

OECD REVIEWS OF REGULATORY REFORM

REGULATORY REFORM IN SWEDEN

MULTI-LEVEL REGULATORY CAPACITY IN SWEDEN



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Pursuant to Article 1 of the Convention signed in Paris on 14th December 1960, and which came into force on 30th September 1961, the Organisation for Economic Co-operation and Development (OECD) shall promote policies designed:

- To achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries, while maintaining financial stability, and thus to contribute to the development of the world economy;
- To contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and
- To contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

The original Member countries of the OECD are Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The following countries became Members subsequently through accession at the dates indicated hereafter: Japan (28th April 1964), Finland (28th January 1969), Australia (7th June 1971), New Zealand (29th May 1973), Mexico (18th May 1994), the Czech Republic (21st December 1995), Hungary (7th May 1996), Poland (22nd November 1996), Korea (12th December 1996) and the Slovak Republic (14th December 2000). The Commission of the European Communities takes part in the work of the OECD (Article 13 of the OECD Convention).

Publié en français sous le titre:

Gouvernance réglementaire multi-niveaux en Suède

© OECD 2007.

Permission to reproduce a portion of this work for non-commercial purposes or classroom use should be obtained through the Centre français d'exploitation du droit de copie (CFC), 20, rue des Grands-Augustins, 75006 Paris, France, tel. (33-1) 44 07 47 70, fax (33-1) 46 34 67 19, for every country except the United States. In the United States permission should be obtained through the Copyright Clearance Center, Customer Service, (508)750-8400, 222 Rosewood Drive, Danvers, MA 01923 USA, or CCC Online: www.copyright.com. All other applications for permission to reproduce or translate all or part of this book should be made to OECD Publications, 2, rue André-Pascal, 75775 Paris Cedex 16, France.

FOREWORD

Regulatory reform has emerged as an important policy area in OECD and non-OECD countries. For regulatory reforms to be beneficial, the regulatory regimes need to be transparent, coherent, and comprehensive, spanning from establishing the appropriate institutional framework to liberalising network industries, advocating and enforcing competition policy and law and opening external and internal markets to trade and investment.

This report on *Multi-level Regulatory Capacity in Sweden* analyses the institutional set-up and use of policy instruments in Sweden. It also includes the country-specific policy recommendations developed by the OECD during the review process.

The report was prepared for *The OECD Review of Regulatory Reform in Sweden* published in 2007. The Review is one of a series of country reports carried out under the OECD's Regulatory Reform Programme, in response to the 1997 mandate by OECD Ministers.

Since then, the OECD has assessed regulatory policies in 23 member countries as part of its regulatory reform programme. The programme aims at assisting governments to improve regulatory quality — that is, to reform regulations to foster competition, innovation, economic growth and important social objectives. It assesses country's progresses, drawing on the 2005 *Guiding Principles for Regulatory Quality and Performance*, which brings the recommendations in the 1997 *OECD Report on Regulatory Reform* up to date, and also builds on the 1995 *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*.

The country reviews follow a multi-disciplinary approach and focus on the government's capacity to manage regulatory reform, on competition policy and enforcement, on market openness and on specific issues, such as multi-level regulatory governance and environmental policy for Sweden. These are presented in the light of the domestic macro-economic context.

This report was prepared by Bruce Doern, Consultant. It benefited from comments from Josef Konvitz and Stephane Jacobzone in the OECD Public Governance and Territorial Development Directorate, from extensive comments provided by colleagues throughout the OECD Secretariat, as well as close consultations with a wide range of government officials, parliamentarians, business and trade union representatives, consumer groups, and academic experts in Sweden. The report was peer reviewed by the 30 member countries of the OECD. It is published under the authority of the OECD Secretary-General.

