION OPTIONS

The Finnish Government has an explicit horizontal policy for promoting better regulation and many recommendations have been given in this area. Yet the implementation of the policy could in practice be further improved. In 1999, a High-level Working Group on Legislative Policy gave out a memorandum on the formulation of the Government Legislative Policy. In April 2003, a working group of Secretary-Generals (the highest permanent civil servants in the Finnish administration) gave out its memorandum “Towards Better Planning and Management of Law Drafting”, which includes a number of measures to strengthen the regulatory policy. The general aim is to include law drafting as part of the strategic management of the government and its ministries more strongly than today. To achieve this, the establishment of a permanent group of Secretary Generals with supporting structures is proposed along with other measures to improve the quality of law drafting (e.g. improved RIA and assessment of alternatives, improved consultation methods, further simplification of the existing legislation). The implementation of the establishment of the permanent group of Secretary Generals along with supporting structures is being considered within the government.

The Finnish Government does have sectoral policies for promoting better regulation in several different Ministries (e.g. Ministries of Finance, of Trade and Industry, of Environment, of the Interior, of the Social Affairs and Health, etc.), but what is lacking is a coherent comprehensive approach.

The individual Ministries are responsible for the promotion and monitoring of sectoral policies on better regulation.

In 2002, an OECD regulatory review was carried out of Finland. The Report, “Regulatory Reform in Finland-A New Consensus for Change” was published on May 13, 2003. At the moment Finland is giving consideration to how best take into account the OECD recommendations when implementing measures to improve the quality of law drafting.

REGULATORY IMPACT ASSESSMENT

New regulation is subject to Regulatory Impact Assessment. RIA is required for primary laws and subordinate regulations alike according to the proportionality

principle. The ministries are responsible for carrying out the RIA, and the Bureau of Legislative Inspection in the Ministry of Justice follows how this responsibility is realized in practice. RIA is to cover all relevant substantial impacts, costs and benefits alike. The main drawback is the lack of (structural/training) support in carrying out RIA. The evaluation of the RIAs, carried out could be further improved RIA does not always reach its initial goals.

Eliminado: ,

PUBLIC CONSULTATION

Public consultation is used during the regulatory process. It is mandatory in practice, but not formally required by law. It is used in the appropriate stages of the law-drafting process to get the input and feedback of those affected by the regulation. Different groups are consulted on an extensive scale and different forms (written statements/circulation of documents, oral hearings, the Internet) used depending on the scale and nature of the individual project. Public notice – procedure and test panels are not used. The consultation period generally lasts from two to six weeks. The results of the consultation process are elaborated and used in the further drafting by the persons(s) responsible for the project. The consultation process could be further improved by improving its timing (longer consultation periods) and extent; these aspects are being presently considered – for instance, the Ministry of Finance published in 2002 instructions on better involving the citizens and different interest groups in the consultation procedures. The Ministry of Justice is further elaborating these instructions in its own administrative field.

SIMPLIFICATION OF EXISTING REGULATIONS

There is no simplification policy of the existing regulations.

CODIFICATION OF EXISTING REGULATIONS

There is no policy on the codification of existing regulations, but the recent trend is to carry out extensive reforms in individual fields (e.g., Act on the Openness of Government Activities, Administration Act).

ACCESS TO REGULATION

Finlex is the single internet-based contact point where the citizens can have access to the new and existing laws and regulations. It is operating well.

TRANSPOSITION OF EUROPEAN REGULATIONS

Individual Ministries are responsible for the transposition. This transposition procedure is not being systematically followed or evaluated by any specific instance; it is known to work very well. The main problems encountered are those related to the style, structure and the detailed nature of the EU regulation when compared to that of the Finnish regulation.

Training the public servants for developing better regulation skills: The Ministry of Justice is generally responsible for providing training in law drafting. This does not, however, exclude training organized in other forms, e.g., within and between the ministries. The training of law drafters has traditionally happened in the form of in-house training. Since 1976 the Administrative Development Agency, today the Finnish Institute of Public Management Ltd, (HAUS kehittämiskeskus Oy), a state company, has arranged courses for law drafters. The courses have been so called *basic courses*, but in the 1990's also *complementary courses* and courses for assisting personnel have been arranged. Furthermore, there are some courses on law drafting in a few universities.

To recapitulate:

- An explicit horizontal policy on better regulation with many recommendations to Ministries on that issue but the implementation of the policy could, in practice, be further improved.
- A working group of Secretary-generals has given its recommendations to strengthen the regulatory reform. The implementation of the recommendations is being considered within the government.
- Sectoral better regulation policies exist in different Ministries.
- Lack of coherent, comprehensive implementation of horizontal policy.
- RIA (covering all substantial impacts- costs, benefits alike) exists. It is required for new regulations- primary laws and subordinate regulations alike according to the proportionality principle. Responsible organs for RIA: Ministries. The Bureau of legislative Inspection in the Ministry of Justice follows how this responsibility is realized in practice. Lack of

(structural/training) support in carrying out RIA. Further elaboration of RIA's is needed in order to obtain their initial goals.

- Mandatory-but not formally required by Law- public consultation is used. Its main function is to get input and information in all the appropriate stages of the law-drafting process on the effects of the upcoming regulation. Different groups are consulted on extensive scale and different forms (written statements, circulation of documents, oral hearings, Internet) are used depending on the scale and nature of the individual project.
- Public notice-test panels are not used.
- Consultation period from two to six weeks.

The results of consultation are elaborated and used in the further drafting by the responsible person(s) for the project.

Further improvement of consultation process: Longer consultation period

- There is no simplification policy on the existing regulations.
- There is no policy on codification, but the recent trend is to carry out extensive reforms in individual fields (e.g. Act on the Openness of Government Activities, Administration Act).
- Access to regulation is given through FINLEX, a single Internet-based contact point, where citizens can have access to the new and existing laws and regulations.
- Transposition is carried out by individual Ministries. This procedure is not being systematically followed or evaluated by any specific instance; it is known to work very well. Main problems encountered relate to the style, structure and the detailed nature of the EU regulation.
- Ministry of Justice delivers training in law drafting. Training is delivered also within and between the Ministries. Since 1976 the Administrative Development Agency (Finnish Institute of Public management) arranges courses (basic courses, complementary courses, courses for assisting personnel) for law drafters. A few universities are providing similar courses on law drafting.
- OECD regulatory review, "Regulatory Reform in Finland-A New Consensus for Change" was published on May 13, 2003.

GERMANY

POLICY IMPLEMENTATION OPTIONS

The German Federal Government has a horizontal policy for promoting better regulation on the level of the Federal Government. The complete horizontal policy will be put in the strategy of a master plan that will be decided by the Federal Cabinet in July 2003. That plan is based – among other things on the recommendations of the Mandelkern Report and the results of the European Council of Laeken. The Federal Cabinet passed in February 2003 the plan “The key elements of the Master Plan to reduce Bureaucracy” which is going to be attached to the July plan. The master plan should be understood as a dynamic process into which new bureaucracy-reduction projects are continually being integrated. It is intended to be a unified, strategic and inter-ministerial blueprint for the entire Federal Government. The master plan is made up of a programme for immediate action to reduce bureaucracy, and an overall strategy for the systematic and large-scale reduction of bureaucracy.

The office of the State Secretary in the Federal Ministry of the Interior is responsible for the master plan process because the State Secretary chairs a steering committee which is accountable for implementing this plan. According to the principle of departmental authority for the Federal Government, each federal minister is responsible for the enforcement of the master plan in his accountability. That means the master plan includes central and decentral elements.

The program started in February 2003 and it is under implementation.

The government has not sectoral policies for promoting better regulation. In the German regulatory system, the powers are divided between the Federal Government and the Länder. The Länder possess the right to legislate in so far as the Basic Law does not confer legislative power on the Federation (Art. 70 of the Basic Law). These powers define the accountabilities for promoting better regulation. To sum up, each federal ministry at the same time with the governments of the Länder is responsible for the area of their accountability.

REGULATORY IMPACT ASSESSMENT

Since the 1st of September 2000, the Federal Government of Germany has got a renewed “Joint rules of Procedure of the Federal Ministries”. These Joint Rules stipulate the rules for legislative work within the federal ministries as a basis for ministerial administrative practice. They also regulate the organisational set-up and

procedures within the ministries and co-operation between the ministries, with other constitutional bodies, with the Länder and with subordinate authorities.

Before a draft bill is submitted to the Federal Government for adoption, the lead federal ministry must involve the federal ministries affected by the bill in an early stage. During the legislation the responsible federal ministry has to examine the regulatory impacts.

According to German policy makers, a RIA should cover the impacts of a law, its intended effects and unintended side effects. Especially: the costs of industry, small and medium-sized enterprises in particular, as well as the impacts of the law on unit prices, price levels in general and its effects on the consumer. (Involvement of the Federal Ministry of Economics). The Joint Rules of Procedure of the Federal Ministries do not specify the impacts to be analysed. If possible, each impact should be checked. Therefore there is a compulsory requirement to present the regulatory impact in the legislative intent. For the practical application a reference basis is provided by the manual for assessing the regulatory impacts and the appurtenant guide to assessing regulatory impacts. However, if no regulatory impact assessment has been carried out or the quality of the assessment is poor, the Federal Ministry of the Interior, which is accountable for the enforcement of the Joint Rules, may object. But in practice no further sanctions are foreseen. Further steps to improve this situation need to be discussed in connection with the master plan.

The German constitutional system invokes many governmental bodies on the regulation issue because the powers between the Federal Government and the Länder are divided. As a result the Federal Government and the Länder are both affected by policy on better regulation.

It is clear that during recent years a lot of efforts have been done in economic aspects, especially after the reunification of Germany. The will for progress and their constant work are the main aspects of the German adequacy to the entire legislation system.

PUBLIC CONSULTATION

Public consultation is mandatory and it is used during the planning stage in the ministries. In formal terms, the consultation process is carried out by circulating documents. In this context, the Joint Rules of Procedure of the Federal Ministries stipulate that the views of the Länder and of the central associations of local government bodies which exist at federal level should be solicited prior to the initial draft when preparing bills which affect interests of the Länder or local government bodies. If a draft bill is drawn up later in the process, this bill is to be forwarded to the Länder, the central associations of local government bodies and the Länder

delegations to the Federation at the earliest possible juncture, if their interests are affected. This provision applies in the same manner to the involvement of central and umbrella associations in the private sector and specialist circles at federal level, when their interests are affected. This requirement for transparency applies to drafts of statutory instruments, as well as draft bills.

Who participates in the consultation proceedings on the part of the affected parties and the type of information which is solicited depends on the individual case. The same applies to the length of the consultation process. The length of the consultation process especially depends on the issue and how many bodies are involved. However, the single consultation of one or more affected parties is limited in time.

