



HELLENIC PRESIDENCY
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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's Action Plans on

Better Regulation

ATHENS, MAY 2003

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1. The ad hoc group of experts on Better Regulation

The 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 safeness to citizens and to upgrade the social and economic prosperity of our countries.

The stable course of convergence of European countries as regards the previously mentioned goals, has led to the creation of a High Consultative Group (Mandelkern Group) during the French Presidency about two years ago. The group proposed to the Commission and the member states an action plan for the improvement of the quality of regulations. Parallel to that, the European Commission has displayed a laborious effort for the incorporation of the principles of Better Regulation.

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 task to study 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.

2. The Mandelkern Group: Mandate and Report

Since 1985 the European Union realized that in order to become the most dynamic knowledge-based economy, it was essential to improve the quality of regulation at both EU and national levels. The achievement of this goal would facilitate the EU's aim at drawing common policies.

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 an 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 finally 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 Strasbourg Resolution, 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 has been welcomed at the Laaken Summit of the European Council. In the same context, the Commission's communication on simplification has also been welcomed. Following the Laaken Summit the principles and recommendations on better regulation policies have been welcomed and supported by the Barcelona Seville and Copenhagen ??? Summits.

Thus the Group worked in close co-ordination with the European Commission ensuring the reciprocal and regular exchange of information with a view to improving the quality of regulation. The Mandelkern Group finally achieved its goal by proposing specific practices both to the EU institutions and the member states in order to improve Europe's regulatory system.

It has 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 aim at introducing new regulations.

3. 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 on 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, by 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 the 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 on 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 normative and factual side of the law should be clearly stressed.

The implementation of many of the recommendations of the MR, as it will be in details analysed in the following, proves that there is an on going process of the European countries moving away from a legalistic approach of regulative administration. The relations between Economy and the Law, between State institutions and the Economy have been in the critique 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 the most 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, by keeping their independence and on the basis of their mutual profit.

3.1. 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						
DENMARK						
FINLAND						
GERMANY						
GREECE						
LUXEMBOURG						
IRELAND						
ITALY		x		x		x
NETHERLANDS						
SPAIN						

SWEDEN						
UK						

3.2. 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, 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).

The RIA is also working on the assessment of impact through the framework of the Cost Benefit Analysis whose methodology allows the objective comparison of the quantifiable advantages and disadvantages of any number of implementation options, over any policy lifetime and regardless of the timing of the benefits and costs. The RIA, in addition to the policy implementation and consultation, is the main tool to evaluate the policy proposal and decide if the policy should be implemented. It is understandable that RIA has to affront practical difficulties, such as the inadequacy of the staff resources and expertise, as well as the strong traditions or laws of

independence of ministerial action, which lead to political pressure and do not facilitate the important aim of RIA.

In the absolute majority of the member states there exists a Regulatory Impact Assessment. Nevertheless, even in the countries that 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 asked for the new regulations. Among them RIA is applied to the primary Laws and only a few cases it is extended to secondary legislation. Although it is not defined by the answers 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, there are not specific elements to be included in the RIA, but are taken into account through cross-departmental cooperation.

Existing RIA's are differing 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 that 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 created 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	
GERMANY	1			1			1	1			1		1	
GREECE		1		1		1							1	
LUXEMBOURG		?		?	?								?	
IRELAND	1			1					1		1	1		
ITALY		1	1		1	1	1		1			1		
NETHERLANDS	1		1		?									1
SPAIN		1	1		?								1	
SWEDEN	1		1		1	1				1	1		1	
UK	1		1		?							1		

3.3. 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 a 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 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.

Consultation is a very important instrument that may be performed in various ways and at different stages in the regulatory procedure.

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 the 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, by 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 3-8 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, even wider, communicated.

	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 ⁰	1	1 ⁰	
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	
GREECE		1	1	1	1	1					1		1		1
LUXEMBOURG		?			1	?						?		?	
IRELAND	1		1	1		?							1	1	
ITALY	1					1		1	1	1			?		
NETHERLANDS		1	1	1	1	1		1					1		1
SPAIN	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	

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

3.4. 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 are needed in order 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.

Not in all member states exist 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 medium enterprises.