TABLE OF CONTENTS

MULTI-LEVEL REGULATORY CAPACITY IN SWEDEN.....	5
Introduction and Context	5
Historical Context and Evolution.....	7
External and Internal Drivers for Reform	9
Key Policy Issues.....	10
GENERAL ASPECTS OF MULTI-LEVEL REGULATORY GOVERNANCE	11
Overall Regulatory Policy and Management	11
Regulatory Competence Sharing Between Levels of Government.....	13
Horizontal and Vertical Regulatory Co-ordination Mechanisms.....	15
REGIONAL AND LOCAL INSTITUTIONS AND TOOLS FOR IMPLEMENTATION.....	18
Introduction.....	18
Actual or Potential Multi-level Regulatory Governance Challenges.....	21
Making Use of Regulatory Tools.....	22
<i>Ex ante</i> and <i>ex post</i> assessment.....	24
Updating and Simplifying Regulations at the Local Level.....	25
THE FOOD SECTOR AND MULTI-LEVEL REGULATORY GOVERNANCE	26
The Basic Flow of the Food System: From Farm Gate to Plate	27
Basic Structure of the Multi-level Food Regulatory System	28
Enforcement and Compliance: Inspection Mechanisms	30
CONCLUSIONS AND RECOMMENDATIONS	33
General assessment of current strengths and weaknesses.....	33
Policy options for consideration	35

Boxes

Box 5.1. Comparative multi-level government systems: Switzerland and Norway	6
Box 5.2. Multi-level regulatory governance in Sweden: core features.....	8
Box 5.3. The Committee on Public Sector Responsibilities	40
Box 5.4. The multi-level food regulatory system in Sweden: main features	29

CHAPTER 5. MULTI-LEVEL REGULATORY CAPACITY IN SWEDEN

Introduction and Context

The purpose of the chapter is to describe and assess the different co-ordination mechanisms for regulatory reform across the levels of Swedish government- national, local and supranational- as well as to identify key elements of local and regional capacities to produce and implement high quality regulation, on which the realisation of national regulatory policy objectives depends. The speed and scope of technological, economic and social change means that co-operation and co-ordination among different levels of regulatory governance cannot be left to chance or to inertial “decision making as usual” in Sweden or in other countries facing similar imperatives about regulatory speed, efficacy and coherence.

Multi-level regulatory governance is of growing importance in terms of day-to-day regulatory management, rule-making and enforcement.¹ Globalisation, expanding global, regional and bilateral trade agreements, and the obligations incurred through international treaties and agreements of many kinds establishes a supranational imperative to regulatory governance. Within countries that are constitutional federations such as Canada or Germany, multi-level regulatory governance or power sharing and competence sharing has always been a central reality. In countries that are nominally unitary states, such as Sweden, France and Norway, strong traditions of local and regional government also generate issues of co-ordination between regulatory levels and among regulatory bodies and agencies. Some countries, such as Italy, have undergone significant transition towards increased decentralisation in recent years.

Democratic principles underpin the operation of multi-level rule-making and compliance.² These include: concepts of sovereignty and pooled sovereignty; subsidiarity, local democracy and flexibility to deal with different local and spatial problems and contexts; national and international harmonization; co-operative federalism; mutual recognition of rules and standards; equality of regulatory and service delivery for citizens; and comparative transparent benchmarking of performance.

These principles and their interpretation by institutions of the state and by citizens, communities, and businesses are separately each important and defensible. But they also can collide and conflict with each other in specific situations, and hence produce problems and challenges for regulatory governance. Regions and local municipalities may need more flexibility than previously to meet social and environmental issues and to ensure that communities are economically competitive in a global age.

Local decisions can create later impacts and concerns for national regulators tasked with ensuring integrated national regulatory goals and compliance. The reverse is also true when national regulators create later impacts and concerns for local authorities. National and international regulatory authorities in particular face choices regarding how much they can or should supervise national, sub-national and local authorities. Equality of regulatory performance and service delivery for citizens is impossible to determine without publicly available benchmarking information. The inherent complexity of multi-level regulatory governance can also lead actors and institutions to avoid responsibility, hiding behind layers of authority and bureaucracy, and practicing the arts of blame and blame avoidance.

