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Regulatory Reform Strategies:
Converging with Europe's Best Regulatory Environments[1]

Scott Jacobs/September 2007

As shown in the rest of Europe, regulatory reform offers an effective strategy for managing the risks of more intense competition while preparing companies to prosper within the largest economy in the world. Improvements to the regulatory framework that reduce the economic cost of poor and excessive regulation will support national growth and productivity and ease the strains and risks of the economic structural adjustment needed over the next several years.

The objective should be to achieve -- in a progressive, carefully-planned, and rapid manner -- a low-cost, low-risk regulatory system that both supports competitiveness and effectively protects public interests.

1. The Importance of Regulatory Reform and RIA in Europe

Regulatory reform became a key priority within Europe following the work of the Mandelkern Group on better regulation and the Commission's Better Regulation Action Plan (2002), which adopted the recommended OECD agenda. EU institutions and Member States have agreed on the need to improve their approach to regulation to ensure that regulation defends public interests in a way that supports the development of economic activity. The "better regulation" strategies adopted at every level in Europe are aimed at contributing to growth and jobs, while taking into account social and environmental objectives and benefits for citizens and national administrations in terms of improved governance.

The reasons for regulatory reform in Europe

Since the launch of the Lisbon strategy in 2000, the annual growth rate for the Euro area averaged 1.8% per year, lagging behind its main competitors. Hourly productivity rose 1.2% yearly between 1999 and 2003 and exhibited a declining trend. The employment rate rose from 60.6% in 1999 to 63% in 2004, while unemployment declined marginally, from 9.1% in 1999 to a still high 8.9% in 2004. Employment rates for older workers and for women remained particularly low.

As part of the 2005 renewed Lisbon Strategy, refocused on growth and jobs, the Commission announced its intention to launch a comprehensive initiative to ensure that the regulatory framework in the EU meets the requirements of the 21st century. The current initiative has three main strands:

- By further promoting the ***design and application of better regulation*** tools at the EU level, notably in so far as impact assessments and simplification are concerned.

[1] This document is based on a larger document prepared by Scott Jacobs for the Government of Bulgaria in 2007 under World Bank financing.

- By ***working more closely with Member States to ensure that better regulation*** principles are applied consistently throughout the EU by all regulators.
- By ***reinforcing the constructive dialogue*** between all regulators at the EU and national levels and with stakeholders.

For itself, the Commission announced a range of important initiatives aimed at pursuing the Better Regulation objective: screening pending legislation, simplification, revised Impact Assessment guidelines, administrative costs and the appointment of a High Level Better Regulation group in the Commission to oversee the regulatory reforms.

At the core of the European regulatory reform strategy is regulatory impact assessment (RIA), or impact assessment (IA) as it is called by the European Commission, since it applies to all policies, not only regulatory policies. The Commission's Communication on Better Regulation of June 2002, which proposed an Action Plan for "simplifying and improving the regulatory environment", centered on a new Impact Assessment system designed to integrate and replace previous single-sector assessments, which had little effect on the quality of policy-making.

> The European Commission's "Better Regulation for Growth and Jobs" (2005) aimed at "further promoting the design and application of better regulation tools at the EU level, notably … ***impact assessments*** and simplification…."

The current Impact Assessment system requires the Commission systematically to assess the likely economic, environmental and social implications of its policy proposals and to highlight the potential trade-offs, with the aim of improving the quality and transparency of proposals and identifying balanced solutions consistent with Community policy objectives. Instruments that provide an alternative to legislation, such as self-regulation and co-regulation must be considered when assessing options

In June 2005, the Commission issued new Impact Assessment Guidelines, which explained the importance of impact assessment as follows:

> It ensures early coordination within the Commission. It demonstrates the Commission's openness to input from a wide range of external stakeholders, and shows its commitment to transparency. Further, by providing a careful and comprehensive analysis of likely social, economic and environmental impacts, both direct and indirect, it also contributes to meeting the specific commitments of the Lisbon and Sustainable Development Strategies. Also, it improves the quality of policy proposals, by keeping EU intervention as simple as possible.

As part of the 2005 initiative, the Commission requires Member States "to demonstrate their clear commitment to better regulation principles through their National Lisbon [Action] Programmes". The Commission has stated, "These are the key tool to drive implementation of the Lisbon strategy: they offer a checklist of national commitments and benchmarks to monitor progress in the months and years ahead."[2]

The first set of national action plans were evaluated in January 2006 and the second set in December 2006. They showed many initiatives on regulatory reform throughout

[2] European Commission, Communication from the Commission to the spring European Council 2006 "Time to move up a gear: The new partnership for growth and jobs," Brussels, p. 9.

Europe. The Commission estimated that reforms in the ease of entry for new firms had boosted GDP in the EU15 by 2% since 1995. Notably:

- Many Member States (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Lithuania, Luxembourg, the Netherlands, Portugal, Slovenia, the UK) are carrying out (or intend to carry out) analyses of a subset of regulatory costs -- the administrative costs imposed by legislation. The standard cost model initially developed in the Netherlands and adapted for the European Commission has inspired key aspects of these reforms. Five countries (Czech Republic, Denmark, the Netherlands, Sweden and the UK) have also set quantitative targets for reducing administrative costs (ranging in reductions from 20 to 25%) by 2010.

However, the reports from European countries reveal a general lack of strategy for regulatory reform. The Commission found in December 2006 that, "Better regulation is crucial to creating a more competitive business environment and removing obstacles to innovation and change….Nearly all Member States address parts of this agenda, but in many cases, a more integrated approach is necessary." In Poland, for example, the Commission found that "Improvements in the impact assessment system are also set out but the approach to Better Regulation needs to be further developed." The Commission concluded that individual Member states should move forward faster:

> *Member States are increasingly exchanging experiences and good ideas. However, while all have moved forward, there remain big differences between Member States in the depth and speed of reform…*

The Commission charged Member states with two specific regulatory reforms:

- EU leaders are invited to set a joint 25% target for reducing administrative burdens to be achieved jointly by the EU and Member States by 2012. This target was formalized by the Commission in 2007.
- In addition, the Commission intends to conduct a systematic analysis of key goods and services markets to identify specific obstacles to competition and make proposals for removing them. The Report invites Member States to do the same.

The goal of the European Commission is clear: "Establishing a fully fledged and integrated Better Regulation system should be the medium to long-term objective of all Member States."[3] This should also be the goal of states seeking to integrate with the European Union.

2. What is best practice in regulatory reform?

Any survey of European regulatory practices shows enormous diversity in the quality of regulations across the European Commission and across Member States. Likewise, the range of regulatory reform activities is wide, and continuously increasing as new

[3] European Commission (14.11.2006) COMMUNICATION FROM THE COMMISSION. Economic reforms and competitiveness: key messages from the European Competitiveness Report 2006 COM(2006) 697 final. Brussels.

initiatives on regulatory reform are launched across Europe. In such a dynamic and diverse policy reform environment, it is important to be clear on the fundamental principles of "best practice" regulatory reform.

Tackling the regulatory reform agenda is among the most difficult challenges facing governments since regulatory systems, while large, tend to be highly decentralized among numerous institutions, non-transparent, easily captured, and based in enduring habits of public sector behavior. Improving the quality of regulation is necessary to improve the business environment, and thereby increase investment, productivity and sustainable economic growth. High quality regulation—defined in the box below—avoids imposing unnecessary burdens that cost time and money for businesses, citizens and public administrations. By improving the quality of regulations affecting private firms, countries improve the conditions for doing business, reduce market distortions, increase competition, and facilitate integration of local requirements and standards with those of other countries, in turn expanding firms' access to foreign markets. This contributes to increased private investment, firm productivity, export and employment. By improving the quality of regulations affecting the citizens and the public sector, countries also improve citizens' rights and the quality of public services.