There seems to be a common policy for all the member states of the various state-central, regional or local agencies to revise, to simplify their regulatory environment. It comes out from different Action Plans and programs that are used in the Administrations of the member States. There is flexibility as far as it 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 know how transferring and exchange of best practices.

The responsibilities of the Agencies included for monitoring are also spitted 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 ad hoc responsible line Ministries, or Agencies remains rather in 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		?		
GREECE	1			1	
LUXEMBOURG	1		?		
IRELAND		1	1		
ITALY	1		1		
NETHERLANDS	1			1	
SPAIN	1			1	
SWEDEN		1		1	
UK	1			1	

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

3.5. Access to regulation

In order to simplify the task, Mandelkern Report recommends that each Member State should give access to the texts of laws and regulations is one desirable response to the growing demand on the part of citizens for better access to the law of a public service (either free or for a reasonable fee) 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.

At this level, the question of easy access to the law is dealt with. Over recent years the conditions on which people can gain access to the law have changed significantly with a view to facilitating access to regulation unwieldy for ordinary citizens, due to

its constant proliferation. Firstly, the development of information technology and the computerization of bodies of regulation and case-law and secondly, the movement towards improved guarantees of citizens' rights and greater transparency in the operation of democracy have boosted the work of the policy makers to improve coherence, clarity of the form and language of the regulations, practical access to the rule of the law and the search for legal information and understanding of the rule of the law by the user or the beneficiary of the regulation.

Three key procedural operations, which should lead to the accomplishment of the fifth Mandelkern Report element, are consolidation, codification and recasting. By working 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 some countries a specific codification policy does not exist, several kinds of codification –in their three different forms mentioned above- are followed. As far as the state Agencies are concerned which are responsible for codification, there is not a uniform picture, 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 are carrying 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		?		
GREECE	1		1		
LUXEMBOURG	?		?		
IRELAND		1	?		
ITALY	1		1		
NETHERLANDS		1		1	
SPAIN	1				1
SWEDEN		1		1	
UK	1			1	

As far as it concerns the use of ICT and the Internet, it 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 of. One point that should be further mentioned is that of the charging of the interested for regulative matters; in what extent the access to regulations should be free of charge and in what extent the access should be charged.

	GOVERNMENTAL SITES FOR REGULATION		ACCESS TO REGULATION		OFFICIAL GAZETTE ON LINE	
	Exist	Not exist	Free of Charge	With charge	Yes (from 1/1/04)	No
AUSTRIA	1					
BELGIUM	1		1		1	
DENMARK	1		1		1	
FINLAND	1		1		1	
GERMANY	1		1		1	
GREECE	1			1	1	
LUXEMBOURG	1		?		?	
IRELAND	1		?			1
ITALY	1		1		1	
NETHERLANDS	1		?			1
SPAIN	1		?		1	
SWEDEN	1		1		1	
UK	1		?		1	

3.6. 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	
DENMARK	1		1		?	
FINLAND	1			1	1	
GERMANY	1			1	?	
GREECE		1	1		1	
LUXEMBOURG	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 has introduced and implemented horizontal policies on better regulation issues. The Prime Minister's Offices 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 federal structure where better regulation policies are executed by regional authorities, the overall responsibility remains to 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 to be done, 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 given to the trainees in some cases. The range of the trainees is varying from senior officials to lower administrative levels as well as 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		?		?	
GREECE	1			1		1
LUXEMBOURG	1		?		?	
IRELAND	?		?		?	
ITALY	1		1		1	
NETHERLANDS	1		?		?	
SPAIN		1		1	?	
SWEDEN	1		1		1	
UK	1		1		?	

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

3.7. 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, internal co-ordination, methodology used, time limit, terminology problems, fitting into the legal system of MS, co-ordination approach between negotiation and implementation phase.

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 it concerns the methodology of transposition. 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			?	
DENMARK		1		?	
FINLAND		1		?	
GERMANY			1	?	
GREECE	1			1	
LUXEMBOURG	?			?	
IRELAND			1		1
ITALY			1	?	
NETHERLANDS		1		?	
SPAIN	1			?	
SWEDEN	?			?	
UK		1		?	