That means all the lobbies concerned are consulted. The federal ministries and the politicians who are responsible to pass the law use the results of the consultation. All the results are published.

SIMPLIFICATION OF EXISTING REGULATIONS

Simplification policy will be part of the new July 2003 master plan.

CODIFICATION OF EXISTING REGULATIONS

It will be included in the new master plan. At present the administration performs this function (simplification and codification) on a task- and subject-related basis. One part of the Immediate action programme of the master plan is weeding out obsolete federal legislation.

ACCESS TO REGULATION

Some laws are put in the Internet site of the Federal Ministry of the Interior. The access is free. Beside it there is a special data bank with access to all existing laws. The access is with cost. Furthermore, the "Federation Portal", set up in March 2001 as part of the Federal Government's BundOnline e-government initiative, is used for this purpose. Internet users can obtain central access to the electronic services and information offered by the federal authorities.

TRANSPOSITION OF EUROPEAN REGULATIONS

If a European regulation needs to be transposed, the lead federal ministry has to draw up a special transposition bill. From the formal point of view the transposition is a normal law-making procedure, meaning that the lead ministry has to follow the Joint Rules of Procedure of the Federal Ministries.

Legislative powers are divided between the Federal Government and the Länder. Furthermore the Länder are responsible for carrying out the federal laws, although only the Federal Government is one of the member states of the European Union. Therefore the Federal Government has to consider the concerns of the Länder prior to the passage of European regulation.

In the Federal Government there is a special council formed by the Secretaries of State who are responsible for European Issues.

Training the public servants for developing better regulation skills:

There is a permanent special elaborated Training Program for every civil servant in the Federal Administration. The programme is not mandatory. Better regulation as training issue is included in the curricula of the training program for each civil servant.

To recapitulate:

- Horizontal policy on Better Regulation. (The complete horizontal policy will be put on the strategy of a master plan that will be decided by the federal cabinet in July 2003. Responsible Body: The office of the State Secretary in the federal Ministry of the Interior for the master plan process because the State Secretary is the chair of a steering committee which is accountable for the implementation of this plan.. In February 2003 the Cabinet decided an immediate action plan. Because of the all-embracing structure of the regulation policies of the Federation and the Länder there are no sectoral policies on better regulation. Each federal ministry promotes in its own responsibility the better regulation issues.
 - There is a RIA. Affects both primary and secondary regulations. The Federal Ministry of the Interior which is accountable for the enforcement of the Joint Rules can object to a poor RIA. But in practice no further sanctions are possible.
 - Mandatory public consultation during the planning stage in ministries. Time limits for consultation depend on the issue and the involved bodies.
 - Simplification policy exists.
 - Codification policy exists.
 - ICT is used for access to regulations. Some sites free of charge.
 - Transposition process is like normal law-making process. Problems in transposition because of federalism.

GREECE

POLICY IMPLEMENTATION OPTIONS

Responsible for the promotion of a horizontal policy on Better Regulation is the General Secretariat of the Council of Ministers. There exist sectoral policies on Better Regulation at the sectors of competition policy, telecommunications, electricity, marine transport. Responsible for their promotion are the competent Ministries as well as the independent regulatory authorities that have been established.

REGULATORY IMPACT ASSESSMENT

Regulatory Impact Assessment in Greece is still at its infancy. There does not exist a legally formal procedure for applying this tool, in a comprehensive way, during the phase of a regulatory proposal but only informal and isolated attempts. The current practice is that all legislative proposals, including amendments, are obligatorily accompanied by a justification report as well as a budgetary impact report. The justification report is not required for subordinate legislation, Presidential Decrees and ministerial decisions. The *Energy Regulatory Authority* examines, *ex ante*, the appropriateness of the proposed regulation that is if it promotes its initial goal and also examines *ex post* its effectiveness. These judgements are based mainly upon cost – benefit analysis.

PUBLIC CONSULTATION

Public consultation in Greece is not mandatory and is being done informally by independent regulatory authorities and some Ministries. The methods used are the circulation of documents, the publication of the draft law on the internet and also public notice. There is no fixed consultation period but it usually lasts between 30 and 45 days. Usually the target group of regulation is being consulted and also public bodies and citizens. The results are being elaborated by the working staff of the competent services and in most cases, they are not published.

SIMPLIFICATION OF EXISTING REGULATIONS

There exists a simplification policy, following certain principles, implemented by the Ministry of the Interior, Public Administration and Decentralisation throughout the public administration.

Aims and characteristics of the horizontal simplification programme

- Re-examination of the given legal framework
- Better co-ordination of Public Services to ensure full commitment
- Wide range of intervention actions
- Building of a National Monitoring System
- Using single –points contacts the so –called Citizens Service Centers
- Creating Data Bases of administrative information and procedures
- Setting Simplifications criteria applicable to all Services

What has been achieved up to now

- 12 Common Acts among Ministries who simplified and re-designed 260 administrative procedures
- 576 Registered procedures in digitalize form available to citizens, from Citizens Services Centers covered a variety of administrative actions
- A Data –Base for about 1000 procedures giving direct information to citizens about requirements to issue certificates, licenses etc
- For business interests the simplification of 211 procedures, especially with the cooperation of Ministry of Development, 58 procedures were simplified by reducing forms from 236 to 116, average 44% and time from 3.5 months to 2 months for professional licences and starting new business

Next steps

- 500 new procedures to be available from Citizens Services Centers
- develop complete e-government applications
- to simplify 700 other procedures
- to build an appropriate simplification culture among Public Services, for the citizens interests

CODIFICATION OF EXISTING REGULATIONS

There exists a codification policy co-ordinated by the General Secretariat of the Council of Ministers. A Central Committee of Codification is established that will be responsible for the impementation of an explicit horizontal policy on Better regulation applicable to all Ministries and will also be competent for setting the rules for implementing the codification of the existing legislation.

EFFECTIVE STRUCTURES

There exist disperse structures throughout the administration responsible for the promotion of a Better Regulation policy, such as the General Secretariat of the Council of Ministers, Ministry of the Interior, Public Administration and Decentralisation, the Ministry of National Economy.

TRANSPPOSITION OF THE EUROPEAN REGULATIONS

Each Ministry has a competent unit that is responsible for the transposition of regulations of its competence.

The main problems faced in the procedure is low respect of the transposition timeframes as well as the complexity of new regulations.

ACCESS TO REGULATION

Citizens can have access to regulations through several portals of Ministries and independent regulatory authorities that publish on internet their regulations.

All legal sheets of the Official Gazette published since 1994, are digitalized, and citizens can have electronic access. The creation of a system for the distribution of all legal sheets of the Official Gazette through the Citizen's Service Centres, which will be the basic contact points between the citizens/businesses and the state, is also scheduled.

TRAINING

The National School of Public Administration has initiated a training programme for new public officials that introduce them into the Better Regulation principles and purposes.

To recapitulate:

- Responsible for the promotion of a horizontal policy on Better Regulation is the General Secretariat of the Council of Ministers. There exist sectoral policies on Better Regulation at the sectors of competition policy, telecommunications, electricity, marine transport.
- Regulatory Impact Assessment in Greece is still at its infancy and only informal and isolated attempts are being done.

- Public consultation in Greece is not mandatory and is being done informally by independent regulatory authorities and some Ministries.
- There exists a simplification policy, following certain principles, implemented by the Ministry of the Interior, Public Administration and Decentralisation throughout the public administration.
- There exists a codification policy co-ordinated by the General Secretariat of the Council of Ministers and a Central Committee of Codification has been established.
- The main problems faced in the transposition process is the low respect of the transposition timeframes as well as the complexity of new regulations.
- Citizens can have access to regulations through several portals of Ministries and independent regulatory authorities that publish on internet their regulations.
- Citizens can have access to regulations through several portals of Ministries and independent regulatory authorities that publish on internet their regulations.

IRELAND

POLICY IMPLEMENTATION OPTIONS

Recognizing that promoting better regulation is a horizontal issue, the Government established a High Level Group on Regulation in 2001. The Group is chaired by the Department of the Taoiseach (Prime Minister) and comprises senior officials from key Government Departments (including the Department of Finance) as well as the main independent economic sectoral regulators, the Director of Consumer Affairs and the Competition Authority.

The main objectives of the High Level Group on Regulation are to provide a cross-agency mechanism to examine the findings of the OECD's report on regulatory reform in Ireland (2001), to consider existing and emerging implementation plans and to report to the Government on a regular basis regarding measures in place, progress being achieved and any difficulties being encountered.

The work of the Group includes:

- a) Consideration of options for a model of RIA for implementation in the public service and assistance with the design of such a model/or selection of expertise;
- b) Availing of the unique composition of the Group to identify any inhibitors to the development of a coherent cross-sectoral system of regulatory management at national level;
- c) Consideration of institutional and policy responses to give effect to, not only the recommendations of the OECD report, but a robust framework of regulatory management going forward.

The High Level Group is supported by a Better regulation Unit, part of the Public Service Modernisation Division in the Department of the Taoiseach. The Unit is headed by an Assistant Secretary General (second highest tier) and has responsibility for coordinating the work of several sub-groups, and the High Level Group on Regulation.

The High Level Group on Regulation has made considerable progress, since its establishment in May 2001. It has met 15 times to date and made an interim report to

Government on its progress in November 2002.³ The Group is currently drafting a Government White paper on better regulation which will provide a set of core principles to guide future regulation and policy-making. To inform this process, a public consultation document “Towards Better Regulation” was published in 2002. 89 submissions, which have been studied and analysed, were received from a wide variety of interested parties during the consultation process.

Problems raised during the implementation of a horizontal regulatory reform policy:
There are clearly a number of challenges for the Irish administration:

- The enhancement of awareness and understanding of better regulation within the policy-making community
- The development of the base of skills and knowledge for effective implementation of evidence-based policy-making, including RIA
- The need to ensure access to quality, relevant data to underpin evidence-based policy-making and
- The design and support of appropriate and effective structures and processes in support of better regulation.

Sectoral regulatory policy is developed on an ongoing basis, in many instances arising from OECD recommendations in areas such as: Pharmacies, Professional Services, Liquor Licencing, Taxis, Ports, Energy, Telecommunications.

In each case, the primary responsibility for promoting and monitoring sectoral policies on better regulation rests with the relevant Government Department. In some cases, policy is implemented through independent sectoral regulators (e.g. the Commission for Energy Regulation) or policy is developed with the assistance of a review/advisory mechanism (e.g. the Pharmacy Review Group).