Modernizing the regulatory role of the state requires a sophisticated "good governance" agenda, not only a narrow "deregulation" agenda aimed at cutting costs. Successful regulatory reform has become a multifaceted strategy that includes better regulation, deregulation, re-regulation, simplification and institution-building (including public sector reforms that realign incentives). In the modern practice, regulatory reform is not about limiting the role of the state, but about re-defining the capacities and the role of the state to meet evolving needs. This means that regulatory quality management must become as much a part of public management as have fiscal management and human resource management. The OECD calls for a "pro-active "quality assurance" role" for the regulatory functions of government.

OECD regulatory quality principles

High quality regulation should:

- Serve clearly identified policy goals and be effective in achieving those goals;
- Have a sound legal basis;
- Produce benefits that justify costs, considering the distribution of effects across society;
- Minimize costs and market distortions;
- Promote innovation through market incentives and goal-based approaches;
- Be clear, simple, and practical for users;
- Be consistent with other regulations and policies; and
- Be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.

Source: OECD Recommendations on Regulatory Quality 1995 and 1997

The sheer complexity of the national regulatory system has defeated many reformers. It is necessary to start with a clear understanding of the components of a dynamic regulatory system, each with its problems and related solutions, in order to create an integrated reform strategy. Over many years of work, the OECD has divided the reform task of building a modern regulatory system into four major components. The essential concept of the OECD "system" approach is that a national regulatory system can be divided into the *stock* of regulations, that is the accumulated legacy of regulations that have built up over years and decades, and the *flow* of regulations, that is, the continuing production of new

regulations that are needed to meet the changing needs of society. Management of the stock and flow of regulations requires different institutional capacities and different strategies, which make up the core of the OECD regulatory reform agenda.

These four components are summarized below and a functional map is presented in Figure 1:

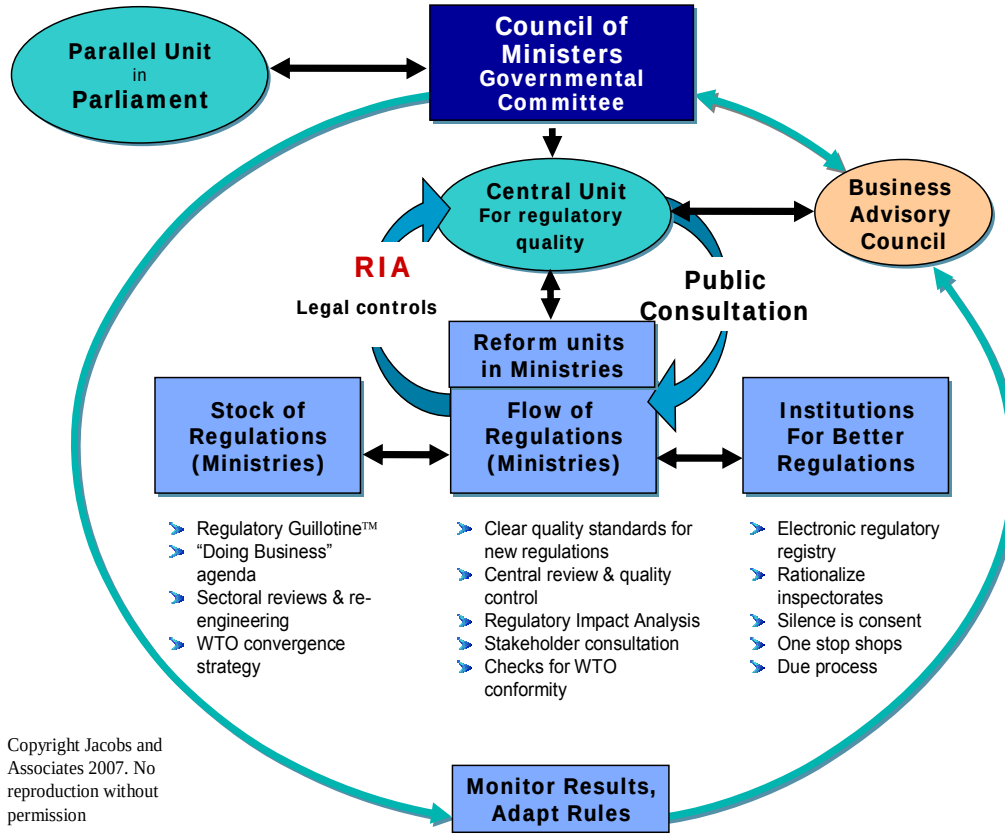
I. *Build a regulatory management system that can lead the reforms, monitor the quality of the national regulatory system, and promote good regulation tools throughout the entire public sector.*
   - Strategic medium-term regulatory reform policy (5 years)
   - Engines of reform such as a regulatory reform unit at the center of government
   - A responsible minister

II. *Build the institutions to carry out good regulation*
   - Trained and skilled regulators who understand how to implement "better regulation" tools
   - One-stop shops
   - Regulatory registries, preferably electronic and online
   - Inspections reforms
   - Due process reforms to speed up appeals

III. *Improve the quality of new regulations (the continuing flow of new laws and other regulations)*
   - Adopting principles of regulatory quality
   - Systematic use of RIA
   - Transparency and Stakeholder consultation
   - Central quality checks by an independent unit (a regulatory reform unit)

IV. *Upgrade quality of existing regulations (the huge stock of existing laws and other regulations)*
   - Targeted deregulation, simplification, codification based on business priorities
   - Broad-based reforms (Standard Cost Model approach, Regulatory Guillotine™)
   - Rolling programs of review of targeted sectors (European Commission approach)

Figure 1: A functional map of a modern regulatory system



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While each country has many choices about the kinds of reforms that it adopts, and the design and institutional basis for those reforms, these four major tasks should be reflected in the national regulatory reform policy in order to both achieve short-term benefits and a longer-term, sustainable program of regulatory management that will serve the country well into the future.

3. Elements of a regulatory reform strategy

Accelerating progress on regulatory reform requires a medium-term (i.e. 5 year) regulatory reform policy that links the various components of reform into a coherent and results-oriented plan of action. Concrete performance measures should be adopted and monitored for each reform to ensure that adequate progress is made over time by the responsible institutions.

This regulatory reform policy identifies eight tasks that are needed to converge with best practices in regulatory reform. These eight tasks follow the OECD agenda in addressing the stock, flow, institutions, and management of the national regulatory system. For each

of the eight tasks, practices that should be considered are identified, possible performance standards are suggested, and relevant experiences in Europe are identified.

MANAGEMENT OF THE NATIONAL REGULATORY SYSTEM

Task 1: Submit a policy for regulatory reform for adoption by the Council of Ministers, develop a medium-term (i.e. 5 year) implementation plan based on this regulatory reform policy, and communicate the benefits of these reforms to the public.

The OECD recommends that each country "adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation… articulate reform goals, strategies and benefits clearly to the public."[4] Adoption of a clear program is so important, the OECD found, that "countries with explicit regulatory policies consistently make more rapid and sustained progress than countries without clear policies. The more complete the principles, and the more concrete and accountable the action program, the wider and more effective was reform."[5]

Adoption by the Council of Ministers is a key signal of the credibility of the reform policy, and a predictor of its success. One of the weaknesses seen in a recent review of the regulatory quality programs in many of the 10 newest states of the EU (the OECD review did not include Bulgaria and Romania) is lack of an explicit political commitment to a concrete policy of regulatory reform. The head of the OECD/SIGMA regulatory reform program recently concluded that:

> "…as the governance processes of states become more sophisticated and more is understood about improving the quality of policy making and regulation drafting, an explicit policy for Better Regulation becomes a key feature of the governance landscape and is easily identified by reference to an explicit policy document, an explicit political commitment and by a change of culture for the constant improvement of governance."[6]

Example: Poland's program for regulatory reform under the Lisbon Agenda

Poland is focusing on 7 actions to improve its regulatory environment:

(1) simplify domestic legal instruments,
(2) implement the Commission's rolling review program at domestic level,
(3) improve efficiency of the EU directives implementation system,
(4) apply a system to measure and reduce administrative costs on businesses,
(5) optimize RIA,
(6) strengthen regulatory capacity, and
(7) implement the "Think small first" principle.