4. Progress on the implementation of Mandelkern Report recommendations in the Commission

In addition to the proposal made considering National Governments, the Mandelkern Group recommended some practices, which coincide with the European legislative activity. Most of the European legislative activity is destined to approximate national rules in areas where the principle of mutual recognition does not properly function, thus creating obstacles to the single market. However lately, European regulation concerns even new areas, belonging until now to the intergovernmental policy, such as environment, consumer protection, social, health and safety rules.

All the six elements already mentioned can be also applied at the European level. The most important choice is between using a Regulation or a Directive to introduce new laws. This choice means requirement of obligatory implementation into Member States national law. We have a greater use of Regulations because it speeds up the legislative process by eliminating the need for Member States to transpose the agreed regulation into their national law.

4.1. Applying RIA to the EU level

RIA application involves the need to take into account the roles and responsibilities of the Parliament, Commission, Council and Member States in preparing European regulation.

The Mandelkern Report made the following recommendations considering the internal EU work to improve regulatory quality:

1. 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 be based on the recommendations in this report, including an initial screening process followed by a more detailed, proportionate assessment in appropriate cases.
2. The Parliament, Council and Member States should take this assessment into account in the development of the proposal. The practical functioning of this could be set out in an agreement between them and the Commission.
3. The relevant Commission policy officials should prepare RIA's primarily, with training, guidance and support from a centre of expertise, use of economic advice

and scientific research as appropriate and input from business and other stakeholders.

4. Commission services should produce and make public a preliminary assessment before a proposal is included in the Annual Work Programme.
5. Commission services should produce a detailed assessment before adoption of a policy proposal unless the preliminary assessment has clearly demonstrated that the proposal has no significant impact.
6. In the interests of transparency and accountability, the Commission should publish the detailed assessment no later than the formal adoption by the College of the policy proposal.
7. 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), except in cases of urgency. This should be set out formally by each institution and be part of the overall agreement on better regulation.
8. To maintain the integrity of the process, the Council and the European Parliament should have an assessment of the impact of significant and substantial proposed amendments before it to inform its decision making. For these significant and substantial amendments, where possible the person or body making the proposal should indicate the likely broad impacts, where appropriate in co-operation with the Commission. If necessary, and in accordance with the Treaty, the Commission may request a temporary halt to discussion until it can undertake a more detailed assessment.
9. As part of its opinions on the Common Position and the Parliament's amendments the Commission could also include a revision of key elements of its original detailed assessment.
10. Member States and the Commission should promote the exchange of best practice in this field between themselves and with other administrations.
11. The EU should, in line with the Cardiff process, develop robust indicators of better regulation.
12. The EU should consider actively fostering in the interest of academia and European think tanks in RIAs and the methodologies used to increase the knowledge base and potential input.

4.2. Consultation in the EU

Consultation at European level is a very significant element in the regulatory process. It is also mentioned in the Treaty of Amsterdam (Protocol no.30). All the institutional EU bodies are working by consulting and hearing the public views at a national level. They seek public and expert views and especially the Commission organizes seminars and consultations with special consultative committees and groups of independent experts as well as the consultations with the social partners.

There is no need to pass new legal rules on consultation. Instead, it is recommended to adopt a code of conduct, which will set uniform minimum standards and will help to prevent any privilege access to particular groups. To clarify the consultation process within the EU institutions the Mandelkern Report made the following recommendations:

1. A strengthened dialogue at an early stage between the Commission and the interested parties and Member States in order to ensure transparency and democratic openness. More specifically, this should ensure that the consequences of a regulatory instrument – including the economic consequences – are established before the regulatory bodies formally consider the proposal.
2. Before formal introduction of the proposal into the regulatory bodies (i.e. Council and Parliament) the Commission should, within its sphere of competence, present a specific, yet still preliminary text for the interested parties, including the regulatory bodies. The proposed text should whenever possible be accompanied by extensive explanatory remarks.
3. Uniform minimum standards for consultation (for example minimum time periods) should be established.
4. A web-based register of all ongoing EU consultations.
5. Networks for specific consultation processes should be built up.