REGULATORY IMPACT ASSESSMENT

Most legislation enacted by the Houses of the Oireachtas (Parliament) is proposed by the Government. All proposals for new primary legislation (acts of Parliament) emanating from the Government must be approved at a Cabinet meeting. When such

³ copy at www.betterregulation.ie

proposals are presented to Cabinet, they should be supported by a completed Quality Regulation Checklist. This is a detailed checklist that relies heavily on qualitative and narrative appraisals rather than quantitative analysis. OECD's review confirmed that the checklist is not as rigorously enforced as it might be, that it is weak in terms of quantification, and that there were inconsistencies across the system in terms of compliance.

A more rigorous system of Regulatory Impact Analysis is being developed which would strengthen and ultimately replace the existing checklist. At present, this RIA is in a pre-pilot phase. A report on the introduction of a model of RIA has been agreed by the High Level Group on Regulation and includes a proposed approach to RIA to be piloted in the Irish context. It is intended to submit this report to Government shortly prior to initiating the pilot phase during which the model developed by the High Level Group will be piloted in a number of Departments.

Under current arrangements, impact assessment is applicable only in respect of proposed new primary laws. Under the new proposals, while it is intended that RIA should still initially apply only to the preparation of primary legislation, within the Civil Service, over time, and as the required levels of experience and expertise are accumulated, it is expected that the requirement would be extended to secondary legislation.

Under current arrangements, the Quality Checklist covers issues such as (a) correct definition of the policy issue (b) effects on market entry, competition etc. (c) disproportionate effects on the small business sector (d) options for sunseting and review of the proposed legislation.

The new, more rigorous RIA will have four main components i.e. (a) the identification and quantification of impacts, including full cost benefit analysis wherever possible, (b) structured consideration of alternatives to regulation, (c) more structured and consistent consultation with interest groups and the general public, (d) fuller examination of likely compliance and enforcement issues.

The preliminary model of RIA, which it is intended to pilot, takes a two-phase approach. The first phase involves an initial screening exercise, whereby a policy proposal is assessed against a number of criteria. Depending on the outcome of this

first assessment, a second phase – or full RIA - may be required. A full RIA would be required only where the result of the screening RIA suggests it is necessary, on the basis of defined thresholds and criteria.

The proposed pilot RIA model includes questions around issues such as the likely costs involved in the proposal and where/upon whom these costs fall, and the quantification/identification of the likely benefits accruing from each option. :

Weak points of existing RIA:

(a) The lack of quantification of likely costs and benefits, (b) the inconsistency of its application across a range of Government Departments and organizations, (c) the absence of resources to permit central analysis and enforcement, (d) the fact that the analysis is conducted when the proposal is being submitted to the Cabinet, which is often too late in the process.

Problems with the proposed new RIA will be identified in the pilot phase and addressed during the review phase. There are positive expectations about RIA's potential contribution to the policy making process.

PUBLIC CONSULTATION

There is no mandatory consultation required when forming regulation although, in many cases, a period of public consultation is undertaken. A structured consultation process is an important component of the proposed pilot RIA model. The proposed approach suggests that all policy proposals that may involve regulation would be subject to a screening RIA. A formal public consultation process would be necessary to fulfill the conditions of a full RIA. This consultation would not be a legal requirement but would be in accordance with best practice and certain guidelines in relation to timescales, notification, etc.

The time period for consultation has yet to be decided but will be resolved in the context of the piloting of the RIA model and the drafting of the White Paper on Regulation. It is envisaged that the results of the consultation process would be published.

SIMPLIFICATION OF EXISTING REGULATIONS

As well as improving the quality of new regulations, regulatory reform is also about improving the stock of existing regulations. The Statute Law Revision Unit in the Office of the Attorney General is working on better accessibility, clarity and coherence of laws. The CD-rom project, which contains all Acts of the Oireachtas electronically, is an example of this. In addition, the Statute Law (Restatement) Act 2002, will facilitate greater coherence through faster new administrative consolidation procedures while also enhancing clarity through user-friendly layouts and simpler texts. In addition, work on e-Government is also contributing to the general simplification of regulations and procedures.

CODIFICATION OF EXISTING REGULATIONS

There is no discrete policy on the codification of existing regulations but it has been recognized as increasingly important as reflected in in the “Report of the Law Offices of the State Strategic Review Group” and in “Reducing Red Tape- An Action Program for Regulatory Reform in Ireland” that a program of statute law revision and consolidation is essential.

As referred to above, a small unit in the Attorney General’s Office, the Statute Law Revision Unit was established by a decision of Government in 1999 to draw up and implement a programme of statute law revision and consolidation. Part of the work of the Statute Law Revision Unit has been to identify policies to improve the clarity, coherence and accessibility of statute law.

The Statute Law (Restatement) Act 2002 enables the Attorney General publish Restatements or updated versions of groups of Acts. Restatements do not alter the substance of the law and, accordingly, do not require the approval of the Houses of the Oireachtas. They may, however, be cited in court and accepted as prima facie evidence of the legislation set out in them.

ACCESS TO REGULATION

Regarding citizen accessibility to regulation, the statute book has been made available in electronic format and as part of their e-Government strategies, Departments /Offices will be increasingly using web-based technologies to publish regulations, application forms and explanatory information.

Access to regulation is channelled through the Government's website⁴ and the Irish Statute Book is available on CD-ROM.

TRANSPOSITION OF EUROPEAN REGULATION

Responsibility for transposing EU regulations and directives is shared between relevant Government Departments and the Office of the Attorney General. The former are responsible for deciding the policy and the latter are responsible for the drafting of primary legislation or secondary legislation to give effect to the regulations or directives.

Two approaches are adopted depending on the type of Directive: the copy out method whereby the directive is essentially transcribed word for word into domestic law with provisions being made as required for administration and enforcement.

The second method involves drafting an instrument that does not closely follow the wording of the directive but achieves the desired result. The former is by far the most common approach.

The resultant text is discussed between the Department and the Office of the Parliamentary Counsel until agreement is reached and in appropriate cases the draft is discussed with the relevant interested parties and sometimes referred to the Commission if there is doubt as to what is intended by an article in a directive.

To recapitulate:

A High level Group on Regulation has been established since 2001, chaired by Prime Minister's Office and comprised by representatives of other Ministries and regulatory bodies.

- The High Level Group is supported by a Better Regulation Unit, part of the Public Service Modernisation Division in the Department of the Taoiseach.

⁴ www.irlgov.ie

- Sectoral regulatory policy is developed on an ongoing basis, in many cases arising from OECD recommendations in areas such as: Pharmacies, Professional Services, Liquor Licencing, Taxis, Ports, Energy, Telecommunications. In each case, the primary responsibility for promoting and monitoring sectoral policies on better regulation rests with the relevant Government Department.
- RIA: A Quality Regulation Checklist currently exists which relies heavily on qualitative and narrative appraisals rather than quantitative analysis. A more rigorous system of Regulatory Impact Analysis is being developed which would strengthen and ultimately replace the existing checklist.
- The preliminary model of RIA, which it is intended to pilot, takes a two-phase approach. The first phase involves an initial screening exercise, whereby a policy proposal is assessed against a number of criteria. Depending on the outcome of this first assessment, a second phase –or full RIA- may be required. A full RIA would be required only where the result of the screening RIA suggests it is necessary, on the basis of defined thresholds and criteria.
- No mandatory consultation. The consultation would not be a legal requirement but would be in accordance with the proposed RIA model best practice and certain guidelines in relation to timescales, notification, etc. The time period for consultation has yet to be decided.
- There is no formal program of simplification of existing regulations. However, work is going on as part of the wider public service modernization program. In addition, work on e-Government is also contributing to the general simplification of regulations and procedures.
- There is no discrete policy on codification but the Statute Law Revision Unit in the Attorney General’s Office seeks to improve the clarity, coherence and accessibility of Statute Law.
- Access to regulation through the Government’s website.
- Responsibility for transposing EU regulations and directives is shared between relevant Government Departments and the Office of the Attorney General. The former are responsible for deciding the policy and the latter are responsible for the drafting of primary legislation or secondary legislation to give effect to the regulations or directives.

ITALY

POLICY IMPLEMENTATION OPTIONS

The Italian Government has a horizontal policy for promoting better regulation which is under the responsibility of the Prime Minister's Office (Department of Public Administration and of Juridical and Legislative Affairs). Its responsibilities are implementing regulatory and procedural legislation, carrying out assessments of the impact of regulations, assuring correct application of the techniques of drawing up regulatory acts and assuring both clarity and simplification of administrative language.

Since 1997 the process of regulatory and procedural simplification has led to the simplification of 105 procedures.⁵ 62 of them have simplified several interconnected procedures, (issue of six consolidation acts for the re-ordering of legislative and regulatory provision).

Problems faced: In many cases it has not proved possible to complete the simplification interventions introduced by the new simplification bill of law. They modified the Title V of the Constitution, with the consequent revision of the distribution of competencies and the expected transfer to the regions of regulatory powers in matters of concurrent or exclusive competence of the regions. The extremely fragmentary and micro-sectoral nature of the "de-legislation" and simplification processes, (which are not easy to insert in an overall normative framework and do not exert a preponderant effect on the substantial discipline), have not so far made possible substantial modifications of the overall normative framework or significant reductions of the normative stock.

Difficulties in implementing organic regulatory sets (complessi) have been also encountered in connection with regulatory re-ordering, where it wasn't possible to carry out interventions of substantial modification of the existing regulations. In this field, it was deemed appropriate to intervene –as envisaged by the simplification bill of law- to make possible to bring about a substantial reorganization and to arrive at the codification of primary legislative and procedural regulations. It will also act as fundamental principles for matters of concurrent legislation.

They have already implemented new regulations in the following areas:

⁵ Law No.59/1997, No. 60/1999, No.340/2000

- Administrative documentation
- Building
- Expropriation for public utility
- justice expenditure
- circulation and residence of Community citizens
- card-index of criminal records
- card-index of administrative sanctions deriving from crime and pending court cases associated therewith

Organization of offices and labor and employment relations of the public administrations.

They have sectoral policies for all these “regulatory re-ordering” realized in those domains. The simplification bill of law has replaced these “regulatory re-ordering” with regulatory reorganization and codification, allowing sectoral policies interventions . Their simplification bill of law is introducing a sectoral division of pertinence in order to succeed on implementing the regulations. Sectors mentioned:

- regulatory production
- simplification and quality of regulations
- labor safety
- insurance
- incentives for productive activities
- food products
- consumer protection
- legal metrology
- internationalization of enterprises
- information society
- national corps of fire brigades

They are using the following procedures of better regulation: processes of “delegislation”, regulatory and administrative simplification, assessment of the impact of regulations, regulatory reorganization and codification, application of the rules for the formulation of regulatory measures and others.

The Prime Minister’s Office is responsible for the promotion and the monitoring of the sectoral policies. The responsibilities are distributed to the Department of the public Function, the Department of Juridical and Legislative Affairs and the legislative Offices of all administrations.

