

Chapter 1

Strategy and policies for Better Regulation

Regulatory policy may be defined broadly as an explicit, dynamic, and consistent “whole-of-government” policy to pursue high-quality regulation. A key part of the OECD’s 2005 *Guiding Principles for Regulatory Quality and Performance* is that countries adopt broad programmes of regulatory reform that establish principles of “good regulation”, as well as a framework for implementation. Experience across the OECD suggests that an effective regulatory policy should be adopted at the highest political levels, contain explicit and measurable regulatory quality standards, and provide for continued regulatory management capacity.

Effective communication to stakeholders is of growing importance to secure ongoing support for regulatory quality work. A key issue relates to stakeholders’ perceptions of regulatory achievements, and how progress can be effectively communicated (business, for example, may continue to complain about regulatory issues that are better managed than previously).

Governments are accountable for the often significant resources as well as political capital invested in regulatory management systems. There is a growing interest in the systematic evaluation of regulatory management performance, *i.e.* “measuring the gap” between regulatory policies as set out in principle and their efficiency and effectiveness in practice. How do specific institutions, tools and processes perform? What contributes to their effective design? The systematic application of *ex post* evaluation and measurement techniques can provide part of the answer and help to strengthen the framework.

E-Government is an important support tool for Better Regulation. It permeates virtually all aspects of regulatory policy from consultation and communication to stakeholders, to the effective development of strategies addressing administrative burdens, and not least as a means of disseminating Better Regulation policies, best practices, and guidance across government, including local levels. Whilst a full evaluation of this aspect is beyond the scope of this project and would be inappropriate, the report makes a few comments that may prove helpful for a more in depth analysis.

Assessment and recommendations

Development of Better Regulation strategy and policies

Finland is one of a growing number of countries to have an explicit Better Regulation Strategy, a significant step forward from 2003. The last OECD report in 2003 had a core recommendation for Finland to “establish that regulatory policy is a key priority of the government”. This is now on the way to being achieved. Better Regulation is mentioned for

the first time in the Government Strategy Document (GSD) drawn up at the start of this government term, and recently reconfirmed in the mid-term review of the GSD. It seems that Better Regulation has finally become embedded, in principle at least, as an important horizontal policy in its own right.

Important tools and processes supporting good regulatory practice are in place. These include longstanding processes such as the forward looking legislative plan, the *HELO* instructions on effective law drafting, the procedures for defining negotiating strategy at the EU level, and the well established traditions for consulting and reaching consensus on key issues, as well as more recent developments such as the Government Strategy Document principles and activities for Better Regulation and 22 key law proposals to give it effect, e-Government initiatives, the government's integrated new Guidelines for Impact Assessment, and a consultation code.

Work done so far by the Justice ministry to raise awareness of Better Regulation and especially of impact assessment, deserves strong support. The government's integrated new guidelines for *ex ante* impact assessment, bring together in one document previous fragmented guidance, and support this with training. However, challenges remain: in particular, the nature of policy development/law drafting in Finland which has not yet integrated the importance of early efforts in the process to collect clear evidence and data for a robust analysis of the likely consequences (positive, negative) of a proposal (see Chapter 4). The mid-term policy review of the Government Strategy Document in February 2009 re-assessed the situation and launched new initiatives for the second part of the government term. One of these is to strengthen the impact assessment of policy measures.

Recommendation 1.1. Ensure that the Justice ministry gets full support for its ongoing efforts to raise awareness of impact assessment. Take steps to address weaknesses in the current system.

EU aspects of Better Regulation policy are fundamentally strong and help to drive the domestic agenda. EU initiatives are a motor for Better Regulation in Finland. The EU Services Directive, for example, has encouraged a review of issues such as one-stop shops for small to medium-sized enterprises (SMEs). The recently adopted programme for reducing administrative burdens on business was encouraged by the EU programme. A significant and increasing proportion of Finnish law (perhaps up to 80% in some areas) derives from EU origin legislation. This is an aspect of Better Regulation for Finland that needs special emphasis and attention. A more pro-active EU stance is identified as an objective in the Government Strategy Document. Further attention needs to be paid to the way in which Finland seeks to exert influence in EU negotiations, in order to avoid some of the problems which appear in transposition (see Chapter 8).

Recommendation 1.2. Continue the efforts at a more pro-active EU stance and consider a review of the issues related to transposition of EU legislation.

Public consultation is based on long standing traditions and needs to evolve further. Strong traditions of trust and consensus building continue to frame the Finnish approach, and have helped Finland to reach consensus on how to address major policy challenges in the past. This approach does present challenges for developing a more strategic approach to policy making and to identifying what may be the best – as opposed to the least contentious – solution to regulatory or policy challenges. The system may be losing valuable inputs and the innovative views and ideas which outsiders can bring to policy making. Finland

has, however, been taking a number of initiatives to broaden the approach. Timing is critical: those who wish to participate must be able to do so before a decision is well advanced (see Chapter 3).