4.3. European simplification program

Although several efforts have been made for simplification, little has been achieved until now. The most important was the “SLIM initiative” but, according to the Mandelkern Group, it has a limited scope, as it deals only with Internal Market regulation. It is essential that we move to a more global approach, which means to the

entire regulation. The Group proposes a new targeted program of simplification for all European regulation named SimpReg program (SRP). This program should be a rolling and long-term process, well resourced and with clear targets and priorities.

To encounter with its proposal for SimpReg program the Group recommended:

1. Establishment of a rolling and targeted program of simplification (SimReg Programme or SRP) of all existing European regulation (i.e. including regulation that impacts on business, citizens and public bodies).
2. EU institutions should reach an agreement setting out the conditions under which proposals resulting from the SRP will be set- tracked through the co-decision process according to existing Treaty provisions for agreement after First Reading.
3. EU institutions should adopt an Inter-Institutional Agreement on recasting.

4.4. Access to European regulation

The already mentioned recommendations considering the access to regulation can also be applied to EU level. In addition, it is suggested that the EU policy makers (Commission, Parliament and Council) take into consideration the necessity for clarity of the law and the need for codification of the law – a tool for gaining knowledge of the law – in response to the fifth enlargement. The codification process would help the new Member States to comply with European regulations.

1. The implementation of a plan for the codification of the European law before the EU is enlarged by the accession of new members is a matter of priority.

4.5. Effective Structures

It has already been cited how important the effectiveness of the structure for better regulation is. The same rules are applied at EU level. Institutional obstacles make the policy making difficult and this has been defined as the “political asymmetry of the European political system”. At the European level even if a supranational body makes the proposed regulations, the intergovernmental Council is responsible for the final decision. For this reason a majority governmental support of a regulation is essential - (but even this depends to which pillar the regulatory policy belongs) – to implement a new regulation.

Mandelkern Report recommended:

1. Member States and EU institutions should make better regulation a strategic issue and a common priority, with an emphasis on the question of structure. This might be supported by a formal agreement between the relevant bodies, setting out their common understanding of the issues and, where appropriate, their agreement on how to tackle them.
2. All Commissioners must be seen to be behind the drive for better regulation, and especially the President.
3. 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.
4. The Commission and the Member States should consider establishing special working groups to examine:
 - The issue of joint training;
 - Possible recommendations regarding model structures (organisation and procedures): these may also be structures applied outside EU Member States; and
 - The problems of deepened co-operation between the legislative and the executive in the field of better regulation at EU level.
5. A network of better regulation contacts across all Member States and the Commission (and, where possible, other EU institutions) should be established, to help share best practice and expertise.
6. Within their respective responsibilities, the Commission, European Parliament and Council should take further practical steps to ensure their internal co-ordination and the coherence between European regulatory policies.
7. The European Parliament should take note of the actions being undertaken by the other Institutions and pay the same level of attention in its own work and internal co-ordination.

4.6. Implementation of European regulation

The implementation of European regulation into national law is a very important process, which leads to common policies through different national constitutional procedures. The result of implementation is the final common EU voice to the international system.

The problems that are faced are multiple and most of them vary according to the national legal systems. Regulations and Directives enter into force directly, without any need for transposition and without any national policy freedom, but often they will need changes to the national legislation to give them effect. Facing transposition problems when the national legislation is not in accordance with the EU legislation increases the implementation problems for Member States. However, even when the regulations are implemented at national level, it should be noted if the Member States fail to comply to and enforce regulations. National authorities are responsible for preventing violations and taking actions against infringements. In case of non-respected enforcement and compliance sanctions could be applied against the disobedient Member State.

Namely, implementation is both a national and a European concern. The role as a guardian of the Treaties is given to the Commission.

The following recommendations are addressed both to Member States and the European Commission:

1. The incorporation of European legislation into national law should be seen as an extension of the negotiation process and vice versa, not kept distinct. Cultural aspects, such as informal procedures, are an important aspect during negotiation and incorporation processes.
2. All parties should pay more attention to the precision, clarity and coherence of European legislation during the negotiating process.
3. During the negotiating process all parties should pay more attention to a better balance between detailed and technical legislation on the one hand and national freedom in choice and form on the other hand.
4. Member States should start considering incorporation early. This means for example involving lawmaking specialists early and paying more and/or better attention to administrative structures during the negotiation process.