REGULATORY IMPACT ASSESSMENT

The new regulation is no subject to RIA. The RIA has started at an experimental stage. In addition, it has been planned a training course for civil servants involved in RIA procedure.

At this experimental stage, RIAs are being prepared for primary laws but they are also trying to work RIAs for subordinate regulations. During the experimental stage, the competent body for legal and legislative affairs inside the Prime Minister's Office is DAGL, which coordinates and assists the departments involved.

RIA process includes the evaluation of costs and benefits (direct and indirect) for all sectors affected (businesses, citizens, public administration). A specific assessment of the impact on public administration is carried out as a part of the RIA procedure.

At the moment it is not possible to evaluate all the pros and cons of the application of the RIA process. This experimental stage is also oriented to understand theoretical and practical problems related with impact assessment. The DAGL, inside Prime Minister's Office is in charge to review the quality of RIAs.

In Italy RIAs are considered a valuable tool to enhance regulatory quality. Nevertheless, they could properly value RIA effects only after the experimental stage.

PUBLIC CONSULTATION

Public consultation is mandatory in Italy in some cases. The Italian simplification bill of law mentions that the "organs responsible for the political direction and the active administration should identify stable forms of consultation and participation of the organizations that represent the economic and productive categories and other organizations of social importance interested in the regulation and simplification processes".⁶

Target groups of regulation (e.g. trade unions and business organizations) as well as public bodies (e.g. state authorities, State-Regions Conference, etc.) are usually being consulted. The consultation process is realized formally.

SIMPLIFICATION OF EXISTING REGULATIONS

⁶ article 20 of law No. 59/1997

The simplification bill of law and in particular Article 20 establishes “the underlying principles and criteria with which simplification initiatives were to comply by the adoption of appropriate regulations to discipline procedural matters, with consequent lowering of the level of the regulatory source”.

The interventions of regulatory and procedural simplification have been realised by means of the application of specific “techniques” that, as regards their direct effects on procedural discipline, can be conventionally subdivided into the following three general criteria:

- techniques of elimination, by means of which it is mentioned to pursue effects of suppressing procedures;
- techniques of reduction, where there prevail effects of partial revision of the discipline or suppression of individual procedure segments;
- techniques of rationalization and procedural rationalization, according to whether there prevail the effects of an organic revision of the regulations-also as regards possible connections with other procedures- or the more specific effects of a simplifying restructuring of procedural patterns, as in the case of a reform of the functional and/or organisational profiles of the entire procedural order.

The regulatory re-ordering has been realized in accordance with the criteria and principles established by Article 76 of Law No. 50/1999.

The Simplification bill of law provides for a substantial modification of the simplification instruments and the introduction of the instrument of regulatory reorganization, establishing the principles and criteria in accordance with which these activities are to be realized; the principal innovations can be summarized as follows:

- passage from a simplification to be achieved by means of “microsurgery” interventions to a simplification that will involve entire subject matters of juridical and socio-economic areas;
- passage from a merely procedural simplification to a substantial simplification;
- passage from consolidation acts to not merely recognitive codes as the instrument for innovating the existing order;
- “deregulation”, as liberalization of various sectors of intervention and as reduction of the substantial regulations governing the administrative functions, and the management tasks of the public administration with respect to the various social sectors.

CODIFICATION OF EXISTING REGULATIONS

There is a codification policy and it is realized according to the following guiding principles and criteria:

- a) definition of the regulatory re-organization and codification of the primary regulations governing the subject matter;
- b) explicit indication of the abrogated regulations;
- c) indication of the general principles especially as regards the information, participation, discussion (possibility of the opposition), transparency and publicity that regulate the administrative procedures to which the regulations are concerned;
- d) substitution of the acts of authorization, license, concession, nulla osta, permission and consent, no matter by what name they may be known, the issue of which depends on ascertainment that the requirements and conditions of law are satisfied, (simple declaration that the activity has been commenced);
- e) determination of the cases in which implied consent may be inferred from silence, in relation to requests for the issues of an act of consent, that does not imply the exercise of administrative discretionary powers, reduction and revision of administrative functions, with explicit exclusion of specific typologies;
- f) promotion of self-regulation of quality standards and conformity certifications by the productive categories, subject to supervision of public administration or independent bodies,
- g) promotion of voluntary compliance of the interested parties with regulation models and adequate instruments of subsequent inspection and control in the cases in which it is proposed to suppress the administrative powers of authorization or to reduce the public functions that regulate the exercise of private activities.
- h) Implementation of the subsidiary principle.

As far as administrative functions are concerned, law decrees and regulations will have to comply with the following principles:

- illustration of the administrative procedures and of any procedures that are closely connected with or instrumental for these procedures
- reduction of the deadlines for the conclusion of the procedures
- uniform regulation of procedures of the same type
- reduction of the number of administrative procedures and unification of procedures relating to the same activity

- simplification and acceleration of the expenditure and accountancy procedures
- bringing procedures into line with the new technologies

ACCESS TO REGULATION

There is a “telematics site”. All the administrations are in any case to operate Internet sites, where the public can generally access sectoral regulations and information of various kinds about the activities performed by the administration in question.

TRANSPOSITION OF THE EUROPEAN REGULATIONS

Each year the national legislation is adapted to the EC law. They have introduced a responsible instrument for the transposition named “La Pergola” Law (General Rules on Participation of Italy to the EC Legal Process and on Procedures of Transposition of the EC obligations).

The “La Pergola” Law provides that by 31 January each year the Minister for the EU Policies submit to the Council of Ministries a draft bill of Community Law for the current year. By 31 March, the draft bill of Community Law is presented to the Parliament.

On May 2002, the Council of Ministers has approved a draft bill of Law in order to modify and integrate the “ La Pergola” Law. The need was to adapt it to the reform of Title V of the Constitution, which provides with a new and greater participatory role of the Regions at the transposition of EC Directives, and to simplify and accelerate the transposition of EC Regulations.

Training the public servants for developing better regulation skills:

Special programmes on RIA have been planned, organized by the Italian School of Public Administration (SSPA). The training programme is realized with the collaboration of DAGL.

To recapitulate:

- The Italian Government has a horizontal policy for promoting better regulation which is under the responsibility of the Prime Minister's Office (Department of Public Administration and of Juridical and Legislative Affairs). There is a simplification law in which all processes are mentioned. Since 1997 the process of regulatory and procedural simplification has led to the simplification of 105 procedures.
- They have sectoral policies. The Prime Minister's Office is responsible for the promotion and the monitoring of the sectoral policies. The responsibilities are distributed to the Department of the public Function, the Department of Juridical and Legislative Affairs and the legislative Offices of all administrations.
- The new regulation is not subject to RIA. The RIA has started at an experimental stage. In addition, it has been planned a training course for civil servants involved in RIA procedure. During the experimental stage, the competent body for legal and legislative affairs inside the Prime Minister's Office is DAGL, which coordinates and assists the departments involved.
- Public consultation is mandatory in Italy in some cases. The process is mentioned to the simplification bill of Law.
- There is a codification policy.
- Internet sites, where the public can generally access sectoral regulations and information of various kinds about the activities performed by the administration in question.
- They have introduced a responsible instrument for the transposition named "La Pergola" Law (General Rules on Participation of Italy to the EC Legal Process and on Procedures of Transposition of the EC obligations).

LUXEMBOURG

POLICY IMPLEMENTATION OPTIONS

After the adoption of Mandelkern report by the European Council a working group on the quality of regulations has been established. The mission of the working group was to identify the way of the implementation for the recommendations included in Mandelkern report. The proposal of a timetable for the implementation of the recommendations as well as the proposal on the appropriate structures that should be in charge with the monitoring of better regulation policy was also included in the initial goals of the working group.

Members of the group (started its operation in 3rd June 2002) have been nominated representatives of the Ministries, judges and representatives of the Parliament and the Conseil d' Etat.

Luxembourg has a permanent policy on better regulation issues, especially on the assessment of the impacts, the simplification of procedures and the insurance of transparency and the enhancement of the social dialogue.

PUBLIC CONSULTATION

Public consultation is made through Internet and has also been established not only as far as it concerns the information of the citizens but also for the preparatory stage.

Training the public servants for developing better regulation skills:

Specific training on better regulation techniques is also provided.

To recapitulate:

- A working group on the quality of regulations has been established. Members of the group (started its operation in 3rd June 2002) have been nominated representatives of the Ministries, judges and representatives of the Parliament and the Conseil d' Etat.
- Luxembourg has a permanent policy on better regulation issues
- Public consultation through Internet has also been established not only as far as it concerns the information of the citizens but also for the preparatory stage.
- Specific training on better regulation techniques is also provided.

THE NETHERLANDS

POLICY IMPLEMENTATION OPTIONS

The Dutch government has a horizontal policy for promoting better regulation. This policy distinguishes between better regulation in general, and a specific policy for the reduction of administrative burdens. The main difference between the two is that the policy on administrative burdens is much more quantitative in nature. Each ministry has conducted a zero base measurement, listing all the administrative obligations for companies and calculating the costs in euros. Working from there, all new administrative burdens as well as reductions are carefully measured. Of course, the general policy on better regulation often cannot be that quantitative. Effects of regulation on companies, the environment etc often can only be described in qualitative terms. This makes it harder to set firm targets for improving legislation.

The responsible bodies for the horizontal policy are the Ministry of Economic Affairs, and – specifically for administrative burdens - the Independent Agency (Actal). Among the other responsibilities of the Ministry of Economic Affairs are the coordination of simplification program and the impact assessment on Business and Environment Aspects. The impact assessment on aspect of administrative burdens is the responsibility of the Actal. Actal has been instated for a period of 4 years (with a one-time opportunity of an extra 4 years). In this period, Actal aims to achieve a cultural shift among legislators and regulators to find ways to significantly cut back the administrative burden on businesses. It also aims to increase the insight into the consequences of laws and regulations on the overall administrative burden on enterprises. Actal can choose its own ways and means to help achieve this goal. It can provide input during the preparation of legislation and regulations, carry out formal assessments, take initiatives and carry out its own research.

The mentioned bodies have been successful and effective, since a reduction of administrative burdens so far by 7% (in euro's) has been estimated as outcome of the simplification policy. Still the results of Impact Assessment are hard to be measured. Main problems connected with the implementation of a horizontal policy on better regulation are:

1. Some Ministries are very slow in simplifying legislation and refuse to accept ambitious targets.

2. It is difficult to ensure that impact assessments are taken account of by legislators.

There are sectoral policies on better regulation. All the Ministries executing laws are obliged to have a rolling simplification program.

The main means and procedures used for the purpose of better regulation are the ones proposed by the Mandelkern Group:

- Use of Alternatives
- Consultations
- Simplification.