Recommendation 1.3. Initiatives to broaden the scope of public consultation need to be encouraged. There is a need give real teeth to the code of consultation.

An important gap was recently filled with the establishment of a programme for the reduction of administrative burdens on business. This new programme, which aims to reduce administrative burdens on business by 25% by 2012, is part of the efforts to address competitiveness issues. The roll out of the programme will need to be carefully monitored. It is not yet clear whether effective supporting processes and institutional structures are in place (see Chapter 5).

Recommendation 1.4. Ensure that the business burden reduction programme is effectively monitored and evaluated.

There remain, however, significant gaps in the framework, notably as regards enforcement policy and the lack of engagement by the subnational levels. The Better Regulation Strategy covers a lot of ground but there are still gaps. There is no common approach to enforcement policy, with individual ministries and agencies making their own policy. Given the pressures on public spending and the efforts to increase productivity in the public sector, it makes sense for Finland to review whether enforcement and inspection processes could be made more efficient, for example by encouraging the adoption of risk based approaches, at the same time minimising burdens on companies. Municipalities appear relatively untouched by Better Regulation processes (see Chapters 6 and 7).

Recommendation 1.5. Consider expanding the Better Regulation strategy to cover enforcement policy. Take steps, in discussion with the subnational levels of government, to bring them into the Better Regulation programme.

For now, there are no explicit programmes to address burdens on citizens or inside the administration. Such initiatives could well make sense in the Finnish context. A programme for the reduction of administrative burdens on citizens could be linked with efforts at encouraging citizens into a stronger engagement with the government in policy and regulatory development. In the same way, a programme to address burdens on public sector officials could be a very helpful adjunct to the public sector productivity programme. Significant efforts are underway to make it easier for citizens to access services, but there does not appear to be a distinct simplification programme for their benefit (see Chapter 5).

Recommendation 1.6. Consider the establishment of programmes for the reduction of administrative burdens on citizens and public sector officials.

There is an urgent need to “mind the gap” between principles and practice. The principles set out in the Government Strategy Document are excellent and can scarcely be faulted. Some of the more recent processes may not have had enough time yet to prove themselves. None of the current processes, however, looks likely to provide a strong enough framework in practice for addressing the regulatory stock, or the flow of new regulations, or for ensuring that all relevant stakeholders have a clear and timely opportunity to make their views heard. As one stakeholder put it “the tools are in place, but the tools do not have any teeth”. Some of what the 2003 OECD report had to say remains

relevant: Better Regulation instructions contain few concrete criteria, and implementation of Better Regulation policies is poor.

Recommendation 1.7. Take steps, systematically, to review the weaknesses of current processes and how they can be strengthened and enforced.

The mainstreaming of Better Regulation is not complete: the policy is not yet effectively joined up with other key public governance initiatives despite mutually reinforcing synergies. Better Regulation is now part of the Government Strategy Document and is followed up by the Prime Minister's Office. However it largely remains an add-on rather than integrated into government policy thinking. Many in the government still appear to see it as an expanded (and resource intensive) form of legal quality in law drafting, missing its real potential. Alongside the Better Regulation Strategy, the Finnish government has launched significant programmes for strengthening public governance, notably the productivity programme, and major initiatives to promote a stronger democratic basis for policy making through the engagement of citizens. These are obvious policies for "joining up" with the Better Regulation strategy.

Mainstreaming also requires ongoing efforts to link Better Regulation with broader goals of public policy. An important link is made with public policy goals: innovation, productivity, competitiveness and public finances will benefit from a more effective approach to regulatory management. However for some, there is still considerable uncertainty about the relationship between Better Regulation and the achievement of public policy goals. Joining up public policy goals and Better Regulation has so far been done in principle, but the connections have not been fleshed out. Although the Government Strategy Document makes the link between Better Regulation and key public policy goals (such as competitiveness and the promotion of innovation, productivity and public finances) there has not been any systematic any effort, beyond this, at drawing out the significance of Better Regulation for meeting these wider objectives. The recession induced by the financial crisis may help to "lift" Better Regulation into a more central position, and is an opportunity for buy in. The mid-term review of the Government Strategy Document suggests that this is happening. It sets a promising framework for further mainstreaming of Better Regulation by underlining the need for effective evidence based evaluation to underpin decision making, implementation and follow up processes.

Recommendation 1.8. Monitor the efforts to give Better Regulation a sharper profile in government policy making (communication is an important part of this, see below).

There remains an underlying culture and perception issue. Policy and law drafting are often synonymous, with a presumption that a law is needed. Better Regulation is largely seen as a "legislative" issue –primarily of interest to those involved in drafting legislation. Is "Better Regulation" the best expression to use in the Finnish context, as it is still too closely associated with legal quality? Finland might benefit from marketing the use of the tools of Better Regulation (such as impact assessment, consultation), as policy-making tools.