5. Member States should pay increased attention to more formal procedures to facilitate incorporation of European legislation. For example creating more central co-ordination and/or units with lawmaking specialists to facilitate the transposition process or publishing guidelines/checklists on the procedure and content of incorporation.
6. Member State officials need to be aware of the importance of the negotiating process. This means, for example, early involvement of lawmaking specialists and responsibility for negotiating in Brussels and incorporation in the Member State resting with the same officials within the lead department.
7. Member States need to give higher priority to the incorporation of European legislation.
8. The transposition periods for transposing European legislation must be sufficient.
9. Member States should be provided with more certainty as to whether they have transposed a European Directive correctly and fully, for example by sending an interpretative declaration by the Commission to confirm the transposition and/or arranging meetings during the transposition process to exchange experiences between Member States. (Such an approach already exists for Consumer policy).
10. The Commission should facilitate mutual learning and sharing of best practices between Member States.
11. The Commission should create a free of charge online database of legislation requiring implementation and the current state of play in each Member State.
12. The relevant bodies should develop a system for online notification by Member States.
13. When transposing a Directive, Member States should consider their position very carefully before introducing extra requirements in the legislative measures that they adopt.
14. Improving the quality of European legislation can make a contribution to better application, compliance and enforcement. In particular, there should be better preparation of European legislation through:
 - Better consultation between (administrative and enforcing institutions in) the Member States and the Commission; and
 - Inclusion in regulatory impact assessments of systematic and early consideration of administrative and enforcement effects.

15. National actors (business, NGOs, administrative and enforcing institutions) should be involved early and efficient in the implementation process.
16. Member States should provide for sufficient administrative and enforcing structures and means.
17. Review of European legislation should include specific consideration of its administrability and enforceability.
18. 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.

5. 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 use 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 even no specified on the questionnaire.

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).
- The Austria government has sectoral policies.
- 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 OPTION

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 creativity 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 government 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 co-operation between 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, possible bottlenecks...

The AAS has made several preparatory analysis 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 in the sectors of social security, tax and fiscal procedures, enterprise policy, and employment policy.

In the Social security the means and the 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.

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

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

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 is made significant efforts on 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 policy-makers of Belgium 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 simplification. The main principle 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.

CODIFICATION OF EXISTING REGULATIONS

Codification can be an option during the review and simplification process, but 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.

TRANSPOSITION 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 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 Wallon Regional Government as well. It has created in March 2002 a special body called “Commissariat a la Simplification administrative”.
- Codification can be an option during the review and simplification process, but codification 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 OPTION

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

² see annex RIA on amendment of the VAT

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 OPTION

The Finnish Government **does not have an explicit horizontal policy** for promoting better regulation, but many recommendations have been given in this direction. 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.

Eliminato: ,

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 REGULATION

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 REGULATION

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:

- No explicit horizontal policy on better regulation. Many recommendations to Ministries on that issue.
- 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 approach.
- 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 OPTION

The German Government has a horizontal policy for promoting better regulation. 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 office of the State Secretary in the Federal Ministry of the Interior is responsible. The program started in February 2003 and it is under implementation what means that problems have not already been arisen.

The government has not sectoral policies for promoting better regulation. Each Federal Ministry at the same time with the Governments in the Lander 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”. Each Federal Ministry is responsive for the legislation in its sector. 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).

They have not provided any sanctions in the case of non-compliance with the joint rules.

There is not a special body entitled with the review the quality of RIA. They truly believe that the new master plan will be help to promote regulations of good quality.

The German constitutional system invokes many governmental bodies on the regulation issue. It needs hard work to implement a new regulation as the decision is

taken in a federal stage but the implementation many times has to be done in a Lander stage. For this reason the Federal Government should have the political power in the Lander to pass as soon as possible new regulations. 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 is used during the planning stage in the Ministries. All the lobbies concerned are consulted. The consultation process is realised formally with circulation of documents. The time period of the consultation process depends on the issue and how many bodies are involved. 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.

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.