Multi-level regulatory governance issues include regulatory policy among levels of government, regulatory competence sharing, and vertical and horizontal regulatory co-ordination. The different regulatory institutions set up and the tools designed and implemented to produce and implement high quality regulation are also relevant. Multi-level regulatory governance is explicitly recognised in the 2005 Guiding Principles for regulatory quality and performance.³

The essential features of Sweden's multi-level regulatory governance regime are: **the national Parliament and government** and some of its over 500 agencies of which 100 have primary law-making and delegated regulation making authority; **290 locally democratic and governed municipalities** with some limited regulation making authority but whose main authority derives from national laws and rules, and which play a major role in regulatory enforcement and ensuring equality of service delivery to citizens; **20 elected county councils** (two of which are experimenting with new regional forms of government) whose responsibility is to see that decisions taken by the Government and the Riksdag have the best possible effects in that county; **European Union** legislation, rules and directives; **international rules and agreements** in diverse fields such as health, environment, energy, and transportation; and **regional regulatory arrangements** with other neighbouring Nordic states.

Box 5.1. Comparative multi-level government systems: Switzerland and Norway

Sweden's system of multi-level government needs to be seen in the context of other states such as Switzerland, a federation with a strong confederal tradition, and Norway, which is closer to a unitary state on the Nordic model with a strong central government but also strong traditions of local and county government.

Switzerland: Its federal structure is made up of three levels: the Confederation, 26 cantons (six of which are half cantons) and over 2 880 municipalities (communes or Gemeinden). Swiss municipalities are small compared to other countries, including Sweden.

- The Confederation is only responsible for the tasks that are clearly allocated to it. The rest are automatically the responsibility of the lower political levels.
- While the Confederation has legislative power through the enactment of federal legislation in its areas of responsibility, the responsibility for implementing federal policies rests largely with the cantons.
- Responsibilities are shared in some areas (parallel jurisdiction).
- The cantons have a direct legislative role nationally in that their role is represented by the Council of States (higher chamber of Parliament) which carries the same weight as the as the National Council (lower chamber of Parliament).
- Other fora exist for Federal-canton relations and co-ordination.

Norway: Its structure within a more unitary state consists of the central government, 19 counties and 431 municipalities.

- Parliament determines the division of responsibilities between levels.
- Central government gives strong guidance to the local level with respect to the provision of local government activities.
- A Governor represents central government in each county.
- Local government has limited regulatory authority but is responsible for implementing and delivering most public services

Accordingly, three key policy issues are examined in this chapter:

- How well does multi-level regulatory governance function in Sweden? How does it contribute to a proper achievement of economic and social goals?
- How well is multi-level regulatory governance integrated with the overall Swedish regulatory policy framework, including implementation and compliance?

- How well is this understood by the public, and how can consensus for reforms be generated on these issues?

With respect to each of these issues, the standards of how well Sweden is performing refers to principles of regulatory quality as set out in the *2005 Guiding Principles for Regulatory Quality and Performance* and as examined in the remaining sections of this chapter in a specific multi-level regulatory governance context.

Historical Context and Evolution

Sweden has a long tradition of strong democratic local self-government, which means that municipalities and county councils within certain limits have independent powers of decision-making. The municipalities and county councils have gradually been given considerable freedom to carry out their tasks on the basis of specific local and regional conditions. Laws and ordinances adopted by the State set the framework for these activities. Local self-government is rooted in the constitution as are the powers of taxation that municipalities and county councils have in order to finance the management of their tasks. But, as noted above, municipalities are also constrained by multiple rules emanating from central authorities and agencies and thus are very much a regulated entity themselves. Uniform regulations for a country often pose challenges at the local level, where conditions are anything but uniform. (Any new obligations on municipalities must be regulated in law, *i.e.* by the Swedish Parliament. The principal obligation in a law could be elaborated in ordinances by the government or official regulations by governmental agencies).

Local governments are always associated with a specifically defined territory, which among other things affects their powers. Thus municipal business operations are limited in principle to the provision of public services to their own members.