Recommendation 1.9. Consider how Better Regulation can be more effectively promoted, so that it does not come across as a legalistic activity.

Box 1.1. Recommendation from the 2003 OECD review

Recommendation

Establish regulatory policy as a key priority of the government

Competition from other policies blurs the role and importance of ensuring the quality of regulatory policy instruments in a modern society. Without replacing other policies, regulatory policy deserves a more central role in governance arrangements. The decentralised nature of government and the resultant lack of responsibility for regulatory policy at the ministerial level mean that there is no clear view within the administration that regulatory policy constitutes a key priority of government. Put in a crude way, the current policy is one government resolution among others. The implementation of a new Constitution provides additional authority to the Prime Minister – and hence the centre of government – and this provides an ideal opportunity to address this issue and establish regulatory policy as a key policy priority. Adopting enhanced institutional responsibilities and powers would also substantially reinforce this message.

Background comments

Stronger regulatory policies are now required

Despite efforts to improve the quality of the law, regulatory policy still plays only a small role in the governance process. Problems with the regulatory development process are reflected in the practice of frequently amending legal instruments in light of problems encountered after they have been passed, rather than before. A lack of strong institutional support and quality control means there have been substantial difficulties in implementing the regulatory policies of 1996, 1998, 1999 and 2000. This strongly suggests there has been insufficient political support for regulatory reform, as Finland has demonstrated its capacity to co-ordinate reform across government in other contexts – both under adversity during the 1991 recession and in order to speak with one voice on EU matters.

Five major weaknesses need further work:

1. The policy and the *HELO* Instructions have few concrete criteria to guide the assessment of each test.
2. Though applicable to all regulations, the policy focuses primarily on primary legislation and therefore has limited influence on the quality of lower level rules.
3. The policy focuses solely on new legislative proposals, lacking a focus on the dynamics of ensuring that existing laws are reviewed and updated over time.
4. The relationship between the current policy's impact tests and the Checklist is unclear at the outset and probably duplicative.
5. Implementation of the policy is relatively poor. Insufficient attention is given to changing the processes and establishing positive and negative incentives by which regulation is made, establishing clear lines of institutional responsibility for providing guidance and quality assurance, supporting the requirements via provision of adequate resources, and providing adequate sanctions for non-compliance.

Communication on Better Regulation strategy and policies

Communication on the Better Regulation Strategy appears to be somewhat ad hoc and undeveloped. A comprehensive and systematic communication strategy actively targeting officials does not appear to have taken place. Nor does there appear to be any pro-active effort at systematically communicating Better Regulation messages to the wider public and external stakeholders. A notable exception is communication by the MEE of the measures

to reduce administrative burdens on business. Beyond this, the Government Strategy Document makes the link between Better Regulation and policy goals, but the communication appears to stop there. No other communication channels appear to be deployed. This misses the opportunity to better sell the advantages of Better Regulation to improving policy-making and service delivery process, and the contribution it can make in achieving greater efficiencies.

Recommendation 1.10. Establish a clear communication strategy using different tools and aimed at both internal and external stakeholders (newsletters, annual report, presentations etc) taking inspiration from countries such as the Netherlands which have done this. Ensure that communications on broader government strategy and related programmes such as the productivity programme are used to convey the Better Regulation messages.

Ex post evaluation of Better Regulation strategy and policies

Ad hoc evaluations of policies are already an important feature of the Finnish approach, but need to be deployed more vigorously and systematically. As in many other countries, the approach to evaluating policies and programmes tends to be ad hoc. It also relies too much on the decisions of external bodies such as the National Audit Office to carry them out. The recent mid-term review of the GSD was a positive step in checking progress on Better Regulation tools and processes. It is important that the approach becomes more systematic, in order to test progress and remedy weaknesses as Better Regulation tools and processes are rolled out, and that they are on course to deliver the expected benefits. Examples of where evaluation could be beneficial at this stage are public consultation, *ex ante* impact assessment, and the programme to reduce administrative burdens on business. As noted above, the mid-term review of the Government Strategy Document underlines the need for effective evidence based evaluation to underpin not only decision making, but implementation and follow up processes.

Recommendation 1.11. Establish a clear policy to evaluate progress, strengths and weaknesses of key Better Regulation policies as they unfold.

E-Government in support of Better Regulation

Finland's activism in this area is very positive, but it needs to ensure that e-Government initiatives are systematically linked to Better Regulation, where this makes sense. Finland's activism is noteworthy, compared with some other European countries. It started on these issues early and successfully. It recognises the need now to address the fragmentation of approaches and develop a more joined up central strategy. Making more explicit the linkages between e-Government and Better Regulation could help to increase awareness of Better Regulation as an important policy. For example, although there are implicit linkages between the ICT components of the productivity programme and Better Regulation (for example improving customer service), surprisingly there are no explicit links.