This regulatory reform policy, while important as a policy document, is not sufficiently detailed to be an implementation plan. Through a process of inter-ministerial and stakeholder consultation over the next few months, reformers should develop a detailed implementation plan for carrying out these reforms. Such a plan should include the:

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[4] OECD (1997) OECD Report on Regulatory Reform, Paris.
[5] OECD (2002) Regulatory Policies in OECD Countries: From interventionism to regulatory governance, OECD, Paris
[6] Edward Donelan and Diane de Pompignan (2007) BETTER REGULATION PRACTICES IN NEW EUROPEAN MEMBER STATES: CONTEXT FOR BETTER REGULATION, published at http://www.reforma-regulacji.gov.pl/

- design and interaction of each reform
- specific performance goals for each reform;
- the institutions to be involved;
- the schedule;
- the financing and staffing plan;
- the monitoring and evaluation strategy.

The implementation plan should be consulted with stakeholders and presented to the Council of Ministers as the blueprint for reform, and for integration into financial and staffing plans.

Communication to the public of the regulatory reform strategy in the benefits for national policy priorities is important to maintain accountability for results and to ensure that the program moves ahead against the inevitable resistance. A communication plan from the top of government is needed to ensure that the public and key stakeholders such as the parliament are informed as the reforms proceed.

Suggested performance standards

It is suggested that the country benchmark the quality of its regulatory reform policy and implementation plan against the criteria currently used by the OECD/SIGMA to assess the suitability of "better regulation" policies in the new European member states. The basic indicators used by OECD/SIGMA for a regulatory management policy include:

- An explicit policy on regulatory management,
- Political support,
- A structure to implement a Better Regulation policy,
- A structure to plan policy and regulatory activity and to prioritise policy and regulatory activities,
- An appropriate number of suitably-qualified personnel,
- Reports on the effectiveness of particular substantive policies.

Good practices in Europe

In the ***Czech Republic***, the government has developed, and in 2007 is improving, a regulatory reform policy that parallels broadly the EU Better Regulation policy. Commitments for the development of Better Regulation were included in the National Reform Programme of the Czech Republic within the Lisbon programme, and in the Strategy for Economic Growth of the Czech Republic.[7] A Government Resolution[8] on Reducing the Administrative Burden on Businesses was adopted in 2005 that includes an Action Plan for Reducing Administrative Burden on Businesses and a Methodology of Measurement of Administrative Burden, based on the Dutch Standard Cost Model.[9]

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[7] OECD/SIGMA (2006) Report on Regulatory Management Capacities of the Czech Republic, Paris.
[8] No. 421/2005
[9] OECD/SIGMA (2007) REGULATORY MANAGEMENT CAPACITIES OF MEMBER STATES OF THE EUROPEAN UNION THAT JOINED THE UNION ON MAY 1, 2004. Sustaining regulatory management improvements through a Better Regulation policy. Mimeo draft, April, Paris.

In ***Malta***, a general outline of a Better Regulation policy is set out in the *National Reform Programme: Malta's strategy for growth and jobs for the period 2005 to 2008*.

Poland's three-year "Regulatory Reform Program'' was adopted by the Council of Ministers on 19 August 2006 as "the first comprehensive regulatory reform program in Poland defining an integrated approach to regulatory management policy." [10] The program is based on the principle that Better Regulation is a long-term action and should be continuous. The first stage of the reform covers the period 2006-2008. The Program is "a comprehensive document containing references to the most important issues identified in the national regulatory system." It is based on recommendations from Polish enterprises, on a diagnostic by the Polish government ("Entrepreneurship in Poland in 2006"), and recommendations from the World Bank and the OECD. It focuses on seven tasks: (1) simplifying domestic legal instruments, (2) implementing the Commission's rolling program at domestic level, (3) improving the efficiency of EU directives implementation, (4) applying a system for measuring and reducing administrative costs imposed on businesses, (5) optimizing RIA, (6) strengthening regulatory capacity, and (7) implementing the "Think small first" principle.[11]

The ***European Commission*** adopted in 2005 its own strategic vision for "better regulation": "In the context of the renewed Lisbon Strategy, refocused on growth and jobs, the Commission announced its intention to launch a comprehensive initiative to ensure that the regulatory framework in the EU meets the requirements of the twenty-first century." When little progress was made across Europe, the Commission launched an Annual Progress Report that monitors progress in each Member State, and develops specific recommendations that are endorsed by the European Council. This system of policy, monitoring, and recommendations has been effective in stimulating much faster progress across Europe.

Task 2: Build a central unit responsible for promoting and overseeing regulatory reform through all national public sector institutions, and working with regional governments. It should be supported by a network of units in each ministry.

The regulatory reform agenda can be speeded up by the right regulatory management structure. Change can be driven by central units with longer term, whole-of-government views. In the longer term, such regulatory management units should be responsible for continuing adaptation and improvement of regulatory systems as external conditions change, information becomes available and new problems arise.[12]

The government requires a dedicated mechanism, with adequate resources, expertise and authority, for managing and co-ordinating the complex regulatory reform strategy and monitoring and reporting on outcomes. The location of the institution needed to oversee compliance with regulatory reform policies has by now been well established: *the oversight body is most effective when associated with the center of government*

[10] OECD/SIGMA (2007)

[11] Republic of Poland (2006) National Reform Programme for 2005-2008 to implement the Lisbon Strategy. *First Annual Progress Report.* Adopted by the Council of Ministers on 13 October 2006 Warsaw.

[12] OECD (2002), p. 91.

where authorities for inter-ministerial oversight are already well established.[13] Individual ministries are not well-placed to carry out such government-wide program management.

The Better Regulation unit works best if designated as a stand-alone unit, with its own mandate, staff, and head accountable for delivering a specific program. That is, the unit should be a program delivery function with its own tasks. Of course, in carrying out its tasks, it would be accountable to the Council of Ministers, and the Council would be able to charge it with new tasks beyond its core mandate to support Government policy. In addition, the unit should be integrated into the policy processes of the Council so that its advice and outputs are considered by the Council, as appropriate. To ensure sustainability, salaries of these units are entirely paid from the annual government budget, based on civil service rates.

There is no ideal practice for establishing the mandate of such a unit. Some countries establish such units by law, while others create such units by decision of the Council or the Prime Minister. In general, creation by law is associated with more credibility and sustainability of the unit, because its role supersedes short-term political and party interests.

The core functions of such a unit typically include:

- Strategic leadership: assessment of regulatory challenges and new initiatives on regulatory reform
- Program oversight: central coordination of delivery and implementation of regulatory reform, with monitoring and challenge to ministries on performance
- Operational functions: Reviewing RIAs, conducting training, writing guidance, providing help-desk services

In its mandate, the unit could, for example, be responsible for:

- advising the government on all matters relating to business regulation, regulatory institutions, the enabling environment, and related reforms generally;
- reviewing all proposals for new regulatory requirements against the standards established by the regulatory policy;
- reviewing on its own initiative or upon the representation of any person any matter relating to business regulation;
- reviewing proposed Government policy on business regulation and advising the Government as may be appropriate;
- issuing guidance and standards for regulatory impact analysis to be applied by the regulatory authorities;
- issuing guidance and standards for the manner of public consultation to be applied by the regulatory authorities, promoting more accessible and systematic public consultation strategies, developing a website portal for public consultation, and consulting regularly with stakeholders on issues of business regulation and its reform.
- operating training programs to build skills in the regulatory authorities

[13] Jacobs, Scott (2006) "Current Trends in Regulatory Impact Analysis: Mainstreaming RIA Into Policy-Making," Jacobs and Associates Reports, Washington, DC.