TRANSPOSITION OF EUROPEAN REGULATION

It is not clear what procedure the Germans are following for the transposition of European regulations. It is mentioned that the procedure followed is the same "like normal law making progress". The body responsible for the transposition is every Federal Ministry. The problems faced are because of the Federalism. The responsibility often belongs to the Government of a Bundesland.

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. It seems to be a political body with wider responsibilities going beyond the better regulation targets. In February 2003 the Cabinet decided an immediate action plan.
- There are no sectoral policies on better regulation. Each federal Ministry promotes in its own responsibility the better regulation issues (not clear).
- There is a RIA. Affects both primary and secondary regulations (no copy). No specialized body to review the quality of RIA. No sanctions in the case of non-compliance with the joint rules.
- Mandatory public consultation during the planning stage in Ministries. No time limits for consultation.
- Simplification policy exists. No clear definition of principles based on (part of the master plan mentioned before).
- Codification policy exists. No clear definition of principles based on (part of the master plan mentioned before).
- ICT is used for access to regulations. Some sites free of charge.
- Transposition process undifferentiated (like normal law making process). Problems in transposition (not named) because of the Federalism. Measures to improve transposition (better and quicker) undefined.

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 REGULATION

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 implementation 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.

TRANSPOSITION OF THE EUROPEAN REGULATION

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 representatives of the following Government Departments, agencies and regulatory bodies:

- Department of the Taoiseach (Prime Minister)
- Department of Enterprise, Trade and Employment
- Department of Environment and local Government
- Department of Finance
- Department of Health and Children
- Department of Justice, Equality and law Reform
- Department of Transport
- Department of Communications, Marine and Natural Resources
- Office of the Attorney General
- Commission for Aviation Regulation
- Commission for Energy Regulation
- Competition Authority
- Office of the Director of Consumer Affairs
- Office of the Director of Telecommunications Regulation.

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. The Unit has responsibility for coordinating the work of several groups, including the High Level Group on Regulation.

The High Level Group on Regulation has made considerable **progress**, since its establishment in May 2001, 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 National Policy Statement or 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.). Approximately 4,000 copies of the consultation document were distributed and 89 submissions were received from a wide variety of interested parties. To inform the subsequent formulation of the national Policy Statement, these submissions have been studied and analyzed.

Problems raised during the implementation of a horizontal regulatory reform policy: It is too early to identify problems working with the new structure in the context of the White Paper. However, 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 designing and support appropriate and effective structures and processes in support of better regulation.

The High Level Group has mainly concentrated on the development of a national policy on better regulation and the development of a model of RIA. **Sectoral regulatory policy** is developed on an ongoing basis, in many instances arising from

³ copy at www.betterregulation.ie

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 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 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 it is intended that RIA should 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 the following questions:

- What are the costs- explicit or hidden- involved in each option?
- To who do these costs fall?
- Is it possible to distinguish once-off and recurrent costs?
- Are the costs of the options equally distributed across the stakeholders or will some carry a disproportionate amount?
- If it is not possible at this stage to quantify the costs with certainty, can an estimate of likely costs be made?
- What are the benefits to be gained from each option? What parties will benefit from the proposals?
- Will all parties benefit equally or will some benefit disproportionately?
- If it is not possible at this stage to quantify the benefits, please identify what the likely benefits will be?

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 are going to be identified in the pilot phase and addressed during the review phase.

There is a positive estimation about RIA's potential role.

PUBLIC CONSULTATION

There is **no mandatory consultation** although in many cases as 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

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.

CODIFICATION OF EXISTING REGULATIONS

There is **no discrete policy on the codification** but it has been recognized 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.

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

Access to regulation through the Government's website⁴ and 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.
- 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

⁴ www.irlgov.ie

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. The Prime Minister's Office is responsible for carrying out regulatory impact assessments as well as legal analyses, assessing the impact of the proposed regulation on the legal system, and on the competences of other regulatory bodies (e.g. regulatory authorities), coordinating the proposed regulation with other regulatory acts., and assuring correct application of the techniques of drawing up regulatory acts..

Within the Prime Minister's Office, since the suppression of the Prime Minister's "Nucleo for Simplification of Norms and procedures" (Law 237/2002), the competent departments are the Department of Public Administration, for simplification policies, and the Department of Juridical and Legislative Affairs, for coordination and monitoring of AIR policies, to be conducted by sectoral administrations.