Background

Economic context and drivers of Better Regulation

Finland's economy has been transformed over the last twenty years. A banking crisis combined with the worldwide recession of the early 1990s, and the collapse of the trade

with the Soviet Union, accelerated reforms to liberalise the economy. Since then, the economy has grown strongly, productivity has improved and Finland became one of the best performers of the OECD, with high levels of income and quality of life. However the recent picture is less comfortable. The impact on the Finnish economy of the global slowdown following the 2009 financial crisis has been felt acutely, hitting Finnish exports and production disproportionately hard. Weakening competitiveness, among other factors, has contributed to a faster and deeper drop in GDP than in most comparable countries (ECO survey September 2009).

At the same time, and in common with many other European countries, Finland faces the need to boost its public services when financial resources for the public sector are under strain. The public sector is large by OECD standards. The public demands high standards of social, environmental and consumer protection. The State is seen as the main guardian and defender of society (Government at a Glance). Although the structure of the Finnish economy has changed and some government services have been commercialised, public sector employment (both central and local government) accounts for nearly a quarter of total employment. This challenging context implies, among other actions, raising productivity and efficiency, and the government has committed to reducing numbers within the public service. Major reforms to local government are also on the agenda.

Against this background, internal demand for Better Regulation has acquired momentum, which can be expected to grow further. Although, in common with other EU countries, Finland is partly driven by the EU context to pay more attention to Better Regulation (pressures from the European Commission and the fact that a large proportion of regulations are EU-origin), internal pressures are increasingly evident. The Better Regulation strategy document adopted in 2006, and developed since then, for the first time made an important link between Better Regulation and public policy goals. It states that innovation, productivity, competitiveness and public finances will benefit from a more effective approach to regulatory management. Reflecting its broader scope and relevance to policy making, as well as its potential contribution to key objectives such as competitiveness, Better Regulation policy is now included in the Government Programme and Government Strategy Document which define the work proposed for the legislative term. The Government Programme states that the Finnish government will step up its efforts to improve the conditions necessary for entrepreneurship and create a more favourable entrepreneurial environment.¹

However, the OECD peer review team heard different views about whether the connection between Better Regulation and public policy goals had been well understood in principle. Is the integration of Better Regulation as a mainstream horizontal policy possible? If so, what is the justification for this? How can it really contribute to more effective policy making? The Justice ministry – the main current champion for Better Regulation – often struggles to persuade others of the importance of Better Regulation. Others took a more positive view but said that they were waiting for the practical significance of Better Regulation to be drawn out more clearly by colleagues at the centre of government. There remains overall a lack of understanding as to how Better Regulation can make a difference, and until the global financial crisis, the continuing strength of the Finnish economy deflected attention from policies which could contribute to Finnish competitiveness.

Post crisis, it may prove easier for Finland to sustain momentum on Better Regulation policy as a key contributor to a sound economic environment and the international competitiveness of Finnish firms. The link between Better Regulation and efforts to reform

the public service and sustain high-quality services could also be exploited. More effective regulatory management could bring a significant contribution to these reforms.

Developments in Finland's Better Regulation agenda

As in many other European countries, policies for Better Regulation have developed over a number of years. The current policy has evolved since 1996, when previous reform initiatives focusing on deregulation and the technical quality of law drafting started giving way to a broader emphasis on regulatory quality and regulatory management. In 1996, the government issued a formal regulatory policy for the first time. It has since been refined and extended.

Table 1.1. Milestones in the development of Better Regulation policies in Finland

1975	<ul style="list-style-type: none"> • Instructions on the Drafting of Government Proposals (<i>HELO</i> Instructions).
1980 1981-87	<ul style="list-style-type: none"> • Reform of <i>HELO</i> Instructions. • Study of Finnish Law Drafting.
1996	<ul style="list-style-type: none"> • SME policy programme. • Government resolution to establish programme to improve law drafting. • Law Drafter's Guide.
1998	<ul style="list-style-type: none"> • Instructions for Assessing the Economic and the Environmental Impacts of Legislation. • Finnish Checklist: Quality Requirements of Proper Law Drafting.
1999	<ul style="list-style-type: none"> • Revised Act of the Openness of Government Activities. • Memorandum on the High-Level Working Group on Legislative Policy on the Formulation of the Government Legislative Policy. • Instructions on the Assessment of Business Impacts. • "Have Your Say" web consultation forum.²
2000	<ul style="list-style-type: none"> • Government resolution: Programme II to Improve Law Drafting. • Law Drafter's Constitution Guide. • Reform of central government 2000-01. • Hear the Citizens project.
2003	<ul style="list-style-type: none"> • Instructions for the Assessment of a Law Drafting Project's Impact on Gender Equality.