The Swedish Constitution is not based on federalist principles and does not specify the division of responsibilities between national and local government. This is done in laws passed by the Riksdag. Special legislation gives municipalities and county councils the responsibility for important functions in society that are often mandatory tasks, for instance social services, water and sewage, rescue services and health care. They can also decide to carry out various voluntary tasks, such as leisure and culture or tourism.⁴

There is a single overall statute for both municipalities and county councils. *The Swedish Local Government Act* regulates the basic organisation of the municipalities and the county councils and the conditions for work in the assembly and committees. It is a broad enabling law rather than a detailed one.

Most local authority tasks are regulated in other legislation. The tasks covered by these laws include for instance health and medical services, social services and education. Several special acts are framework laws that the Government or government agencies can supplement through ordinances or regulations. The National Board of Health and Welfare issues regulations for health and medical services that contain more detailed provisions than the Health and Medical Services Act.

Local self-government is thus not unlimited in its discretion and decision making. Other laws serve to control and supervise the 290 municipalities and the 20 county councils. According to chap. 2 section 2 of the Local Government Act, “Municipalities and county councils are to treat their members equally, unless there are objective reasons to the contrary”.

As in other unitary states, a key concept for the Swedish approach to public administration is decentralisation. Thus, both responsibility for services and decision-making should be placed as close as possible to the people affected by the decisions. As a result, it should be possible to gear activities to particular local conditions and existing resources can be used more effectively.

Box 5.2. Multi-level regulatory governance in Sweden: core features

The multi-level regulatory governance system consists of legislative, regulatory and implementation activities carried out or co-ordinated by four levels of authority: The national Parliament, the Riksdag, and the government and its ministries, over 500 agencies; 20 elected county councils (two of which, Vastra Gotland and Skane, are experimenting with new tasks); 290 municipalities; the European Union, international rules and agreements, and regional regulatory arrangements with other neighbouring Nordic states.

- Parliament determines the allocation of responsibilities between levels of government within Sweden;
- European Union regulations have a direct application and directives must be implemented into national law. Sweden has been a member state of the EU since 1995;
- Local self government is written into the constitution as are the powers of taxation that the municipalities and county councils have;
- There is a single overall statute, the Swedish Local Government Act, that sets out the legal basis for the functioning of the municipalities and the county councils;
- Municipalities are one of the main implementers of national laws and regulations as supervised by the national government through its ministries and agencies;
- Municipalities have in some limited area the right to issue regulations (e.g. in areas such as public cleaning and refuse collection, street cleaning; health protection, environmentally harmful activity);
- County administrative boards represent the Riksdag and Government in the county and are responsible for ensuring that national decisions have the best possible effects in each county. They also are a forum for appeal on some municipal decisions.
- County councils carry out mandatory tasks in areas such as health, medical care and dental care and share responsibility with municipalities for regional and local public transport.

There are also of course centralizing forces and elements as well arising from the national government and from Sweden's membership since 1995 in the European Union. In addition to enforcement regulations supplementing primary legislation, central government controls local government in other key ways, such as:

- By the design and size of central government grants;
- By issuing provisions requiring local governments to balance their budgets and by drawing up rules for taxes and fees;
- By the application of the financing principle (see discussion below);
- By means of national action plans, in which central government sets out a common level of ambition; and
- By means of time-limited projects.⁵

These are not examined in this chapter or in the report as a whole. This is because tax and financing measures are not normally seen as regulatory even though all financing inevitably comes with rules and conditions attached.

The administrative court system (which consists of three levels) also plays an important role in implementing national legislation. The state, however, does not have the right to pursue legal action against the legality of decisions by local governments.

As a rule, the State supervises the work of local governments in the mandatory sphere. National authorities such as the National Board of Health and Welfare, the County Administrative Boards and the Parliamentary Ombudsmen supervise local government activities. National authorities cannot invalidate local government decisions. However, some of them can stipulate amendment of the local government decision; others just inform the Government of any shortcomings or choose judicial proceedings.

Both the county councils and municipal assemblies are elected bodies but they differ in the nature and scope of their mandatory tasks. In more specific terms, the mandatory tasks of municipalities are: social services, pre-school, compulsory and upper secondary education, planning and building matters, environmental and public health protection, refuse collection and waste management, water and sewage, rescue services, civil defence, library services, and housing.