Since 1997, better regulation policies have been conducted in the areas of simplification, "de-legislation", transfer of competences to Regions "at unchanged constitution" (so called administrative federalism).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).

Consolidation codes ("regulatory re-ordering") were implemented in the following areas:

- 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 employment in public administrations.

Problems faced: In many cases it has not proved possible to complete the de-legislation and simplification interventions introduced by Law 59/97the modification of Title V of the Constitution has redesigned the distribution of competencies between

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

central and local government and transferred regulatory powers to the regions in matters of concurrent or exclusive competence of the regions, with consequent increasing of constitutional and administrative litigation between central and local powers. 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.

In this field, it was deemed appropriate to intervene –as envisaged by the simplification bill of law to be definitively approved by the Parliament- to make possible to bring about a substantial reorganization and to arrive at the codification of primary legislative and procedural regulations. The simplification bill of law will also act as fundamental principles for matters of concurrent legislation.

The simplification bill of law has replaced these “regulatory re-ordering” with regulatory reorganization and codification, allowing sectoral policies interventions. The simplification bill of law is introducing a sectoral division of pertinence in order to succeed on implementing the regulations, in the following sectors:

- 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

The following procedures of better regulation are being used: processes of “delegislation”, regulatory and administrative simplification, assessment of the impact of regulations, regulatory reorganization and codification, legal and technical analysis.

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 PublicAdministration (simplification), the Department of Juridical and Legislative

Affairs (legal and technical analysis and RIA) and the legislative Offices of each sectoral central administrations.

REGULATORY IMPACT ASSESSMENT

RIA has started at an experimental stage. At the moment, RIA is not required to new regulatory acts.

At this experimental stage, RIAs are being prepared for primary laws and 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. In addition, it has been planned a training course for civil servants involved in RIA procedure.

RIA process includes the evaluation of costs and benefits (direct and indirect) for all sectors affected (businesses, citizens, public administration).

At the moment it is no 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, an assessment of RIA effects can be undertaken properly only after the experimental stage.

PUBLIC CONSULTATION

Public consultation is mandatory in Italy in some cases. Law 59/97 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

Law 59/97 and in particular Article 20 establishes "the underlying principles and criteria with which simplification initiatives were to comply by the adoption of

⁶ article 20 of law No. 59/1997

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 organizational profiles of the entire procedural order.

The regulatory re-ordering (consolidation) has been realized in accordance with the criteria and principles established by Article 7 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 (codification), 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;
- “de-legislation”, as a rolling (annual) program of simplification, through a law delegating the Government to regulate a matter – previously regulated only by primary law - with secondary legislation (with consequent lowering of the level of the regulatory source).

CODIFICATION OF EXISTING REGULATION

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 silence consent, in relation to administrative acts that do not imply the exercise of discretionary powers,;
- f) reduction and revision of administrative functions, with explicit exclusion of specific typologies;
- g) self-regulation, to be achieved by the private sector, , under the supervision of public administration or independent bodies,
- h)** promotion of voluntary compliance of the interested parties with regulation models and adequate instruments of subsequent inspection and control: certain private activities are not subject to administrative powers of authorization, and only the declaration of start -up of activity is required.
- i) 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.

TRANSPPOSITION OF THE EUROPEAN REGULATION

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). <a a simplification law identifies all administrative procedures to be simplified. 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 RIA has started at an experimental stage. At the moment, the new regulation is no subject to RIA. 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. . In addition, it has been planned a training course for civil servants involved in RIA procedure.
- 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 is using a horizontal policy for promoting better regulation.

The responsible bodies for the horizontal policy are the Ministry of Economic Affairs, and the Independent Agency (Actal). Among the 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.

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 the Ministry is forced to check its new regulations on possible negative effects. Then 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. Finally Actal checks new legislation on administrative burdens and checks if an alternative to legislation has been taken into account.

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

Special bodies entitled with the authority to review the quality of RIA are the Draft Legislation Point and the Actal, which examine the checks, done by the Ministries.