	<ul style="list-style-type: none"> • Government Entrepreneurship Policy Programme (2003-07).
2004	<ul style="list-style-type: none"> • <i>HELO</i> Bill Drafting Instructions revised. • Law Drafter’s Guide to the European Union. • Project for assessment of the regulatory impacts on business (<i>SÄVY</i> project 2004-07). • Hear the Citizens project II.
2005	<ul style="list-style-type: none"> • Working Group for better governance of the Economic Impacts of Legislation. • Code of Consultation “Hear the Citizens”.
2006	<ul style="list-style-type: none"> • Better Regulation Strategy established. • Law Drafter’s Guide to the Constitution.
2007	<ul style="list-style-type: none"> • Government Programme and Better Regulation Strategy. • Programme management within the government. • Integrated RIA Guidelines: Impact Assessment in Legislative Drafting. • Revised Instructions on the Assessment of Law Drafting Project’s Impact on Gender Equality. • Better Regulation website set up. • Government Policy Programme for employment, entrepreneurship and work life (2007-2011).
2008	<ul style="list-style-type: none"> • Project for reducing administrative burdens on business. • Instructions for the Drafting and Enforcement of EU Conventions and Agreements. • Reform of the Government Intranet: Electronic tools and guidance for drafters. • Joint project of the MOF and MOJ for dialogue, consultation and participation (HAVU).
2009	<ul style="list-style-type: none"> • Mid-term policy review of the Government Programme and Better Regulation. • Programme and target for the reduction of administrative burdens on business established. • Revised Treaty manual.

Source: OECD and Government of Finland.

Guiding principles for the current Better Regulation agenda

Better Regulation strategy

Finland is one of a growing number of European countries to have a published a Better Regulation strategy document. Agreed in 2006, soon after the start of the current legislative term, the Better Regulation Strategy (*Paremmän sääntelyn toimintaohjelma*³) was created and adopted in several steps through a broad-based project organisation which engaged a range of internal and external stakeholders.

The Better Regulation Strategy starts with an analysis of the challenges facing regulatory quality in Finland. These include capacity challenges, culture change issues, and the growing influence of the EU through the need to transpose EU directives. The Strategy advocates eleven principles of regulatory quality. It makes a number of recommendations for improvement. It also proposes a forward plan of the government's major legislative projects covering the full legislative term (Box 1.2).

The Strategy advocates the need to pursue reforms at three levels within government: government wide, by administrative sector, and at the level of individual projects. It also underlines the critical importance of mainstreaming regulatory quality strategy and processes, so that these become an integral part of public governance and policy development, setting a sound framework for the planning and implementation of key projects. The Strategy covers many of the key elements of an effective Better Regulation policy- transparency and stakeholder participation, a more pro active approach to the EU, a focus on alternatives to regulation and impact assessment, and “legislative maintenance”. Some important elements are absent- enforcement and the subnational levels of government.

Box 1.2. Finland's Better Regulation Strategy

Main problems with regulatory quality:

- constant growth in the volume and detail of regulation;
- failure to pursue a proactive drafting policy;
- shortcomings in the information base for drafting (economic impact, impact on business, other impacts, consistency with the legal system as a whole, lack of legislative research to support the drafting work);
- failure to achieve government-level strategic objectives in law drafting;
- reactiveness in respect of EU law drafting; and
- decrease in the real transparency of law drafting arising from the preceding reasons.

Recommendations:

- adoption of the Government Legislative Agenda;
- establishment of a Better Regulation Ministerial Group or Ministerial Committee;
- establishment of a Better Regulation Consultative Committee;

- careful preliminary planning and evaluation of alternatives; increased scope of participation in the drafting process;
- more intensive assessment of alternatives and impacts;
- introduction of a law drafting quality management system and an intra-governmental law drafting database; and
- development of legislative maintenance.

Eleven Principles of Regulatory Quality

1. law Drafting and the legislation must be predictable and transparent. Stakeholder participation and stakeholder influence must be ensured;
2. regulation must be clear and comprehensible;
3. legislation must be flexible and have a clear scope of application;
4. regulation must promote legal security and confidence. Legislation must lead to the intended results;
5. the obligations imposed by regulation and the control measures of the authorities must be more closely proportionate than they are now;
6. the various aspects of regulation must interact in a consistent manner;
7. regulation must not be an end in itself and other methods of direction must be actively applied;
8. legislation must support the accrual of competence and promote good working conditions and well-being at work;
9. legislation must promote innovation, access to the market and productivity;
10. legislation must maintain and improve the image of Finland as a place to do business in, as well as create competitive advantages to Finnish business; and
11. legislation must play its part in the sustainability of public finances over the medium and long-term.

Legislative Plan

This Plan sets out the 22 major legislative drafting projects that will be undertaken by different ministries during the government's term of office. The Plan also describes the legislative policy measures through which the government and the ministries aim to improve the quality and comprehensibility of legislation and promote the implementation of the principles for good legislative drafting. Legislative policy measures are:

- more intensive exertion of influence in European Union legislative work;
- increased transparency and stakeholder participation in law drafting;
- increased assessment of alternatives;
- more intensive assessment of the impacts of legislation; and
- development of legislative maintenance.