The mandatory tasks of county councils relate mainly to health and medical care and dental care for children and young people up to 20 years of age. County councils also share with municipalities responsibilities for regional and local public transport. The county administrative boards are also a forum for appeal for some aspects of municipal decisions and they represent the national government to ensure that overall national services and programs are co-ordinated within the county's geographic area which is composed in turn of numerous local municipalities.

Box 5.3 The Committee on Public Sector Responsibilities

In January 2003 the government appointed a parliamentary committee with the task of reviewing the structure and division of responsibilities in the system of public administration.

In December 2003 the Committee presented an interim report – “Development Capacity for Sustainable Welfare”. During the spring of 2004, the report was sent to over 460 bodies, included all municipalities and county councils, for comment.

In June 2004 the government decided on supplementary terms of reference for the Committee. In this second stage of its remit the Committee is to analyse and assess whether the structure and the division of responsibilities within the state and between the state, the county councils and the municipalities need to be changed. The purpose is in part to improve the public administration's ability to deal with future welfare commitments and help attain increased growth within the framework of sustainable development, and in part to improve people's opportunities to exert influence, gain insight and demand accountability by creating a more distinct public administration.

The starting point for the Committee's work is to be welfare on equal terms and according to need, democratically governed and financed through taxes following the principle of solidarity. Using a citizen's perspective, the Committee is to analyse and define practically applicable principles for the concept of “equivalence” in all areas of its remit.

The Committee has four main areas to analyse and, if it deems this to be warranted, propose changes:

- The overall mandate of local government,
- The structure and division of responsibilities for health and medical care,
- Regional development and the regional system of public administration,
- Central government control of public administration.

The Committee is to present its final report in the end of February 2007.

External and Internal Drivers for Reform

As in any complex system of multi-level governance, Sweden has experienced pressures for reform both externally and internally.

External pressures have come from the European Union and its core institutions, and also the Council of Europe and the Congress of Local and Regional Authorities.⁶ Sweden was an early signatory to the European Charter of Local Self-Government, signing in 1988 before it became a member of the EU in 1995. The EU concepts of reform were also driven by the presence in some EU countries of systems of government that had explicit regional forms of governance. Regional governance was also seen in some European and broader international quarters as a new focus for economic development centred on regional development models and more recently local/regional innovation systems and clusters.

Multi-level regulatory governance issues are also generated by Sweden's membership in the EU and thus with the direct rule-making and other governance processes of the EU. Sweden takes EU regulations and directives seriously and strives to implement them through open consultation processes with the EU and with businesses and NGOs in Sweden. Local governments are not directly involved in these processes and thus some concerns arise about how they might be better involved in decisions which ultimately impact on them significantly. These concerns are discussed later in the chapter.

Internal pressure for reform has also been present. This resulted in decisions by the national government to establish two pilot regions, Västmanland and Skåne. These are seen by some as being more akin to other EU member country regions and it is argued that they have resulted in better economic growth and have provided for a variety of development programs, from transport to health care, for the benefit of the local population that would not have occurred if the pilot trial of two new regions had not taken place. There is still considerable debate in Sweden about whether these two regional experiments really are regions or are simply a form of supra-county council.⁷ In a legal sense they are county councils with additional tasks. In addition, as in other EU countries, there are other related debates underway about the policy and institutional means to strengthen the competitiveness of key metropolitan cities/regions such as Stockholm.⁸

Internal pressures for reform also centre on concerns from municipalities and county councils themselves about the degree to which they are "regulated" and hence have seen what they regard as lessened degrees of local discretion and autonomy. Many of these concerns deal with possible co-ordination problems not between the national and local government levels but rather within the national government among the nine ministries and the approximately 500 agencies. These concerns about "regulation inside government" are also discussed later in the chapter. At this point, it is important to note that the above two examples of it are closely related. Interdepartmental and inter-agency problems and failures of proper notice and co-ordination at the national level can lead to concerns and problems at the local level and also vice versa.

Key Policy Issues

Three policy issues are the central focus of the analysis in this chapter. These build on OECD principles of regulatory quality regarding a well performing regulatory system as set out in the introduction.