The administrative bodies responsible for promotion and monitoring of sectoral policies on better regulation are on the National Government the Ministry of Economic Affairs and on the Local Government the Ministry of Interior and the Ministry of Transport.

REGULATORY IMPACT ASSESSMENT

The RIA is required for all new laws. The steps followed during the RIA are the following:

Firstly, when the Ministry decides to create new legislation, it has to perform a quickscan. In this quickscan, the Ministry has to motivate the reason why it has chosen to create legislation and why it did not use an alternative to legislation. Hence, this quickscan will be conducted at the earliest stage of the legislation process, when the legislation has not even been created.

Secondly, when the new legislation has been created the Ministry is forced to check its new regulations on possible negative effects. Then the Draft legislation point (min. EF, min. housing spatial planning and environment and min. justice) examines the checks done by the Ministries. It focuses on the effects to environment, administrative burdens, enforceability, and feasibility. For a small number of dossiers a specified check is done. Criteria such as the consequences for the private sector and the environmental impact are examined during this specified assessment.

Finally Actal conducts a critical evaluation of proposed legislation and regulations to assess their potential administrative burden for companies. In doing so, it looks at the way in which the possible consequences of proposed laws and regulations for

administrative burdens are considered in the explanatory notes to the laws and regulations concerned. Actal then evaluates the degree to which the legislator has tried to choose the least burdensome option - in terms of administrative costs – for achieving the stated policy goal. Actal will assess how accurately the legislator has quantified the level of administrative burdens and how carefully and reliably he/she has searched for less costly alternatives. Finally, Actal will consider whether the least costly alternative has been found within the specific aims of the law or regulation.

The main drawbacks are focused on the lack of obligatory compliance of the Ministries to the given advises by legislation point and Actal.

RIA helped in the promotion of good quality of regulations, since Ministries are aware that legislation needs to be of high quality and that they should be more thoughtful during the whole legislation process. On the other hand, improvement can be found in trying to get the advice of a more binding nature. Furthermore improvements can be made on the subject of transparency and confidentiality and this because advice from Actal and Legislation point is confidential.

PUBLIC CONSULTATION

Public consultation is not mandatory but target groups of regulation and public bodies are usually being consulted.

Consultation process is realised through different ways: Informally, through public notice and through circulation of documents.

The duration of the consultation period varies depending on the subject and range of consultation. At the end of the process the results of consultation are elaborated and used by the proposing the regulation Ministry. They are not publishing the results of the consultation.

It is estimated that public consultation helped promoting good quality of regulations in Netherlands without mentioning the exact aid given.

SIMPLIFICATION OF EXISTING REGULATIONS

There is a simplification policy of the existing regulation. Part of this policy is specifically aimed at reducing administrative burdens. This part builds on the zero base measurements that were conducted for each ministry of the administrative costs

that they cause for companies. A national target of 25% reduction between 2002 and 2006 has been set, and this will be translated into a concrete reduction target for each ministry. The Cabinet will set these targets, after which each Ministries can work on achieving its targets rather autonomously. The Ministry of Economic Affairs is in charge of coordination process and reporting to the Cabinet and parliament about progress in the reduction process.

In addition to the reduction of administrative burdens there are several other initiatives aimed at creating better legislation and better governance. The Main instruments used for this part of the simplification program are ICT, the Reduction of conflicting legislation, and cutting parts of obsolete existing regulation (if possible).

CODIFICATION OF EXISTING REGULATIONS

Amendments to existing laws are codified immediately after they have been adopted. Therefore there is no need for an additional codification policy.

ACCESS TO REGULATION

There are several Internet points⁷ for access to regulations where citizens can have access to the information.

TRANSPOSITION OF EUROPEAN REGULATIONS

The procedure followed for the transposition of European regulations is the following:

1. Within a month after the regulation has come out a short analysis is written
2. The analysis is discussed with all Ministries and then sent to Parliament.
3. A decision is made about whether to organize consultations, and of what kind
4. An implementation plan is written, about i.a. the way of implementation
5. The implementation is carried out according to plan.
6. Notification is given if the implementation has been completed.

Responsible Body for the follow up of this process is the Ministry responsible (competent) for the specific policy.

⁷ www.overheid.nl

The procedure of the transposition of European regulation to the national law seems very well organized. They have not mentioned any problems faced since the implementation of the *acquis communautaire*.

Training the public servants for developing better regulation skills: The combined Ministries have set up a law academy for regulation, under the responsibility of the Ministry of Justice. There are several in-depth training programs for lawmakers that are serviced by a Centre of Expertise under the responsibility of the Ministry of Justice.

To recapitulate:

- Horizontal policy on better regulation exists. Responsible bodies: Ministry of economic affairs, Independent Agency (Actal).
- There are sectoral policies on better regulation. All the Ministries executing laws are obliged to have a rolling simplification program. Administrative Bodies responsible for promotion and monitoring sectoral policies on better regulation: (National Government): Ministry of economic affairs. (Local government): Ministry of Interior and Ministry of Transport.
- RIA exists. It is required for all new laws. Special bodies entitled with the authority to review the quality of RIA are: the Draft Legislation Point and the Actal.
- Public consultation is used during the regulatory process, although not mandatory. Target groups of regulation and public bodies are usually being consulted.
- Consultation process is realized through different ways: Informally, through public notice and through circulation of documents. The duration of the consultation period varies depending on the subject and range of consultation. The results of consultation are elaborated and used by the proposing the regulation Ministry.
- It exists a simplification policy.
- It doesn't exist any specific codification policy.
- Internet points for access to regulations
- Special policy followed for the transposition of European regulations.
- Training policy on better regulation: The combined Ministries have set up a law academy for regulation, under the responsibility of the Ministry of Justice.

SPAIN

POLICY IMPLEMENTATION OPTIONS

The Ministry of Public Administration is responsible for the identification and definition of horizontal policies on simplification and quality of the provided services. It is essential in better regulation policy the Interdepartmental Commission of Administrative Simplification, in this Commission Public Administration Ministry takes a leadership role. All Ministries are represented; they approved the Administrative Simplification Plans. Up until now several Administrative Simplification Plans have been approved, which have concrete goals and indicators. The Simplification Plans have contributed to the reduction of the red tape in the General State Administration, but related to better regulation the lack of knowledge and resistance from the rest of the Ministries appear to be problems to the overall effort, so in the third plan the Commission will try to promote this issue in a stronger way.

There also exist sectoral policies in the Electricity and Telecommunications sectors. Responsible for their promotion are, Comisión Nacional de Energía, Comisión del Mercado de las Telecomunicaciones, Comisión Interministerial de la sociedad de la información y de las nuevas tecnologías, as independent regulators.

REGULATORY IMPACT ASSESSMENT

The RIA process is in an experimental stage. It is near the approval of the third Simplification plan that includes the RIA, focused mainly in cost/benefit analysis, attached to this document and in the near future will be required for both primary and secondary regulations depending on the relevance of the regulation.

PUBLIC CONSULTATION

Public consultation is mandatory and is used at the first stage of the process, and before the approval of the regulation. Usually the target group of regulation, the citizens and public bodies are consulted and the consultation takes place either formally or informally through public notice or circulation of documents. For relevant regulations working groups are usually established within the affected ministries, so their contributions are provided and negotiated throughout the whole process. There does not exist a concrete period for informal consultation. In formal consultation it

depends on the body consulted but the consultation period usually ranges between 15 days to 1 month. The law-maker uses the results to improve the quality of the draft regulation including this in the text (when possible or necessary). Usually the results of the consultation process are not being published, but the body responsible of a draft regulation can decide to publish it on Internet opening a wide consultation process and making public the results.

SIMPLIFICATION OF EXISTING REGULATIONS

There exists a policy on simplification and in the third Administrative Simplification Plan, a specific process will be included to simplify regulations related with the implementation of the e-government projects. The government to define the objectives of the simplification policy firstly has to identify the areas that need a reduction of the administrative burdens. One of the instruments for it is the citizen's demand. The main principles followed are the reduction of the administrative burdens, impact assessment and intensive use of IT. In this context the current Simplification Plan are trying to reduce the applications required to the citizens by the Administration mainly those documents related with social security and tributary department. To reach this goal past march was approved a Regulation, following the principles of better regulation, (RD 209/2003) that gives a legal cover for the electronic notifications, electronic registries and promote the substitution of paper in the administrative procedures by electronic transaction of data.

CODIFICATION OF EXISTING REGULATIONS

There exists a policy on codification which is exercised by a specific body for codification, the General Codification Commission. This body is quite old and it doesn't follow better regulation principles.

ACCESS TO REGULATION

There does not exist a single contact point where citizens can have access to the new and existing laws and regulations but citizens have several portals for accessing to new and existing laws. The Official Gazette of the State is quite relevant a web site as well as the Citizens Portal (www.administracion.es).

TRANSPPOSITION OF THE EUROPEAN REGULATIONS

The Ministry of Foreign Affairs is responsible for the transposition of regulation. The process is coordinated by the Interdepartmental Commission for issues related with the EU, in this Commission all the Ministries are represented. Each Ministry has to transpose those regulation related with their duties. If there is any conflict about, the Commission decides which is the Ministry responsible. Weekly the Council of Ministers follow up the process of transposition on the basis of the report performed by the Interdepartmental Commission.

It is also relevant the role of the Economic affairs Commission that assess the economic impact of the EU regulations.

TRAINING

The National Institute of Public Administration is responsible for recruiting and training public executives and employees, and it also promotes research and study work aimed at modernizing the civil service and public administration. This institute develops regular training programs about law-making process.

To recapitulate:

- The Ministry of Public Administration is responsible for the identification and definition of horizontal policies on simplification and quality of the provided services.
- Sectoral policies in the Electricity and Telecommunications.
- The RIA process is in an experimental stage.
- Public consultation is mandatory and is used at the first stage of the process, and before the approval of the regulation.
- Exists a policy on simplification and in the third Administrative Simplification Plan, a specific process will be included to simplify regulations
- There exists a policy on codification which is exercised by a specific body for codification, the General Codification Commission.
- There does not exist a single contact point where citizens can have access to the new and existing laws and regulations.
- The National Institute of Public Administration develops regular training programs about law-making process.

SWEDEN

In order to give an understandable picture of the Swedish initiatives for better regulation it is necessary that we give an overview of the legislative process, the system with independent regulators, the government's role as regulator and the role of the Parliament.

Thus, before mentioning the Swedish improvements made according to the Mandelkern Group Recommendations we will specify the steps followed by the Swedish legislative process towards a better regulation.