- monitoring and reporting on the activities of the regulatory authorities related to regulation reform, quality, or related issues particularly compliance with the national regulatory policy;
- producing at least once year a report on the quality of regulation in the country, and proposing as needed any actions necessary to improve the business environment so as to support the development policies of the Government;
- organizing forums, and bringing together the regulatory authorities and stakeholders with a view to getting the views of these groups on the regulatory environment for business activity.

Such a unit should be supported by a network of units through the public sector. Jacobs (2006) has found that the best-performing countries create a rich network of supporting institutions on regulatory reform.. The better systems seem to combine both a central unit with a network of institutions among the ministries. Such a network might include:

- Political and minister-level bodies for regulatory reform (special ministers for regulatory reform in UK, Special Committee of Council in Canada);
- Activist committees and bodies of the parliament (Committees of the European Parliament);
- High level commissions (Competitiveness Council in the European Commission);
- Inter-ministerial working groups that coordinate and advise on major regulatory initiatives (Implementation Group of Secretaries General in Ireland);
- Ad hoc inter-ministerial working groups that coordinate and advise on major regulatory initiatives (Cross-departmental steering groups on better regulation in Ireland, Inter-service coordination groups for regulatory development in the European Commission)
- Ministerial regulatory reform units who are responsible for carrying out the regulatory policy and RIA quality oversight at the level of the Ministry (In United Kingdom, a Minister for Regulatory Reform is appointed to each key regulatory department to be responsible for the quality of RIA within the department. Departmental Better Regulation Units are established in each department)
- Private sector groups, advisory bodies, think tanks, or other research bodies who support the regulatory reform agenda (UK Better Regulation Task Force, Sweden's Board of Swedish Industry and Commerce for Better Regulation (NNR))

Suggested performance standards

To evaluate the quality of the design of this unit, the government should consider the standards suggested by Jacobs (2006)[14] for regulatory reform units:

- Have a longer-term agenda and mandate, with sustained focus and influence over several years.

[14] See, for example, Scott Jacobs and Jacqueline Coolidge (2006) Reducing Administrative Barriers to Investment: Lessons Learned. FIAS Occasional Paper 17, IFC/World Bank, Washington, DC.

- Have an active inter-ministerial component to coordinate the parts of the public administration that will have to actually implement reforms.
- Be authorized, connected, and accountable for results to the centre of government to strengthen policy coordination and oversight capacities.
- Have strong relations and an active involvement with the private sector, and include those parts of the government who are champions of private sector development.
- Command the resources needed to get the job done, including a dedicated secretariat with the right skills and financing to move reform forward.

Good practices in Europe

Europe is seeing an explosion of these so-called Better Regulation Units, particularly in response to the adoption of the Standard Cost Model and the government-wide targets for cost reduction. However, in the new Member States, the tendency is to locate responsibility for the better regulation policy in a specific ministry, most commonly the Ministry of Economy. This approach is too new to be evaluated in the region; however, it has not proven to be an effective design in other European countries, or outside of Europe. Examples of the more carefully designed units include:

In ***Malta***, the Better Regulation policy is the responsibility of the Better Regulation Unit within the Management Efficiency Unit (MEU). The MEU operates in the Office of the Prime Minister and plays a unique role of an in-house management consultant to the Government. It has developed some experience of impact assessment. The mandate of the Unit is to monitor regulatory developments and reduce unnecessary bureaucracy. [15]

In ***Latvia***, the Policy Coordination Department of the State Chancellery is responsible for designing and implementing the policy and strategic planning system, which includes the Better Regulation policy. This policy is prepared in cooperation with line ministries, which are in charge of checking the quality of impact assessments, according to their respective areas of competence. [16]

In ***Poland***, an inter-ministerial working group (the Task Force for Modern Economic Regulation) was established in February 2006 to develop the regulatory policy for submission to the Council of Ministers for approval. This Task Force is building on the work done by a team appointed in 2000 (the Inter-ministerial Regulatory Quality Team) and will deal with similar issues, but with a stronger focus on both improving the regulatory environment for business, and making use of the regulatory tools more effectively. There is also a strong, well managed Department in the Ministry for the Economy and added competencies were given to the Office of the Prime Minister to oversee impact assessments. An official in each Ministry is responsible for the development of Better Regulation in that Ministry. [17]

Germany, under Cabinet Decision of 25.04.06, has taken a new centralized approach to overseeing administrative simplification across the government:

[15] OECD/SIGMA (2007)
[16] OECD/SIGMA (2007)
[17] OECD/SIGMA (2007)

- Centralized approach at the center of government (a Coordinator and a Better Regulation Unit in the Federal Chancellery)
- Political Coordination via a State Secretaries' Committee (covering all ministries)

The ***United Kingdom*** has three challenge units at the center of government: The central units are supported by Departmental regulatory reform units in each ministry.

- The Better Regulation Executive (BRE) in the Cabinet Office provides central coordination of delivery and implementation of regulatory reforms, challenges departments on progress with regulatory reform; and works with departments to change regulatory culture and processes.
- Small Business Service reviews proposals that affect small firms.
- All regulatory proposals likely to impose a major new burden on business require clearance from the Panel for Regulatory Accountability, chaired by the Prime Minister.

In ***Denmark***, an interministerial Regulation Committee is staffed by the permanent secretaries of four ministries – including the Ministry of Finance, the Ministry of Justice, and the Ministry of Business and Industry. This Committee prepares the legislative agenda for the coming year and develops the national policy on legislative quality. It is supported by a Division for better regulation in the Ministry of Finance; by a Division for quality in business regulation in the Ministry of Business and Industry; a Legislation Technique Division in the Ministry of Justice, and a Digital Task Force for the IT issues.

BUILDING THE INSTITUTIONAL INFRASTRUCTURE OF A "BEST PRACTICE" REGULATORY SYSTEM

Task 3: Train regulators to build skills in "better regulation" tools by launching a phased training program focused on implementing the national regulatory reform policy

Regulators across the public sector – those who develop and adopt new regulations and those who implement and monitor existing regulations -- should be more skilled in the principles and methods of the better regulation plan. The need for more support and training for the officials of the central and local administrations is clear.

In general, governments across Europe invest far too little in training of civil servants in better regulation to rules and principles. Indeed, the OECD found in 2002 that "The lack of skills reflects the fundamental disregard, found in almost all country reviews to date, for the need for large scale, sustained and detailed training to be provided by co-ordinating bodies."[18] Jacobs (2006) found the same situation four years later.

Those governments that do training seem to use a combination of external training to develop a high level of skills for a core group, combined with in-house or on-site training for a far broader group of civil servants who need to know the principles and tools of better regulation, without the detailed knowledge of a RIA analyst. The better organized

[18] OECD (2002).

governments have begun to integrate training on better regulation into the civil service institutions responsible for continuous training.

Suggested performance standards

There are no agreed performance standards for "Better Regulation" training in Europe. Suggested standards could include:

- Training should be given as early as possible in a professional career.
- All regulators should have basic training in the principles and tools of good regulation, as contained in the national regulatory policy. The percentage of those trained should rise progressively, reaching 100 percent by year three.
- All regulatory bodies should have a core group trained in RIA by year two. This group should be able to design and carry out basic RIA for their ministries.
- All managers at the level of Director should have at least 8 hours training in the national regulatory policy, rising to 100 percent by year 2.
- Once reaching 100 percent, the government should maintain that standard of a fully trained civil service.