Source: The Better Regulation Agenda, Part 1, Prime Minister's Office Publications 8/2006, Helsinki.

Better Regulation as part of the Government Programme and the Government Strategy Document

The 2007 Government Programme included a commitment that the government would implement the Better Regulation Strategy and draw up a legislative plan for the most important projects of the government's term. It also states that efforts to improve the entrepreneurial environment will be stepped up. Among other measures, the bureaucracy related to entrepreneurship will be reduced (which has led to the recent establishment of a programme to reduce administrative burdens on business).

Box 1.3. Commitments on Better Regulation in the 2007 Government Programme

The Government Programme makes the following recommendations in relation to Better Regulation:

The regulatory framework and clarity of legislation will be improved to promote the wellbeing of the citizens and the competitiveness of businesses. The government will implement the Better Regulation Programme and prepare a legislative plan that will include all the major legislative initiatives to be undertaken during the electoral period.

In relation to improving competitiveness for business, the Programme states that, "The government will step up its efforts to improve the conditions necessary for entrepreneurship and to create a more favourable entrepreneurial environment. In particular, the technology foundation, business competence and productivity of small and medium sized enterprises will be strengthened. The business environment required for the growth and internationalisation of companies will be improved. The bureaucracy related to entrepreneurship will be reduced and the reasonableness of tax sanctions monitored. The project evaluating the impact of regulation on enterprises (SÁVY) will be continued."

The Programme also notes in relation to EU legislation, that "...special attention will be paid to improving the standard of quality of legislation and protecting the basis of national legal systems and human rights."

Source: Government Programme of Prime Minister Matti Vanhanen's second Cabinet, Prime Minister's Office Publications, Helsinki (2007).

The government reiterated its commitment to the Better Regulation Strategy in the conclusions of the mid-term policy review of the Government Strategy Document (which gives operational effect to the Government Programme) on 24 February 2009 with a series of commitments aimed at improving quality in the development of regulations (Box 1.4). This is an important milestone strategically, as this renewal of a commitment to Better Regulation was not automatic. It seems that Better Regulation has finally become embedded in principle, at least if not in practice, as an important horizontal policy in its own right. The mid-term review introduced a number of new initiatives to be taken forward in the second half of the Government's term of office. One of these is to strengthen the impact assessment of policy measures (regulations, budgets, programmes, resolutions etc.). The work will be led by the PMO. The aim of the project is to develop working methods within the government in order to ensure that adequate assessment and evaluation data is made public and channelled efficiently into the decision making, implementation and follow up processes.

Box 1.4. Better Regulation and the conclusions of the government's GSD mid-term review

In order to improve quality in the development of regulations, the government decided to take the following actions:

- new solutions will be devised to address human resources issues, such as the establishment of a pool of bill drafters;
- the development of bill-drafting processes and its monitoring will be organised and specified in the performance agreements at all ministries;
- the track record in the implementation of the government proposals list will be specified in the performance agreement;
- the monitoring of bill drafting is to be included as a standard item on the agenda of the meetings of the Permanent Secretaries;
- the government's decision on the hearing procedure;
- procedures for harmonising the practices for evaluating the human implications of the bills (*e.g.* children, people representing different backgrounds or age groups) will be put in place; and
- steps will be taken to determine appropriate measures to co-ordinate the revision of the style and standard of legal language.

Source: Finnish Government Mid-Term Policy Review Process (Summary), Prime Minister's Office Publications, 26/2009, Helsinki.

Main Better Regulation policies

The main current pillars of Better Regulation in Finland are:

- **Legal quality and *ex ante* impact assessment** (see Chapter 4 for more detail). Legal quality is an important cornerstone of the Finnish approach to regulatory management. Over time, this has been complemented by a growing emphasis on *ex ante* impact assessments. Considerable support is provided by the Justice ministry to ensure that legal quality and *ex ante* impact assessment are effectively deployed. Impact assessment is required for all national regulations – government bills, decrees and regulations made by the agencies. They may also be prepared on draft EU legislation, although this is not obligatory.
- **Management of EU regulatory affairs** (see Chapter 8 for more detail). There is a longstanding commitment, given effect in a strong organisational framework, to devote considerable efforts to EU regulatory management. A recently adopted government report sets key objectives for Finland's EU policy, and sets the scene for further development of the co-ordination of EU issues, and of tools for better exerting influence in the EU.
- **Legislative maintenance and simplification** (see Chapter 5 for more detail). Simplification is one of the legislative policy measures in the GSD. Ministries are

responsible for launching measures to revise and simplify their regulatory stock. As in other EU countries, the action plan for the reduction of administrative burdens can also give rise to legislative simplification, even if this is not its main objective.