First step – the appointment of a Committee of Inquiry:

“Before the Government proposes new legislation, the Swedish tradition is that the issue/ problem is thoroughly examined by a Committee of Inquiry. This work is sometimes lengthy (several years in some cases) The Government appoints the Committee and decides its terms of reference..

Second step – consultation:

“The findings of the Committee are sent out for broad consultation. The findings often include a draft proposal for legislation. The time set for consultation is usually three months. According to the field of legislation, different stakeholders are consulted. In most cases both private organizations (trade unions, employers' organizations, business organizations etc.) and public organizations (state authorities and agencies, courts universities) are consulted. A summary of the consultations and the individual consultations is available to the public, although not published on the Internet”.

Third step – government work:

“Based on the findings of the committee and the results of the consultation the government forms its final proposal for new legislation. The responsible ministry cooperates with other concerned ministries and the view of other ministries affects the final proposal. The government makes a collective decision on how the final proposal should be formed. The Swedish system is therefore a system where different ministries, ultimately different ministers, negotiate until everybody agrees upon a decision.

Special features of the Government's work are described below.

Fourth step – The Council of Legislation:

“Legal issues affecting for instance the Constitution are sent to the Council of Legislation. The Council, which consists of judges from the two supreme courts, does

the legal scrutiny of the proposal, its consistency with the Constitution and other laws”.

Fifth step – the Parliament:

“The Government then submits the legal proposal (a Governmental bill) to Parliament for adoption (with or without changes and amendments)”.

Sixth step – regulatory measures after the adoption of the law:

“With the adoption of the law, the Government is often given a mandate by Parliament to adopt the Government’s ordinances on more detailed matters that don’t need to be in the law itself. They can be changed more easily than laws and by simple governmental decision. In some cases the Government passes the mandate on to the independent regulators like public agencies and authorities”.

POLICY IMPLEMENTATION OPTIONS

Having an understanding of the Swedish legislature procedure, we can examine closely the regulation policy followed. The Swedish Government has a horizontal policy for promoting a better regulation. The horizontal policy of regulation is the responsibility of the Cabinet Office. The Director-General for Legal Affairs of the Cabinet Office is responsible for “high quality in the legislation and the administration and for seeing to it that the language in Acts and other decisions is as clear and simple as possible (Ordinance concerning Duties of the Government Office).

This task is fulfilled by the Division for Legal and Linguistic Draft Revision at the Ministry of Justice. The Division is responsible for quality control of legislation from all the ministries. The Division examines all constitutional proposals, proposals submitted to the Riksdag (Swedish Parliament), terms of reference for committees and other decisions with respect to their legality, consistency and uniformity, as well as to their linguistic quality. Linguistic experts offer advisory services, training and other forms of skill development in order to improve the quality of the texts produced at the Government Offices and by the Committees.

Since 2001, the Division has also one linguistic dedicated full time to the issue of linguistic quality in EU documents. A number of efforts have been made, and are planned aiming at simplifying and improving EU legislation from a linguistic point of view.

In Sweden at each Ministry there is also a legal secretariat responsible for its field of legislation, which helps the other Divisions at the Ministry to draft legislation. To help the legal secretariat to make high quality regulation, the Cabinet Office has developed several guidelines and recommendations. The compliance of the guidelines is the responsibility of each ministry. The unique Swedish system of negotiating in a very formal way between ministries guarantees that the guidelines are complied with. Special bodies within the Government nevertheless revise certain aspects, like legality, consistency and uniformity, and linguistic quality and small business perspective.

The Division for Public Management at the Ministry of Finance has the overall responsibility for development of public administration. One of the major tasks over the last years has been to increase the service quality in the public administration, with different tools and measures.

The foremost tool for developing the service in public administration is IT and extensive efforts are under way to develop the various parts of this IT infrastructure and the transition to e-government and 24/7- agencies. In this work better regulation is a necessity and an aim for the development.

Another important better regulation initiative is the sector policy aimed at better regulation for small business. The focus is however horizontal and broader than small businesses legislation, but aims at benefiting primarily small business by minimizing their administrative burden. The body, the SimpLex Team, is consequently situated at the Ministry of Industry, Employment and Communications”.

Sweden has given us a total image of the responsibility of governmental authority e for the implementation policy for better regulation. The tasks of better regulation for small business is assigned to the SimpLex Team, situated at the Ministry of Industry, Employment and Communications. When public administration is concerned by a proposal, the Division for Public Management makes sure that a better regulation perspective is included. The Division for Legal and Linguistic Draft Revision at the Ministry of Justice controls the legal and linguistic quality of all proposals. This distinction, the Swedish system demands constant cooperation between the Ministries before submitting the regulation proposal to the Parliament for adoption.

Analysing the first element of the Mandelkern Group, the so-called policy implementation option we will understand the responsibilities and the purposes of its body charged with carrying out the implementation options.

Responsibilities and Purposes of:

Committees of Inquiry

“Before the Government proposes new legislation, the Swedish tradition is that the issue/problem is thoroughly examined by a Committee of inquiry. This work is lengthy sometimes (several years in some cases) and the findings of the committee are sent out for consultation by the Government. Based on the Committee’s findings and the result of the consultation, the Government forms its proposals for new legislation. Committees of inquiry are appointed by the Government and are regulated by a Government’s ordinance. The contact with them by the SimpLex team is done informally since the work of the committees must be carried out impartially and independently from Government’s interest. The Government defines the work of the Committee in the terms of reference. The committees are also obliged to perform the RIA according to the SimpLex checklist”.⁸

Government level

“The SimpLex Team analyses all draft proposals of new laws and regulations. Every draft having consequences for small businesses has to pass SimpLex and a regulatory impact assessment has to be made at an early stage. The RIA must be approved by SimpLex before the draft is submitted to Parliament. This is the power of the Simplex team. The Government is, of course, free to present a proposal to the Parliament, which has severe consequences for small businesses, but the consequences must nevertheless be presented.

The SimpLex Team gives support to the process of making a regulatory impact assessment. SimpLex has an ambitious training programme for governmental officials.

The SimpLex Team initiates draft proposals aiming at simplifying the existing regulations with the help of a reference group consisting of representatives of small businesses.

⁸ see annex B

The work so far (March 2003) has only addressed new or changed regulations.

We can see that the Swedish presentation concerning the purposes and the responsibilities at the implementation level focuses on better regulations for small business. In Sweden explicit RIA's are used in the legislation work carried out on a Governmental level for SME's. In other fields of legislation Sweden has other forms of quality checks, as mentioned above.

Independent regulators' such as central government agencies

“The central Government's agencies in Sweden are often given a mandate within their field of competence to adopt secondary regulation, which often affects business. The agencies work independently from Government.

A Government decision, the so called SimpLex Ordinance, spells out that regulatory impact assessments have to be made at an early stage when the authority and agencies are considering new secondary regulations. The assessment includes answering the same 12 questions, as for the Government, based on the OECD's Checklist.

The central Government agencies should simplify and improve the regulatory system, continuously and systematically, in terms of content as well as in editorial and linguistic respect. The Government agencies and institutes Ordinance lay down the some fundamental roles for the central-government agencies and is now an object for a review. The purpose of this review is to achieve greater clarity regarding the administrative policy requirements to which the agencies are subject.

An analysis by the administrative bodies being responsible for the promotion and monitoring of sectoral policies on better regulation has been carried out.

The results of the total work of Swedish policy making bodies achieved their goals always setting as a first priority the OECD's recommendations concerning the economic regulations. The SimpLex Team, which re-started in May 2000, has stopped or substantially improved about 25 proposals for legislation and, consequently, benefiting small business. As it has been mentioned in the questionnaire, the aggregated costs saved for business are substantial.

Problems faced:

Concerning the problems that have arisen during the stage of implementation of the horizontal regulator reform policy, they reported:

“The work is very much a work aimed at changing attitudes and affecting the legislative process along with stopping or changing “bad” proposals. Attitude changes take time and sustained efforts. In a negotiating system, which is the case in Sweden where the Government speaks with one voice and takes a collective decision, the sustained political support is crucial.

In the third year it is fair to say that better regulation work at government level has improved substantially but much remains to be done:

- We still need to address the issue of existing regulations
- The work in EC-Council working groups and the Swedish position in the negotiations is not analysed in a RIA, nor are international agreements analysed with the aid of a RIA. The RIA is however done at the implementation phase of the EC Directives and as well as the implementation of international agreements.
- One legal obstacle to the use of electronic communications between citizens, corporations, SME's and government agencies is form requirements providing for the mandatory use of paper-based communication, signatures etc. In order to remove these obstacles the Swedish Government has appointed a working group with the task to perform a survey of all form requirements in laws and ordinances, and to give recommendations regarding the removal of all unnecessary form requirements. To date the WG has listed ~2500 relevant provisions. A final report with recommendations for further measures will be delivered in April 2003.

Having seen all the responsible governmental bodies belonging to various sectors, their divisions within the ministerial responsibilities and having analysed their tasks, we have a global image of the Swedish policy implementation options. We can report that Sweden has distributed the tasks of the policy making bodies in accordance with its constitutional system, has created special bodies to enforce the procedures and finally works to solve the problems faced during the implementation process.

REGULATORY IMPACT ASSESSMENT

In Sweden new regulation is subject to RIA. On the Government level a RIA is required for primary laws and subordinate regulations (Government ordinances)

having an effect on small business. The Simplex Team is responsible to decide if a RIA is needed. The SimpLex RIA covers aspects such as impact on markets, competition, alternatives to regulation etc.

The Government also assesses budgetary implications and gender implications, not done in a regular RIA. The environmental implications of a proposal is examined in a separate RIA. As described on Swedish Legislative process, all ministries must agree before the adoption of a proposal.

At the level of independent regulators, the same requirements must be applied in the Government's Agencies and Institutes Ordinance.

The RIA is carried out by the responsible ministry as a tool for policy making and approved by the SimpLex Team. A proposal cannot be presented to Parliament if it hasn't an approved RIA. For the independent regulators there is not any formal quality control as there is the SimpLex Team on the Government level.

The benefits of a legislative proposal are described in the preparatory texts to the proposal, which also contains the RIA. In preparatory texts all kinds of implications are described, measured (where possible) and weighed against conflicting interests, much thanks to the negotiating between ministries. A very strong perspective is of course the budgetary implications. Aspects that are covered depend on the nature of the proposal. The benefits are not generally measured in monetary terms contrary to the costs and the RIA is focused on how much the administrative burden increases for the small business community.

Initial goals are reached when the RIA covers small business administrative burdens. It has been as well a successful tool during the negotiations with other ministries. They Swedish policy makers think that an exact method of measuring administrative burdens is needed in order to set a target to reduce them by a target, which has not yet been set. They are developing such a method and hope to make a measurement this year in order to see if there is a reduction of the burden. This task requires that they address the issue of existing regulation at the same time.