Good practices in Europe

In the **Czech Republic**, training is delivered to civil servants by the Institute of State Administration. Special courses are organised on EU issues as well as on Better Regulation issues. In particular, a 3 day course was set up to train civil servants on the EU methodology on Regulatory Impact Assesment and on how to conduct RIA. 50 civil servants were trained by the end of 2006.[19]

In **Hungary**, two initiatives to provide training for officials in modern administration, including Better Regulation, were introduced in 2004. The first is in Budapest; the second in Perch University, which started a Better Regulation curriculum for local authority lawyers. Training aims to give officials the capacity to undertake and manage an impact assessment project.[20]

Bosnia, ***Serbia***, and ***Moldova*** have sent officials to the College of Europe/Jacobs and Associates RIA Training Course offered twice a year in Bruges. This five-day course is the only commercial RIA course offered in Europe, and provides the most advanced training available for the core cadre of RIA experts needed in the Better Regulation Unit.

Moldova, with World Bank financial support, is developing a series of training courses and training materials, and is training a cadre of trainers in its civil service training institute so that RIA training can be offered on a continuous basis at low cost.

The ***Irish*** Department of the Taoiseach is drawing up a "detailed training strategy for RIA" using the Centre for Management and Organisation Development (CMOD) in the Department of Finance, as well as academic institutions. The Irish approach to drawing up a training strategy for RIA might be an effective way of attracting more training resources to RIA, upgrading the quality and consistency of RIA training government-

[19] OECD/SIGMA (2006) Report on Regulatory Management Capacities of the Czech Republic, Paris.
[20] OECD/SIGMA (2007)

wide, and ensuring that good practices around the world are transmitted quickly and efficiently to civil servants.[21]

In the ***United Kingdom***, the better regulation unit runs seminars, formal training sessions and workshops on RIA. The unit is also involved in training officials through the Civil Service College's training courses on policy making.

Task 4: Complete the national electronic registry of consolidated regulations, with mechanisms for continuing maintenance of the registry

Most OECD countries have established central electronic registers for laws and regulations, and the 2005 OECD Guiding Principles for Regulatory Quality and Performance recommends that governments "create and update on a continuing basis public registers of regulations and business formalities, or use other means of ensuring that domestic and foreign businesses can easily identify all requirements applicable to them."

If they do not have one, governments should complete, as a high priority, a national electronic registry of administrative requirements on businesses. Such a registry could be subsequently expanded to all business regulations, and eventually to the Regulations Official publication of the National Assembly and the Council of Ministers. Once established, the government should maintain the registry over time, and mechanisms are necessary to do this.

There are several options for the design of an electronic registry:[22]

- A registry of forms and other information such as fees needed for formalities. Such forms can be:
    - Only downloaded
    - Answered on line
- A registry of legal texts – ranging from formalities to a broader set of legal texts -- at different levels of government. Such a registry could be:
    - For information
    - Legally secure
- A registry of all requirements needed for a business to start up and operate. This becomes an electronic one stop shop. Such a registry could be:
    - Comprehensive from the view of businesses
    - Geared to a single ministry or level of government

Suggested performance standards

The purpose of the registry is to reduce transactions costs for users and to increase legal security. Evaluation of the performance of the registry in achieving these goals could use the following kinds of standards:

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[21] Scott Jacobs (2006) "Current Trends in Regulatory Impact Analysis: Mainstreaming RIA Into Policy-Making"

[22] Cesar Cordova and Scott Jacobs (2007) Key Elements and Characteristics of Regulatory eRegistries: A Note for HITROREZ, Croatia. Mimeo, Washington, DC.

- Publication in a single site (as opposed to multiple sites)
- Presentation of information in a standardized format
- Timely updating of the registry (in parallel with notification in the national gazette)
- Accessibility to the public without fees
- Capacity for user-friendly searches on key words
- Capacity to download relevant forms
- Capacity to fill out and submit relevant forms
- Legal value of the content of the registry in legal proceedings
- Accessibility in multiple languages

Good practices in Europe

In ***Norway***[23], the Register of Reporting Obligations of Enterprises and The Central Co-ordination Register for Legal Entities (Oppgaveregisteret) plays a key role in efforts to monitor and reduce administrative burdens. Created in 1997, the main task of this register is to maintain a constantly updated overview of businesses' reporting obligations to central government, and to find ways to coordinate and simplify these obligations. The register keeps an updated overview of all reporting obligations of industry and business. The information supplied by each business enterprise is not registered by the Oppgaveregistret, but by the authorities using the information. Under the Act relating to the Reporting Obligations of Enterprises, the public authorities must co-ordinate their reporting activities. This means that if two or more public authorities ask the same questions of the same type of company, these authorities shall collaborate so the question is asked only once. The register also maintains an overview of the permits that are required to operate within various businesses and industries, and provides information on how to obtain such permits. Currently the register is restricted to business and industry's reporting obligations to the central authorities. The results of its monitoring efforts are published on a yearly basis. The register has compiled a database of about 669 reporting obligations and a total of 255 different permits and licenses covering all business sectors in Norway. The register estimates burdens related to submission of information in terms of time.

France has opted for the establishment at the centre of Government of an agency dedicated to the promotion of administrative simplification and in particular the registration of all government forms. Provision of online services was improved by introducing a national gateway portal in October 2000 that allows online access to administrative forms (with 1,000 forms now available, out of a total of 1,600). These can be found at http://www.service-public.fr/formulaires/index.html and http://annuaire-cfe.insee.fr/AnnuaireCFE/jsp/Controleur.jsp. The forms are available in .pdf format. Some must be printed and filled out manually, while others can be filed online. France is currently (2006-2007) expanding the online filing services.

European Union Institutions offer EUR-Lex (http://eur-lex.europa.eu/en/index.htm), which provides direct free access to European Union law. The system makes it possible to consult the Official Journal of the European Union and it includes treaties, legislation, case-law and legislative proposals. It offers extensive search facilities. Its website states

[23] OECD 2003, Regulatory Reform in Norway. Chapter 2 Government Capacities to Ensure High Quality Regulations OECD Paris see Box Best Practice: The Brønnøysund Registers

that, as Community legislation is evolving, due to frequent publications of new, amending, legal acts, the collection of consolidated legislation in the database is not complete and it cannot be guaranteed that a text represents the up-to-date state of the legislation in force. However, each consolidated text contains a list of all legal documents taken into account for its construction. Therefore a comparison with the data in the Directory of Community legislation in force allows an easy check on the current state of consolidation. Furthermore, each part of the text is enriched with data concerning its origin (basic act, amending act or corrigendum). Consolidated texts in EUR-Lex are intended for use as documentation tools and have no legal value. For legal purposes, the texts published in the Official Journal of the European Union are binding.

Task 5: Work with local governments to promote "better regulation" practices across the country.

A continuing complaint of businesses in most countries is the implementation of regulations at the municipal level, which is still seen as uncertain and adding to regulatory risks. An effective national regulatory reform strategy cannot ignore regulatory practices at municipal levels, but a standardized approach across many municipalities is usually unrealistic.

But national governments do not have to mandate actions in order to support beneficial regulatory reforms. The implementation plan for regulatory reform should examine several options for promoting "better regulation" practices at the municipal level, including:

- Enhancing consultation with municipal authorities in the preparation of new laws and regulations in order to improve their application;
- Developing with the associations of municipalities some recommended model practices for regulatory implementation and stakeholder relationships;
- Financing consultancies for municipalities to help them self-diagnose and improve performance, or set up a municipal "helpdesk" in the national Better Regulation unit to provide advice;
- Launching a national project to examine not only HOW municipalities perform, but WHAT they do as background to municipal simplification programs;[24]
- Coordinating implementation regulations with national ministries through, for example, expansion of municipal-national one-stop shops;
- Developing a mechanism to score the quality of regulatory practices at municipal levels to encourage faster adoption of good practices across the country;
- Establishing clearer definitions of the competencies between levels of government and more information exchange to avoid duplication and inconsistent application of regulations;
- Including municipal regulations and forms in the national electronic registry.