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 found in trying to get the advice of a 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 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. 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 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 REGULATION

There is a simplification policy of the existing regulation and the responsible bodies are following specific structure: the Cabinet sets targets and Ministries work on targets autonomously. The Ministry of Economic Affairs is in charge of coordination process.

The Main instruments used for simplification are the ICT, the Reduction of conflicting legislation, and cutting parts of existing regulation (if possible).

CODIFICATION POLICY

It doesn't exist any specific codification policy.

ACCESS TO REGULATION

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

TRANSPOSITION OF EUROPEAN REGULATION

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.

*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

⁷ www.overheid.nl

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 REGULATION

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).

TRANSPOSITION OF THE EUROPEAN REGULATION

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 board 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 in the questionnaire (SimpLex Team, legal and linguistic revision etc.)⁸.

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,

⁸ see below

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 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. , and. This distinction, the Swedish system demands constant cooperation among the Divisions of 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".⁹

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.

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 agencies and authorities

⁹ see annex B

“The authorities and agencies in Sweden are often given a mandate within their field of competence to **adopt secondary regulation**, which often **affects business**. They 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, based on the OECD’s Checklist.

The Central Government administration 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. The review covers, for examples issues relation agencies, activity development, their services (including provisions information) and simplification of regulations”.

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 started in May 2000, has stopped or substantially improved about 25 proposals for legislation and, consequently, benefited 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 to actually “win” a negotiation between ministries. 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 (RIA)

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 Government also assesses budgetary implications, environmental and gender implications, not done in a regular 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 business community only sees the final result; they don't see what could have been the case. This is a marketing problem for the Government. 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. The Swedish Government introduced an effective system of impact assessment for national regulation in accordance o 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 is currently trying 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.

The Swedish policy makers think that individuals have a right to express their view too, but in practice they express themselves through their organizations. 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

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.

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. Better 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 implemented in national law.

ACCESS TO REGULATION

All laws, regulations and information on the Swedish public sector are in an Internet site.

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 STRUCTURE

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 of 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 on promoting better regulation. The body responsible RIU is holding all main responsibilities considering consideration 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 year. The success of the twenty year efforts was the officials recognition of the value of the system and that the tool is of 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 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 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 been and

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.

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 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.

All the results of consultations are published.

According to the British officials 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 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 REGULATION

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 are currently bringing all guidance together into one easily accessible source, which will be 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.

7. Resolutions of the ad hoc group on Better Regulation – Suggestions to the Ministers of Public Administration

The Ministers of Public Administration:

- Welcome the report of the ad hoc Group of experts on Better Regulation established during the Greek Presidency in accordance with the La Rioja resolutions. They acknowledge the progress made by the member states and the Commission on better regulation issues and especially regarding the implementation of the Action Plan of Mandelkern Report for the member states and the Commission.
- Having considered the results of the Report of the Ad Hoc Group on Better Regulation, warmly support the efforts of the national governments of the member states to launch horizontal policies on better regulation in order to enhance coordination and to maximize the positive outcomes of better regulation policies. They support to introduce effective Regulatory Impact Assessments (RIA) in all member-states.
- Strongly support all types of public consultation, formal or informal. They maintain that time limits to public consultation should be set according to the prevailing circumstances. They underline the importance of spreading the results of the consultation as wide as possible and using the modern technologies ensuring widest access to legislation. They stress the need for the continuation of simplification and codification programs in the member-states, since they have been proved to be extremely useful tools to improve the quality of regulation.
- Stress the significance of a correct and timely transposition process of Community Law. They recommend that Better Regulation issue should be included in the curricula of training programs, so that those concerned with the issue will become in due time familiar with it.
- Welcome the proposal of the Greek Presidency, in line with the La Rioja resolution, for an informal group incorporating the Directors for Better Regulation and the experts for the Mandelkern group. The group should continue to monitor the progress of member states on these issues and exchange good practices amongst member states encouraging them to learn

from each other's experience. The group will report, as appropriate, to the Ministers responsible for Public Administration and Better Regulation.

- Strongly support the setting up of an ad hoc horizontal working party on better regulation reporting to the Council with the view to assist in the follow up to the Commission's Action Plan "Simplifying and improving the regulatory environment" .