Considering the independent regulators, a system to revise their RIAs is needed. For the moment their RIAs are only sent in to the Swedish National Financial Management Authority. The Authority offers advice and some training but has no other ways to influence the independent regulators.

The Government makes a yearly report, which is sent to the Parliament for comments. The work with RIA, of Government level, has increased small business awareness

among civil servants. The linguistic drafting quality has, for a very long time, been an important issue in Swedish administration. There has also been substantial improvement.

The Simplex is the main body, situated at the Ministry of Industry, Employment and Communications, responsible for approving ministerial RIAs concerning small business. The Swedish Government introduced an effective system of impact assessment for national regulation in accordance with the Mandelkern Group recommendations. A RIA is necessary for every draft before it is submitted to the Parliament, if the proposal has effects on small businesses..

PUBLIC CONSULTATION

Public consultation is used during the regulatory process and it is mandatory.

The Government has an obligation to provide according to the Constitution as far as the preparation of government business is concerned, the necessary information. It is essential that opinions shall be obtained from the public authorities concerned and that organizations and private persons shall be afforded an opportunity to express an opinion.

In practice the findings of the Committee of Inquiry's are always sent out for consultation by the Government to stakeholders by , normally for three months. When the Government issues regulations itself, the proposal is in most cases, sent out for consultation, but for a shorter period of time. Both small businesses and other concerned parties are mandatory consultees.

When a legislative proposal of major importance is about to be presented, the business organizations, the trade unions and others often meet ministers to influence them. The Government has in some cases tried out Internet consultation with the public.

For independent regulators consultation is mandatory, both small business organizations and other concerned parties have a right to express a view (requirement in the Government's Agencies and Institutes Ordinance and the Simplex Ordinance).

Major legislative proposals are also submitted to the Council on Legislation before they are submitted to Parliament. The Council, which consists of judges from the two supreme courts, does a legal revision of the proposal, its constituency with the constitution and other laws. For independent regulators, there is no such requirement.

The consultation process is formally realized.

The government puts together a public document with all the results of the consultation. Each consulted party's view is public. The results of the consultation are taken into account when drafting the final proposal. Independent regulators work in principle the same way with the results of their consultations.

The consultation helped promote regulations of good quality but although consultation has not yet been published, everything is public.

Individuals have a right to express their view on Government matters, but in practice they express themselves through their organizations, for example through their trade unions. The Government tries to make it easier for individual citizens and companies to take part in consultations.

The Committees of Inquiry's findings are sent out for public consultation.. Three months is the usual time limit for consultation, and both public and private stakeholders are consulted. They need to facilitate public access to the consultation process, through Internet.

SIMPLIFICATION OF EXISTING REGULATIONS

The Parliament has recently ordered the Government to revise all legislation concerning business. The independent regulators have a standing obligation to revise their regulations according to the Government's Agencies and Institutes Ordinance. Simplification of existing regulations takes place ad hoc, based on political priorities and public demand.

The Government is preparing an action plan aiming at reducing the administrative burden on business during the period 2003-2006. The action plan will include simplification of regulations and the use of information and communication technologies and improved service at authorities and agencies etc.

CODIFICATION OF EXISTING REGULATIONS

Each ministry is obliged to allocate the necessary resources for codification and recasting of European regulation. An EC directive is always implemented in national regulation.

ACCESS TO REGULATION

All laws, regulations and information on the Swedish public sector are available on the Internet.

There is also a single access web site for business where people can ask questions without having to know whom to address. The questions are sent directly to the right agency.

EFFECTIVE STRUCTURES

Transposition of European regulation: It is a responsibility of each ministry to implement EC directives, which must be applied in Swedish laws and regulations. The procedure is the same as in consultation. In some cases of very specialized directives the agencies implement the directives under the ministry.

In the negotiation phase, the responsible ministry prepares the Swedish position in working groups, and council meetings, together with all the other ministries. Everybody has to agree on the position before it is presented to other countries in working groups. Consequently, there are very seldom surprises in the transposition phase.

The main problems encountered in this procedure are the lack of RIA in the early phase by requiring a description of consequences for small business in the negotiation phase. In many cases, for instance environmental law, they already have regulations that go further than the EC directives. Implementing sometimes implies changing already functioning systems.

Independent regulators are sometimes sent to represent the Government in EC negotiations. The Government points out the need to improving their awareness of consequences for small business.

Training the public servants for developing better regulation skills: The Government has regular training programmes for all employees in how to write laws and regulations as well as preparatory texts. The Cabinet Office issues handbooks and guidelines on this subject. The Division for Legal and Linguistic Draft Revision is instrumental in writing such handbooks and guidelines and takes part in the training programmes.

The SimpLex Team has educated about 300 centrally placed civil servants in how to perform a RIA. It is a five-hour course with practical exercises. SimpLex Team has a web site and also a handbook, which has been distributed in 2000 copies to civil servants, lawyers at the ministries and others.

To recapitulate:

- *(Government level):* SimpLex . Units assess the impact of regulations to small businesses. RIA for every draft. Submission to the parliament. RIA only for new or changed regulations.
(Independent regulators): Assessments are always carried out before secondary regulations are adopted. Explicit RIA's according to the SimpLex Ordinance is carried out in early stage, when considering secondary regulations.
(Committees of Inquiry): A special needs assessment before legislation is proposed to Government.
- Broad public consultation in most cases of of Committees of Inquiry's findings for 3 months. Both public and private stakeholders are consulted. Summary of consultations are available to the public, but not yet published on the Internet.
- Cooperation and Coordination culture. The Ministries are coordinating until everybody agrees upon a decision.
- Legality control through the "Council of Legislation".
- Wider authorization to the Government through the Parliament for (extra) regulatory measures after the adoption of the Law. Authorizations for further implementing activities from the Government to the independent regulators (Agencies).

UNITED KINGDOM

POLICY IMPLEMENTATION OPTIONS

The Government has a horizontal policy for promoting better regulation and the responsible body to promote it is the Regulatory Impact Unit (RIU). It is based in the Government's central department, the Cabinet Office. The Cabinet Office's overall role is to provide a strategic lead at the center of Government, to ensure the delivery of the Government's priorities and to support the Cabinet itself. Better regulation is a key objective of the Office.

The RIU's purpose is to work with other government departments, agencies and regulators to help ensure that regulations are fair and effective. Regulations are needed to protect people at work, consumers and the environment, but it is important to strike the right balance so that they do not impose unnecessary burdens on businesses or stifle growth.

Its responsibilities include:

- Guaranteeing that the rules for better regulations are complied with
- Embedding a culture of thinking about, and acting on, better regulation
- Creating a widespread awareness among policy-makers and citizens that compliance with the rules governing better regulation is necessary to render the entire regulatory regime more transparent
- Ensuring an overall horizontal approach applicable to all ministries
- Managing and monitoring the quality of regulation
- Ensuring the adherence to the better regulation process that contributes towards improving regulatory quality
- Developing and managing the strategy, tools, advice and monitoring the co-ordination of the better regulation programme
- Training staff on undertaking RIA, the UK's better regulation agenda and programme and consultation.

Although the RIU does not have an explicit gatekeeping function, it has a robust monitoring and quality control process to which all government departments adhere. In addition to the guidance, advice and training provided, this process is backed up by the strong personal support of the Prime Minister.

The RIU is also responsible for:

- The government policy for consultation
- Promoting the five Principles of Good regulation (transparency, accountability, targeting, proportionality and constituency)
- Removing unnecessary, outmoded or over-burdensome legislation through the powers as enacted in the RIA
- Reducing current regulation in the private sector by engaging directly with the business community to identify specific areas of concern and deliver change through joint action plan agreed with relevant government bodies
- Reducing regulation, bureaucracy and red tape in the Public Sector.

As we can see the British government is well organized in promoting better regulation. The body responsible, the RIU, is holding all main responsibilities concerning the implementation of the regulation. It is one of first priorities of the Cabinet Office and the concrete results of this common work are present to the whole British governmental system. The UK has been developing regulatory reform policies for over twenty years. The success of the twenty year efforts is the recognition of the value of the system and that the tool is for better policy-making rather than a bureaucratic add-on.

Examples of concrete results include:

- The revising of regulatory proposals to reduce the burden on business (e.g. a 100m pounds reduction in the administrative burden on businesses from the proposed introduction of the National Minimum Wage).
- The use of Codes of Practice rather than regulation (e.g. to address passive smoking concerns in restaurants)
- Savings for small firms (e.g. modernizing Company Law which led to 170m pounds of savings for small firms)
- Removal of unnecessary, outmoded or overly burdensome regulation (e.g. reforming the law on the sale of alcohol and the law on patents).
- Increasing the use of sunseting (e.g. on the movement of live animals to allow for new scientific evidence to be taken into account)

- Reductions on the burden on public sector services imposed by central government (e.g. reducing the paperwork and bureaucracy for nurses and doctors and for school and the police)
- The acceptance by local authorities and central government agencies of the Enforcement Concordat. This is a code of conduct which sets out six principles for enforcement agencies' practices: service standards, openness and plain language, helpfulness, publicized and timely complaints procedures, proportionality in actions and consistency. It also sets out procedures for communication of advice, requirements and actions and requires authorities to report on their performance against the Concordat.

Sectoral policies for promoting better regulation:

- Electricity and gas (sector regulator is the Office of Gas and Electricity Markets- OFGEM, the government responsible department is the Department of Trade and Industry)
- Communication (i.e. telecommunications, radiocommunications and broadcasting) (OFTEL and OFCOM- responsible department of Trade and Industry and Department for Culture, Media and Sport)
- Water and sewerage (OFWAT – Department of the Environment, Food and Rural Affairs)
- Financial services (Financial Service Authority- Her Majesty's Treasury)
- Railways (office of the Rail Regulator and the Strategic Rail Authority-the Department of Transport)
- Air travel (Civil Aviation Authority- Department of Transport)
- Food (Food Standards Agency- Department of the Environment, Food and Rural Affairs and the Department of Health)
- Postal Services (Postal Services Commission-Department of Trade and Industry)

Procedures used:

- Increasing introduction reducing the need for regulation
- Light touch regulation
- Flexibility of structures – e.g. combining nine financial service regulators into one to reflect better the new market environment and players.
- Cost benefit analysis of proposed changes to regulation/enforcement
- Commitment to consultation of any proposed changes

REGULATORY IMPACT ASSESSMENT

RIAs should be carried out on any regulatory proposal that has an impact on business, charities or the voluntary sector – this includes primary legislation and subordinate regulations.

The RIA in the UK is an analysis of the likely impact of a range of options for implementing a policy change. It is drafted by officials in the department responsible for the policy. There is a standard format for RIAs, which is set out in detail in separate guidance entitled ‘Better Policy Making; A Guide to Regulatory impact Assessment’ available from the Cabinet Office Regulatory Impact Unit on the Internet.