[24] World Bank Group (2006) Simplification of Business Regulations at the Sub-National Level: A Reform Implementation Toolkit for Project Teams. Small and Medium Enterprise Department, Washington, DC

Suggested performance standards

The European Commission has not adopted any performance standards for better regulation at municipal level, or even for coordination between national and municipal reform programs. Governments should consider the following performance standards:

- Adoption of a model approach to regulatory simplification in an increasing percentage of municipalities, reaching 100 percent by year five;
- Establish a national scoring system to compare the performance of municipalities in better regulation, and produce steady improvements in scores;
- Improving scores of municipalities on annual business surveys.

Good practices in Europe

In a few European countries, different levels of government are co-ordinating efforts to reduce burdens on businesses:[25]

In the **Slovak Republic**, extensive consultation with the Association of Slovak Towns and Municipalities is organized as part of developing new laws and regulations in order to facilitate application after adoption.

In ***Italy***, law 246 of 2005 created agreements between the Government and regions to:

- Facilitate co-ordination of their respective areas of responsibility, notably regarding the administrative formalities that businesses must fulfil and procedures for authorisations, licences, and approvals;
- Identify nation-wide approaches to simplification of such formalities;
- Ensure the removal of obstacles to the functioning of smooth operations of unified business help-desks or one-stop shops.

In ***Sweden***, the Swedish Business Development Agency produced a report in 2004 on the most important permits needed to start a business and on the average processing time to receive the permits. The report stressed differences in processing times for permits between municipalities as well as gaps in the agencies' and municipalities' knowledge of – and information about – the length of processing times. Such "score cards" enabled the government to develop more concrete targets for improving permitting at regional levels.

IMPROVING THE FLOW OF NEW REGULATIONS

Task 6: Create a well resourced regulatory impact assessment (RIA) system

One of the most important capacities of a modern regulator working within an open and competitive economy is the ability to assess the market impacts of a regulation before it is adopted. Enhancing the capacities of regulators to choose efficient regulatory

[25] OECD (2006) Cutting Red Tape: National Strategies for Administrative Simplification, Paris, pp. 77-78.

solutions consistent with market forces reduces the risks of costly regulatory mistakes, and the level of implicit government taxation on productive activities.

Despite legal obligations to perform RIA in several countries in Eastern Europe, RIA is not being carried out in a meaningful way on new laws and regulations. Some countries have not yet developed a general strategy for RIA that is integrated with other reform efforts and that is in line with the country's development needs. RIAs on specific legislation are of varying—and often poor—quality. [26] Most ministries and public agencies lack institutional capacity to support the implementation of RIA. While all regulating ministries should produce RIAs to improve the quality of their regulations, there has been little training to build RIA capacities within those ministries. Basic operating requirements (such as strategies for data collection for impact evaluation, peer review groups, RIA advisory bodies, and RIA networks in the ministries) are still missing.

What RIA methods should be considered?

International RIA methods are moving today toward more integrated methods of assessment, converging to a method called *soft benefit-cost analysis (BCA)* by Scott Jacobs. In soft BCA, *quantitative* and *qualitative* metrics are combined and presented systematically in an integrated framework to deal with the complexity of modern public policy.

Source: Jacobs, Scott (2006) "Current Trends in Regulatory Impact Analysis: Mainstreaming RIA Into Policy-Making," **Jacobs and Associates Reports**.

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In order to move into a systemic application of RIA, it is necessary to create a central RIA oversight body by assigning a specific entity with an institutional mandate, resources and power to enforce the RIA program. Ideally, this task would be assigned to the central Better Regulation unit.

The RIA strategy should consider the following components of setting up an effective RIA system:

Tasks recommended to implement a functioning RIA system
(Source: World Bank (December 2006) Implementing RIA in Bulgaria: Summary Note, Scott Jacobs, Sofia)

Political and Legislative Mandates for RIA
Develop a legal mandate to require control of RIA by a central regulatory reform unit; to create other checks on the RIA compliance; to require the central unit to develop mandatory RIA guidance and consultation procedures; and to mandate the central unit to oversee implementation of the entire regulatory reform strategy
Set up central Better Regulation unit with operating procedures
Develop supporting materials and training
Develop RIA guidance, including choice of method, decision criteria, impacts to be included, standard assumptions, and data collection methods
Hold government-wide training in introductory principles of good regulation and compliance with the RIA guidance for around 300 policy officials
Hold more specialized training for the staff of central unit on how to review RIA
Develop new consultation procedures and consult them with stakeholder groups
Implement RIA

[26] Based on assessments conducted by the OECD, DFID and the European Commission, and on interviews held during the mission with stakeholders involved with RIA.

Ministries and agencies begin using new RIA guidance. Central unit begins to review and control the quality of the RIA. New publication checks adopted.
Stakeholders provide input through the RIA-based consultation process
Build RIA skills in the Parliament
Begin discussions with the Legal Department of the Parliament on how to use RIA in legislative actions by Parliament
Reach agreement on how RIA can be structured in the Parliament to make best use of expanded memoranda on draft laws
Hold training to build skills in the Legal Department of the Parliament on RIA
Start RIA for legal drafts and changes in Parliament
Begin pilot programs in ministries and regional governments
Select 2 pilot local governments to roll out the RIA program
Hold RIA training for pilot local governments
Launch 1 year pilots in local governments
Assess experience of RIA in local governments and design full local government-wide RIA

Suggested performance standards

There is extensive guidance on good RIA systems. The most influential and the most often cited standards are still the 1997 OECD's ten practices for good RIA.[27] These practices could be used as performance standards for the design and operation of the RIA system.

Performance criteria for a RIA system:

- Systematic. RIA must be part of a larger system that supports core analytical requirements and ensures that the analysis is able to influence policy decisions.
- Empirical. RIA must make maximum use, within cost constraints, of quantitative data and rigorous empirical methods. This will maximise objectivity and comparability.
- Consistent but flexible. Analytical approaches must be broadly consistent to optimize overall results. However, analysts must retain sufficient flexibility to target scarce resources at the most important regulatory issues and fit the analysis to the issue at hand.
- Broadly applicable. RIA should be applied to as wide a range of policy instruments as possible. It should not be possible to avoid RIA by using a different instrument.
- Transparent and consultative. Extensive consultation should inform RIA. The results of RIA should, in turn, be widely available and the basis of decisions made clear.
- Timely. RIA should be commenced early in policy development and its results made available in time to influence decisions before they are made.
- Responsive. Effectiveness depends ultimately on how well decision-makers apply the insights of RIA. This requires that RIA address issues that are practical and connected to the current policy debate.
- Practical. RIA systems must not require infeasible resource commitments and must not impose unacceptable delays on decision-making.

[27] OECD (1997), Regulatory Impact Analysis: Best Practice in OECD Countries, Paris.

Good practices in Europe

The OECD/SIGMA recently noted that all new Member States, except Malta and Cyprus, have laws requiring RIA as part of new regulatory policy development. This suggests that there should be no lack of good practices to examine. However, the practice of RIA is disappointing right across the region. OECD/SIGMA concludes that "inadequate institutional arrangements, particularly as regards the quality review of assessments, lack of clear methodologies and training meant that the process became an empty formula and RIA existed in name and not in substance."[28] Some countries are actually moving backward. Hungary, for example, abolished its Department of Impact Analysis, Deregulation and Registration of Law in July 2006, and has not replaced it.

In ***Poland***, RIA is still quite new, but the RIA system and its supporting institutions are emerging as one of the best in the eastern region:
:

- Ministers are responsible for RIA and public consultations, but new institutional arrangements for RIA were implemented in 2006 to strengthen the RIA system, including placing responsibility for the review of RIA in the Chancellery of the Prime Minister instead of the Government Legislation Centre where it was until July 2006.
- To increase the effectiveness of the RIA process, the Ministry of the Economy prepared new RIA Guidelines which were adopted in October 2006 by the Council of Ministers. The new guidelines clarify the key analytical steps to be taken in the undertaking of a RIA. The Guidelines constitute a set of logical steps which structure the preparation of policy proposal from identifying the problem, choosing objectives and main policy options, through comparing the possible options, assessing cost and benefits of each option to finally recommending the best solution. It is planned, after operating the new guidelines for 12 months, to evaluate their effectiveness.
- The Government Centre for Strategic Studies prepares major RIAs, taking into account the major and long term impacts of regulations.