- **Public consultation on draft regulations** (see Chapter 3 for more detail). Finland has a well anchored tradition of participative decision-making which includes a wide range of groups, such as NGOs. Efforts are also being made to expand the use of the Internet through new portals aimed at encouraging a wider participation by citizens in policy issues. A code of consultation has been in place since 2005. A far reaching set of initiatives for strengthening public participation and democracy was started in 2003 and is now being taken forward by the Justice ministry.
- **Administrative burden reduction for businesses** (see Chapter 5 for more detail). In 2009, the government approved a decision in principle for an action plan to reduce administrative burdens for business by a net 25% by 2012. The reduction will be against a baseline for 2006 which estimates that administrative burdens on business to be roughly equivalent to 2% of Finland's GNP.

Communication on the Better Regulation agenda

The Ministry of Justice has a dedicated Better Regulation page on its website, which allows the public or interested parties to access documents related to Better Regulation tools – such as the legislative drafting guidelines and the guidelines on regulatory impact analysis (RIA). Better Regulation policies and developments are communicated on this website.⁴ The 2007 Government Programme states that the Finnish government will step up its efforts to improve the conditions necessary for entrepreneurship (which includes regulatory issues, but extends to other policies in support of entrepreneurship⁵) and create a more favourable entrepreneurial environment. The MEE has an active communication strategy on its measures to reduce administrative burdens on business (see Chapter 5). Beyond this, those familiar with the Government Programme and the Government Strategy Document (GSD) can learn about the objectives and principles of the Better Regulation Strategy.

These initiatives stop short, overall, of a more pro-active communication strategy, for audiences both within and outside government. The Better Regulation website is a promising start for the internal audience but is confined to the efforts of a single ministry (for example, it does not appear to link to any communication activities of the Prime Minister's Office). The GSD, whilst more strategic in general terms, and making important connections in principle between Better Regulation and the policy objectives that it can help to support, is not then carried forward through other communication channels to explain the importance of Better Regulation. Other policy documents which could carry the message (such as the Productivity Action Plan) are not used as they might be to make the link between Better Regulation and greater efficiency and effectiveness.

A broad communication strategy with business, citizens, and/or other key stakeholder groups on the different Better Regulation reforms, seeking their support in advancing reforms, would be beneficial. Finland does not use Green Papers as in other OECD countries, as a way of sharing thoughts or inviting comments on how best to address an emerging policy issue. This could be considered, in the context of preparing inputs on emerging high-profile policy areas which may be included in future government programmes.

Ex post evaluation of Better Regulation strategy and policies

Finland has a number of structures, including the National Audit Office of Finland (NOAD), the Office of the Ombudsman, and the parliament, as well as external research bodies active in the field - who can provide ex-post analysis of performance. The NOAD, especially, carries out *ex post* evaluation of specific issues (which came across to the OECD peer review team in part as an attempt to “pick up the pieces” given the weakness of *ex ante* evaluation). It told the team that it intends to evaluate the recently launched programme to reduce administrative burdens on business. Important *ad hoc* evaluations may also be carried out by specific ministries as well. For example, the former Economy and Employment ministry, through the SÄVY Project, carried out an evaluation of compliance with business impact assessment by ministries. This systematic monitoring of business impact assessments is now continued by the MEE.

Better Regulation policy overall was evaluated for the first time as part of the review of the GSD which took place at the mid-term of the current legislature. The Better Regulation Ministerial Group played an important role in the evaluation. The data-gathering and preparatory work was carried out in co-operation between the Ministry of Justice and the Prime Minister’s Office, the other ministries being data providers in the process. The government released the conclusions of the review on 24 February 2009, together with information on new initiatives for the latter part of the government’s term of office.

E-Government in support of Better Regulation

General context

Finland was an early mover in efforts to exploit ICT and has been perceived as a pioneer, using the new technologies for economic renewal and in order to reform its administration. It was one of the first countries in the world to adopt e-Government legislation.⁶ Finland’s large geographical size relative to a small dispersed population means that ICT has played an especially important role in the economy and society compared with many other OECD countries. ICT is seen as a key support for the promotion of social and regional equality of access to public services, and for the reinforcement of participative democracy. It is also seen as an important support tool to enhance business productivity and competitiveness.

ICT has been made an integral part of the government’s Productivity Programme. The “Action Programme on Public Sector Productivity” launched in November 2003 *inter alia* contains the measure that ICT will be used and applied increasingly to improve productivity in the public administration, to improve customer service, increase productivity and efficiency, and to promote the re-allocation of resources from administrative routines to more demanding tasks. Among different indicators for the productivity of public service provision, the number and impact of ICT projects is seen as a starting point. Concrete productivity project examples relate to a future “automatic taxation”, a better use of data bases and electronic reporting between public and private sector. Some ministries have reported, however, that smaller and less sophisticated agencies are having a more difficult time developing ICT solutions to meet productivity targets.