The principle of RIA is evidence-based policy-making.

A RIA must finally be signed by the responsible Minister before progressing to any consequent legislation with a specific statement.

All government departments and agencies where they exercise statutory powers or make rules with a general effect on others should produce RIAs.

RIAs are also required to be issued both alongside formal public consultations, at the Green Paper Stage, and to accompany Cabinet correspondence when seeking Committee clearance for policy changes, for example the publication of a White paper. A final RIA must be laid in the House alongside legislation. In order to secure collective ministerial agreement to proceed with a regulatory proposal, an adequate RIA must have been carried out.

In addition to the RIU in the Cabinet Office, there is a Departmental Regulatory Impact Unit in each government department to give help and advice to the policy-maker and to scrutinize each RIA.

There are three stages in the RIA process. In the first the policy-maker produces an initial RIA alongside early policy development. This initial RIA provides a rough and ready assessment based on what is known. This helps to expose gaps in knowledge and aids the collection of fuller, more accurate information, for example through external consultations. The second stage is when the government formally consults with stakeholders and at this point a partial RIA is produced. This will have refined estimates of the costs and benefits. This is then further developed into a full/final RIA after consultation.

The RIA should cover all the costs and benefits to the UK – economic, social and environmental. This explicit includes costs and benefits, charities and the voluntary sector, consumers, the public sector and the environment. It should note the distributional impacts of a policy on particular groups in society and particular sectors or types of organizations. It should also consider the unintended consequences of a policy.

The main drawback to the UK's RIA procedure is that, whilst all the sectoral economic regulators employ cost benefits analysis techniques, not all use the formal and comprehensive RIA structure. However, government is encouraging the sectoral regulators to undertake RIAs.

In some cases the content of the RIA fails to be of a high quality and thus may not fully inform the decision-making process. However the RIU is working to improve the quality of RIAs through its new RIA Guide, training and increased resources.

The RIU is the governmental responsible body to review the quality of the RIAs.

The National Audit Office is an independent body of government and has a statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources. It has recently conducted a wide-ranging review of the RIA process and intends to evaluate annually the quality of a sample of RIAs.

The Better Regulation Task Force, an independent body advising Government on action to ensure that regulation and its enforcement accord with the five principles, mentioned above, of good regulation. The Task Force does this by carrying out studies of particular regulatory issues. The Prime Minister has asked ministers to respond to Task Force within 60 days of publication.

The RIA has informed the public consultation process, ensured that policy-makers are fully aware of the impact of their proposed regulations and it has reduced the potential burdens on business, charities and the voluntary sector. It could be improved by its more widespread use by the independent sector regulators. The Government is encouraging these bodies to undertake RIAs.

PUBLIC CONSULTATION

Consultation is mandatory for all regulatory proposal that require RIAs. The Government has a Code of Practice on consultation to which all Departments have signed up and which has the backing of the Prime Minister. This Code includes a twelve-week minimum consultation period.

Formal consultation takes place within the government – across Departments - at key decision-making points.

Formal public consultation can take place at each point in the process where decisions are taken about the principle and detail of regulatory proposal. At the least, formal consultation takes place prior to the proposal proceeding through the Houses of Parliament.

Citizens, target group of regulation, public bodies and others are consulted.

In addition to the formal consultation, policy makers will have on-going dialogue with stakeholders. All ways mentioned on the questionnaire are used for the consultation process.

The formal consultation takes place over a minimum of 12 weeks. Informal consultations are on going throughout the decision-making process.

The results of the consultation process are used by policy-makers to inform the decision-making process, to refine their information and date on the impacts of proposed regulations, to alter the policy proposals, to develop negotiating lines for discussions on draft EU legislation and to facilitate buy-in from stakeholders and the public.

All the results of consultations are published.

The British government feels that the effectiveness of the process could improved if a balance would be ensured among the mass of consultations hold per year. The Cabinet Office is currently reviewing the UK's consultation policy and will be issuing new guidance to policy-makers this year.

SIMPLIFICATION OF EXISTING REGULATIONS

A key route for simplification in the UK is the Regulatory Reform Act, which was enacted in 2001. This Act allows existing regulations to be reformed without requiring primary legislation. In 2002, the UK published a Regulatory Reform Action Plan, which includes 60 proposals for Regulatory Reform Orders (RROs); these Orders are the Act's legislative vehicle for changes to existing regulations. The

Action Plan also lists some 200 other proposals for simplification of existing regulations through means other than RROs, such as adjustments to regulatory regimes and administrative burdens, changes to working practices and changes to guidance. In total 268 simplification proposals were included in the Plan; 27% of these have already been implemented. Reviews of existing regulations are undertaken by departments. Additional proposals for simplification will be brought forward each year.

Within the RIU the Business Regulation Team helps to reduce and simplify current regulation affecting in the private sector. In addition the Better Regulation Task Force encourages simplification of regulation.

Principles followed:

- Whenever departments bid for Parliamentary time to get their bills through the legislative process, the possibility of simplification through RROs other methods is explicitly considered.
- Departments regularly consider whether existing regulations could be simplified and priorities are set for which regulations are to be simplified
- Consultation on changes towards simplification is a key element of the process
- RIAs are produced to assess the impact of each RRO
- The progress of simplification is monitored by the RIU
- As with any legislation, simplification will involve experts from a variety of disciplines, including lawyers, policy-makers and economists.

CODIFICATION OF EXISTING REGULATIONS

Again the Regulatory Reform Act, Regulatory Reform Orders and Regulatory Reform Action Plan play a key part in codification in the UK.

Codified regulations will improve the clarity and legal certainty of laws and will reduce inconsistencies.

ACCESS TO REGULATION

There are a number of commercial companies producing user-friendly guides and databases of existing regulations. Also the government is developing a website register of all UK legislation. The texts of all regulations since 1988 and all new regulations are published on Her Majesty's Stationery Office website and are also available in hard copy.

TRANSPPOSITION OF EUROPEAN REGULATIONS

European legislation can be implemented using primary legislation, secondary legislation under the European Communities Act 1972 or other primary legislation, or by Regulatory Reform Order. Responsible for the transposition is the Ministry liable for the relevant policy area.

The problems that the UK government faced do not stem from the procedure but from the often-ambiguous wording of the European legislation. Officials are often faced with a choice between copying out the legislation or elaborating in some way to give clarity to those affected by it. Short implementation deadlines can also pose a problem if they do not allow for adequate consultation during the transposition process.

To improve the procedure they issue guidance on good practice in implementing European legislation and have carried out studies of the way they handle the process. They have recently brought all guidance together into one easily accessible source, which was published in April and will be followed up with a series of training seminars for officials across Government. Two important elements of the guide are the need to consider the practicalities of implementation at the earliest possible stage, and the need to use impact assessments to set out the costs and benefits of all options for implementation.

Training the public servants for developing better regulation skills:

The RIU undertakes regular training of departmental policy-makers and economists and gives advice and comments on individual policy areas. In addition the RIU has produced guidance on better regulation, on how to do RIAs and on the RIA process. Also each department has a Departmental Regulatory Impact Unit which disseminates information and guidance and offers advice to individual policy-makers.

The RIU also provides training for civil servants on better regulation as and when required.

The UK government started 20 years ago a regulatory policy. It has accomplished all Mandelkern Recommendations and it is able now to make some improvements on all the six main elements on better regulations. It is a very good example for all other EU Member States to follow taking in consideration the problems mentioned to be faced during all these years and the solutions found.

To recapitulate:

- The UK has been developing regulatory reform policies for over twenty years. It has been and still is at the forefront of reform.
- Horizontal policy on better regulation exists.
- Responsible body: Regulatory Impact Unit (RIU), based in Cabinet Office. RIU's purpose is to work with other government departments, agencies and regulators to help ensure them. Among its responsibilities are included: The guaranteeing that the rules for better regulation are complied with; the ensuring strong political support from the national government and from the head of Government; the developing and managing the strategy, tools, advise and monitoring the coordination of the better regulation program.
- Sectoral policies in all Ministries
- RIA is used very broadly in UK. RIA is an analysis of the likely impact of a range of options for implementing a policy change. There is a standard format for RIAs. The principle of RIA is evidence-based policy making. A RIA must set out the risk or problem to be addressed, the options available- including "do nothing" and any non-regulatory option such as Codes of Practice, industry standards or information campaigns. Standard dimension of British RIA's: Impact, alternative options. Consultation, negotiations in the EU, justification among benefits and costs/proportional affection. [Symbolic element: A RIA must finally be signed by the responsible Minister before progressing to any consequent legislation, stating: "I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs"].

Full and partial RIA's. The full/final RIA should identify: Objectives, risks, options and alternatives, business sectors affected, equity and fairness issues, benefits and costs for each option considered in the partial RIA, distributional impacts, unintended consequences and indirect costs. The main drawback to the UK's RIA procedure is that, whilst all the sectoral economic regulators employ cost benefit analysis techniques, not all use the formal and comprehensive RIA structure. Bodies reviewing the quality of RIAs: RIU and National Audit Office, The Better Regulation Task Force. The task force does this by carrying out studies of particular regulatory issues.

- Public consultation mandatory for all regulatory proposals that require RIAs. The government also has a Code of Practice on consultation to which all departments have signed up and which is backing of the Prime Minister. This Code includes a 12-week minimum consultation period.

Policy makers have on-going dialogue with stakeholders (Citizens, target group of regulation, public bodies, others) throughout the policy making process. [Code of Practice: “Consultation documents should be made widely available, with the fullest use of electronic means and effectively drawn to the attention of all interested groups and individuals”]. All kinds of consultation are used- formally, informally, Internet based, public notice, circulation of documents, test panels-.

Formal consultation takes place over a minimum of 12 weeks. Informal consultations are on going throughout the decision making process.

The results of consultation process are used by the policy makers to inform the decision making process, to refine their information and data on the impacts of proposed regulations, to alter the policy proposals, to develop negotiating lines for discussions on draft EU legislation and to facilitate buy-in from stakeholders and the public.

- A key route for simplification in the UK is the Regulatory Reform Act, which was enacted in 2001.
- Regulatory Reform Act, Regulatory Reform Orders and the Regulatory Reform Action Plan play a key part in codification in the UK.
- Using ICT for access to regulations- Her majesty’s Stationery Office website.
- European legislation can be implemented using primary legislation, secondary legislation under the European Communities Act 1972 or other primary legislation, or by Regulatory Reform Order.
- The Ministry with responsibility for the relevant policy area is responsible for transposition.
- Problems relating to transposition do not stem from the procedure but from the often-ambiguous wording of the European legislation.