Task 7: Create a formal consultation policy and mechanisms to ensure a systematic means of early and effective stakeholder consultation during policy and regulatory development.

Early and meaningful consultation before a regulatory decision is taken is one of the most important assurances to businesses of a supportive, low-risk legal environment. Public consultation with stakeholders such as businesses has been widely recognized as key to the quality of new laws and other regulations.

A systematic approach is needed across the government, based on e-Government solutions to reduce the cost of consultation. The government should develop and implement a mandatory consultation policy, based on international practice and e-Government tools, that lays out goals, standard methods, and an implementation plan. Such a policy will require investment in new procedures and staff training in how to consult and how to use information from consultations. The policy should consider the following options:

[28] OECD/SIGMA (2007)

Consultation Policy

- Adopt a ministerial consultation policy that establishes a minimum standard of consultation ministry-wide
    - Create a standardized format for consultation documents, such as a summary of policy goals, main issues and options, to permit easier access by stakeholders
    - Make consultation accessible to all businesses and stakeholders

Method of consultation

- Build a unique website for publication and consultation on draft regulations and decisions. Publish open public consultations that are announced at a 'single access point'
- Create a Business Advisory body as a permanent consultation channel for decisions
- Develop business focus groups and test panels to discuss draft decisions and regulations.

Timing and response to consultations

- Require consultation early in policy development, before drafting is done, to improve the quality of documents submitted to Ministers
- Provide sufficient time for response. Staff should allow at least eight weeks for responses to written public consultations
- Receipt of contributions should be acknowledged.
- Results of open public consultation should be displayed on websites linked to a single access point on the internet.
- Ministerial reactions to stakeholder comments should be summarized in the final policy decision.

Suggested performance standards

The general principles and minimum consultation standards adopted by the European Commission (2002) seem to be a reasonable benchmark. These are as follows:

General principles

PARTICIPATION

- Consult as widely as possible on major policy initiatives.

OPENNESS AND ACCOUNTABILITY

- Consultation processes must be transparent, both to those who are directly involved and to the general public. It must be clear:
    - what issues are being developed
    - what mechanisms are being used to consult
    - who is being consulted and why
    - what has influenced decisions in the formulation of policy.
- Openness and accountability are important principles for the conduct of organisations when they are seeking to contribute to policy development. It must be apparent:
    - which interests they represent
    - how inclusive that representation is.

EFFECTIVENESS

- Consultation must start as early as possible. Interested parties should be involved in the development of a policy at a stage where they can still have an

impact on the formulation of the main aims, methods of delivery, performance indicators and, where appropriate, the initial outlines of that policy.
- Consultation at more than one stage may be required.
- The method and extent of the consultation performed must always be proportionate to the impact of the proposal subject to consultation and must take into account the specific constraints linked to the proposal.

COHERENCE
- There must be consistency and transparency in the way that ministries operate their consultation processes.
- Include in consultation processes mechanisms for feedback, evaluation and review.

Minimum standards

A. CLEAR CONTENT OF THE CONSULTATION PROCESS
- All communications relating to consultation should be clear and concise, and should include all necessary information to facilitate responses.
- The information in consultation documents should include:
    - A summary of the context, scope and objectives of consultation, including a description of the specific issues open for discussion or questions with particular importance
    - Details of any hearings, meetings or conferences, where relevant
    - Contact details and deadlines
    - Explanation of processes for dealing with contributions, what feed-back to expect, and details of the next stages involved in the development of the policy
    - If not enclosed, reference to related documentation

B. CONSULTATION TARGET GROUPS
- When defining the target group(s) in a consultation process, ensure that relevant parties have an opportunity to express their opinions.
- For consultation to be equitable, ensure adequate coverage of the following parties in a consultation process:
    - those affected by the policy
    - those who will be involved in implementation of the policy,
    - bodies that have stated objectives giving them a direct interest in the policy.
- In determining the relevant parties for consultation, take into account the following elements as well:
    - the wider impact of the policy on other policy areas, e.g. environmental interests or consumer policy
    - the need for specific experience, expertise or technical knowledge, where applicable
    - the need to involve non-organised interests, where appropriate
    - the track record of participants in previous consultations
    - the need for a proper balance, where relevant, between the representatives of social and economic bodies, large and small organisations or companies, wider constituencies (e.g. churches and religious communities) and specific target groups (e.g. women, the elderly, the unemployed, or ethnic minorities), organisations in the European Union and those in non-member countries.

- Where a formal or structured consultation body exists, the Commission should take steps to ensure that its composition properly reflects the sector it represents.

C. PUBLICATION

- Ensure adequate awareness-raising publicity and adapt communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the "single access point".
- For addressing the broader public, a single access point for consultation will be established where interested parties should find information and relevant documentation.
- At the same time it might be useful to maintain more traditional alternatives
- to the Internet (e.g. press releases, mailings). Where appropriate and feasible, provide consultation documents in alternative formats so as to make them more accessible to the disabled.

D. TIME LIMITS FOR PARTICIPATION

- Provide sufficient time for planning and responses to invitations and written contributions. Strive to allow at least 8 weeks for reception of responses to written public consultations and 20 working days notice for meetings.

E. ACKNOWLEDGEMENT AND FEEDBACK

- Receipt of contributions should be acknowledged. Results of open public consultation should be displayed on websites linked to the single access point on the Internet.
- Depending on the number of comments received and the resources available, acknowledgement can take the form of:
    - an individual response (by e-mail or acknowledgement slip), or
    - a collective response (by e-mail or on the single access point for consultation on the Internet).
- Contributions will be analysed carefully to see whether, and to what extent, the views expressed can be accommodated in the policy proposals.
- Provide adequate feedback to responding parties and to the public at large. The results of consultations carried out in the Impact Assessment process will be summarised in the related reports.

Good practices in Europe

In ***Estonia***, an eGovernment tool to facilitate consultation, called Web 'Talk along',[29] has been developed. It permits the involvement of citizens in the formulation of policy and the drafting of legislation.[30]

In ***Latvia,*** consultation within the government and with the public is all part of a seamless IT system. The inter-ministerial consultation process is organized by the electronic circulation of documents using a government web page. From the moment of the "announcement" of a draft in the Meeting of State Secretaries, each draft and annotations of Bills and other legal instruments is also made available for public consultation. Ministries now only use the electronic form of documents in the process of analysing and giving opinions on proposed drafts.[31]

[29] www.mkm.ee/index.php?id=8252
[30] OECD/SIGMA (2007)
[31] OECD/SIGMA (2007)

Ireland's 2005 consultation policy states, "The introduction of RIA in Ireland means that public bodies will, in future, consult more widely and systematically."[32] This useful document presents a checklist of ten questions that regulators should ask in designing a consultation strategy:

- Are you clear on the purpose and objectives of your consultation?
- Are you clear on the questions you want to ask in your consultation?
- Have you identified all of the stakeholder groups and individuals that should be consulted?
- Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of 'non-traditional' stakeholders?
- Have you allowed for sufficient resources for the consultation?
- Have you considered all of your legal obligations?
- Have you publicised your consultation in online and offline media?
- Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
- Have you planned how you will analyse the submissions received during your consultation?
- Have you planned to evaluate your consultation process and to ensure any lessons learned are taken into account for the future?

MODERNIZING THE STOCK OF EXISTING REGULATIONS

Task 8: Develop a review strategy for the "stock" of regulations now in place based on the Regulatory Guillotine™[33] approach or the European approach of rolling reviews for competition obstacles.