New ICT strategy and Action Plan

In 2006, the government adopted a new ICT strategy “Government Policy Decision on the Development of IT Management in State Administration”.⁷ The implementation of this strategy seeks to address some of the challenges that have arisen from the previous

decentralised approach. The organisational model for e-Government has so far been a combination of central guidance and a decentralisation of implementation and responsibilities. Central government has been responsible for the general promotion of e-Government, whereas the subnational levels have functioned as the main service providers. Decisions regarding local government e-services would therefore be taken at the local level. However, challenges have arisen with this approach – not least in the development by different local administrations of their own ICT solutions. Local and decentralised ICT solutions may not be capable of communicating effectively or efficiently with the central executive or with each other. This has led to problems in gathering information, data sharing, and in developing cost-effective service delivery solutions to emerging policy challenges at the central level. The government is now seeking to improve the setting of technical standards across the public administration and to promote the increased use of shared services and solutions. The OECD peer review team heard that the infrastructure for e-Government needs to be strengthened and more horizontal co-operation is needed.

The strategy aims to improve interoperability, develop and agree a common ICT architecture, and to develop common ICT systems for defined support services and basic ICT services⁸. These requirements are essential if Finland is to improve information sharing and dissemination within and across the different levels of the public service, including across the different levels of government.

This was followed in June 2007 by the adoption of a government resolution on the objectives of the information society policy for 2007-11. Projects for the period from 2007 until 2011 have been defined, such as a policy programme for reforming public sector service structures, a project aimed at increasing connection speeds for information networks, and the promotion of digitalisation of business in small to medium-sized enterprises. In autumn 2007, an Action Programme was prepared for the practical implementation of the government resolution and of the information society strategy, drawn up in consultation with interested parties.

To support the programme's implementation, the government appointed a minister led Ubiquitous Information Society Advisory Board. The task of the Board is to co-ordinate the national information society policy, to ensure implementation of the strategy and the aims outlined in the government resolution, and to define priorities. It reports annually to the government on progress of the key projects included in the action programme.

ICT related Better Regulation policies

E-Government is, as in many other European countries, seen as an important support tool for Better Regulation. This takes a number of forms:

- Complex regulation is implemented with the help of ICT (*e.g.* in the area of taxation).
- ICT has also been used for the development of online public consultations via a discussion forum and access to information, including information on the government's regulatory projects and the development of an online register of regulations. Electronic consultation is being developed with the establishment of a web portal to support government organisations as well as the parliament in the introduction of interactive services in support of the decision-making process (see Chapter 3).

- The development of e-Government has been explicitly included in the programme to reduce administrative burdens on businesses, as a horizontal priority area. The reduction of administrative burdens (on businesses and citizens) is one of the objectives of the government's recent (2009) e-Government development measures (the so-called SADe programme led by the Ministry of Finance).
- A citizen gateway to public services is currently under development.

Nevertheless, there appears to be a certain disconnection between Better Regulation and broader ICT programmes. Strategy documents outlining the future work programmes or priority areas of work for Information Society in Finland over the coming years (*e.g.* Ubiquitous Information Society: Action Programme 2008-11), do not have any specific references to the contribution that ICT can play in helping to reduce existing burdens on business or on reducing regulatory requirements. Although there are implicit linkages between the ICT components of the productivity programme and Better Regulation (for example, improving customer service), surprisingly there are no explicit links. The two, however, are mutually reinforcing. For example the application of Better Regulation inside government has scope to release resources currently devoted to unnecessary red tape so that these can be deployed instead on frontline public service delivery. This is an approach which is taken increasingly by other European countries facing similar public sector challenges. That said, the Ministry of Employment and the Economy and the Ministry of Finance have started to discuss the co-ordination of the administrative burden reduction programme and the government's e-Government plans.

Notes

1. This is not confined to Better Regulation initiatives. It is under the heading “Enterprise and Policy”, while more general Better Regulation statements are under “Legal Policy and Internal Security”.
2. www.otakantaa.fi.
3. Valtioneuvoston kanslia (2006), *Paremmän sääntelyn toimintaohjelma, Osa 1, Valtioneuvoston kanslian julkaisusarja 8/2006* [Prime Minister’s Office (2006) The Better Regulation Agenda, Part 1, Prime Minister’s Office Publications 8/2006].
4. www.om.fi/en/Etusivu/Parempisaantely (English version).
5. The Government Programme statement is not exclusively limited to regulatory issues, but relates to a wide range of policy measures to promote a more favourable business environment. See MEE website: www.tem.fi.
6. Such as the 1999 Act on Electronic Service in the Administration which has been replaced by the 2003 Act on Electronic Services and Communication in the Public Sector.
7. More information about the National Information Society Strategy is available at: www.arjentietyhteiskunta.fi/inenglish.
8. According to the Ministry of Finance ICT services in Finland would not be regulated to a high degree.