The 1997 OECD Report recommends that governments "review regulations systematically to ensure that they continue to meet their intended objectives efficiently and effectively". A systematic approach helps to ensure consistency in approaches and review criteria, generates momentum and ensures that important areas are not exempted from reform due to lobbying by powerful interests. Ex post reviews are a complement to rigorous ex ante RIA.[34]

The European Commission has asked Member States conduct a systematic analysis of key goods and services markets to identify specific obstacles to competition and remove them. This is not a task that will be completed by any fixed dates. A continuing program of review and reform is needed to modernize the regulatory stock. Because of the potentially high cost of this component of the reform program, it must be designed to be manageable and to set clear priorities that produce the most valuable results.

Some countries – Croatia and Republika Srbska in Bosnia and Herzegovina have used the regulatory guillotine approach to more rapidly update the stock of regulations. The regulatory guillotine is a flexible method that is specifically designed through a precise

[32] Ireland Department of the Taoiseach (2005) Reaching Out: Guidelines on Consultation for Public Sector Bodies, Dublin
[33] Regulatory Guillotine™ is a trademark of Jacobs and Associates.
[34] OECD (2002)

sequence to produce good results even where resistance is high. Essentially, it is a means of rapidly reviewing a large number of regulations, and eliminating those that are no longer needed. It counts the regulations that exist, and then reviews them against clear criteria, using an orderly and transparent process built on extensive stakeholder input. The basics of the guillotine work like this:

1. The government establishes the scope of the guillotine, that is, defines precisely the kinds of regulatory instruments to be included and the regulatory bodies.
2. The government adopts a legal instrument – usually a law or decree -- that sets out the guillotine process, schedule, and institutions.
3. The government creates a central guillotine unit at the center of government that manages the whole reform and carries out independent reviews.
4. In the guillotine process, each regulation must be justified as meeting basic criteria. That is, the burden of proof is *on the regulator* to defend why the regulation should be kept. Three typical criteria are: *Is the regulation legal? Is the regulation necessary for future policy needs? Is the regulation business-friendly?*
5. The regulation passes through three levels of review – by ministries themselves, by stakeholders, and by the central unit, which makes the final recommendations. In each review, unnecessary, outdated, complex, and illegal rules are identified.
6. The final recommendations are sent by the central unit to the Government or to Parliament for adoption as a single package.
7. Surviving regulations are placed into a comprehensive electronic registry that improves legal security and transparency as it is maintained in the future.

The number of documents reviewed in the guillotine process is usually in the thousands. Below is a summary of the guillotine process and results in six countries.

Results of the Guillotine in Six Countries

	Type of review	Target of Reform	Number of regulations before cleanup	% of regulations eliminated in the reform	% of regulations simplified in the reform
Korea *(11 months)*	Legality, Need	Regulations	11,125	48.8%	21.7%
Mexico *(9 months)*	Legality, Need	Formalities	2,038	54%	27%
Moldova *(6 months)*	Legality	Regulations	1,130	44.5%	12.5%
	Legality	Fee-based Permits	400	68%	20.3%
Ukraine *(12 weeks)*	Legality	Regulations	14,000	36 %	7,2%
Bosnia /RS *(4 months)*	Legality, Need	Formalities	331	21.1 %	22.7 %
	Legality	Inspections Regulations	2,473	58%	-
Croatia *(9 months)*	Legality, Need	Business Regulations	2,683	27%	28%

Suggested performance standards

The European Commission suggests a few standards for the design of programs of review:

- The review of existing law must become a continuous and systematic process. This means that an ongoing process must be systematized so that the reviews cover, over time, the entire body of legislation.
- Extensive consultation must be built into the process.
- Reviews must rest on in-depth analysis of the impact on all stakeholders, including business and industry, taking into account the objectives pursued by the legislation.
- Priorities must be set, and a mechanism for setting priorities should be developed.

Good practices in Europe

The ***European Commission*** itself carried out the most extensive review of existing legislation in recent years. In September 2005, the Commission announced its intention to withdraw 68 pending proposals as a result of extended screening, and to introduce a new method of simplifying existing legislation called the "simplification rolling programme" covering the period 2006-2009. The rolling program operates as follows:

- An initial batch of legislation to be simplified was identified on the basis of a broad consultation.
- A continuous process is then fuelled by input from new, more systematic review procedures for the identification of future simplification priorities based on a broad analysis of the impact of legislation. This process encompasses a thorough economic analysis. Rules that seem to inhibit competitiveness (including administrative requirements) will be examined by the Commission to ensure that they are necessary and proportionate to other public interests pursued.
- The Commission will include major legislative simplification initiatives in its annual legislative work programmes and issues a series of communications indicating in more detail how simplification work will be brought forward or integrated in the sectors of agriculture, environment, health and safety in the work place, fisheries, taxation, customs, statistics and labour law.
- The Commission will identify the need for simplification from a sectoral perspective. Such an approach will make it possible to assess the overall effectiveness of the legislative framework for the sector concerned and the room for further simplification.

Croatia has adopted the Regulatory Guillotine™, a government-wide approach to the fast review of regulations and the elimination simplification of those that do not pass simple quality standards. This approach should lead, in less than a year, to the elimination of over 30 percent of business formalities.

Reading List on Regulatory Reform

Country	
Australia, Commonwealth Government	1. Productivity Commission (2005) *Regulation and its Review 2004-05, Annual Report Series*, Canberra. 2. Council of Australian Governments (2004) *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies*, Endorsed by COAG April 1995, Amended by COAG June 2004. 3. Argy, S., and Johnson, M. 2003, Mechanisms for Improving the Quality of Regulations: Australia in an International Context, Productivity Commission Staff Working Paper, July.
Canada	4. Government of Canada (November 1999) *Regulatory Policy*, Privy Council Office, with the Regulatory Process Management Standards in Appendix B (slightly modified from the 1995 policy) 5. Canada. External Advisory Committee on Smart Regulation (September 2004) *Smart Regulation: A Regulatory Strategy for Canada*, Ottawa. 6. OECD (2002) *Canada: Maintaining Leadership Through Innovation*, Chapter 2, Government Capacity to Ensure High Quality Regulation, Paris.
European Commission	7. European Commission (15 June 2005) *Impact Assessment Guidelines*, SEC(2005) 791, Brussels 8. Commission of the European Communities (2005) Better Regulation for Growth and Jobs in the European Union, Communication from the Commission to the Council and the European Parliament, Brussels, 16.3.2005, COM(2005) 97 final 9. European Commission (2002) Communication from the Commission: Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission Brussels, COM(2002) 704 final 10. Andrea Renda (2006) Impact assessment in the EU: the state-of-the-art and the art of the state, Center for European Policy Studies, Brussels.
Ireland	11. Department of the Taoiseach (July 2005) *Report on the Introduction of Regulatory Impact Analysis*, Dublin
Sweden	12. Swedish Ministry for Industry, Employment and Communications (February 2005) The Swedish Government's Action Plan to reduce administrative burden for enterprises, Stockholm 13. Board of Swedish Industry and Commerce for Better Regulation (NNR) (September 2005) How high is the quality of the Swedish central government's Regulatory Impact Analysis (RIAs) in the business sector? The NNR Regulation Indicator for 2005, Stockholm
United Kingdom	14. UK Cabinet Office Better Regulation Executive (BRE) (2005) Regulatory Impact Assessment Guidance, published on website of BRE 15. UK Better Regulation Task Force (2005) Better Regulation - from design to delivery, Annual report 2005, at http://www.brc.gov.uk/publications/designdelivery.asp 16. UK Better Regulation Task Force (March 2005) *Regulation - Less is More. Reducing Burdens, Improving Outcomes*, A BRTF report to the Prime Minister, London. 17. UK National Audit Office (2005) Evaluation of Regulatory Impact Assessments Compendium Report 2004-05, Report by the Comptroller and Auditor General, HC 341 Session 2004-2005, 17 March 2005
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