The chapter examines how well multi-level regulatory governance functions in Sweden. It inquires into whether multi-level regulatory governance contributes to a proper achievement of Sweden's economic and social goals. These are obviously linked issues because ultimately this complex regulatory system must service, benefit and protect all Swedish citizens in both the economic and social aspects of their lives.

The second policy issue to examine is how well the multi-level regulatory governance system is integrated with the overall Swedish regulatory policy framework, including implementation and compliance. Regulatory governance has a dual meaning in that it refers both to rule making at different levels of government and at overall implementation, compliance and enforcement. Governance also involves closely linked supporting activities by business, non-governmental organizations and civil society to ensure the full effectiveness of rules and their implementation.

The third policy issue centres on how well multi-level regulatory governance in Sweden is understood by the public, and whether a democratic consensus for reforms can be generated on issues that might require change.

Structure

With these key historical and institutional features as background, the rest of the chapter proceeds in three sections. The first section maps and examines general aspects of Sweden's system of multi-level regulatory governance. This is followed by a discussion of local and regional institutions and tools of multi-level regulatory implementation and co-ordination. The third section then examines the food sector as an illustrative case study of multi-level regulatory governance in Sweden. Conclusions then follow.

GENERAL ASPECTS OF MULTI-LEVEL REGULATORY GOVERNANCE

Overall Regulatory Policy and Management

Sweden's overall regulatory policy and management framework has been set out in Chapter 2 in the context of regulatory reform. This section is concerned with what the content and main objectives are regarding Sweden's overall regulatory policy framework for multi-level governance per se, and also what the broad impact is of national regulatory policy on the local and county levels of government.

The Regulatory Policy Framework for Multi-level Governance: Content and Main Objectives

In one sense it is appropriate to ask whether there is an overt or clear regulatory policy framework for multi-level governance. The answer to this question is partly no and partly yes. Like many other countries, multi-level regulation is clearly a central part of regulatory governance but policies toward it are not explicit or even identified as such. They are instead simply subsumed into the normal everyday arts and practices of co-ordination between levels of government.

Thus, in the official descriptions of Sweden's overall legislative framework and also in the basic descriptions of delegated law making (ordinances and official regulations) the issues of multi-level regulation are not drawn out or noted. The democratic basis of local government is of course set out in the constitution and so also is the basic notion that local governments are mainly the implementers of national policies, laws, and regulations while retaining some limited areas where they may regulate as well.

General principles on regulatory quality are also stated in different binding ordinances and several guiding documents to ensure uniformity and high quality in the legislation. The guidelines target all levels of bodies involved in the drafting of new legislation, the Government Offices, government agencies and committees of inquiry. Explicit principles are, for example, defined concerning: targeting (fulfilling the aim, solve the problem identified), regulatory impact analysis, reduction of administrative burdens on business, consultation, alternatives to regulation, plain language drafting, intelligibility (clear structure and clear language) and access to legislation.

A substantial part of the sub-ordinate regulations have been delegated by the government to the agencies. These are relatively independent entities which have been given delegated authority. There are well over five hundred such agencies, each relatively small in terms of numbers of staff. Some of the agencies (approximately 100) have an important role in issuing regulations which are subordinate to and complementary with the laws decided by the Parliament. The government has laid down the principles for how the agencies should conduct their regulatory responsibilities. Thus, the agency should, before issuing binding or non-binding regulations, follow good practices such as:

- Closely consider if this is the most appropriate measure;
- Analyse the economic and other consequences and make a documentation of the results in an impact analysis;
- Give government agencies, municipalities, county councils and others, who are concerned economically or in any other important way, the opportunity to give their opinion. The Swedish National Financial Management Authority should also be consulted;
- Ask for permission from government before issuing regulations that do impose more than an unimportant increase of costs on those persons or industries affected.

In the above ordinance the government has also laid down the general responsibilities for the head of the agency. Among these responsibilities are further elements of good practice such as to:

- Continuously follow up and examine the agency's own activities and the consequences of its regulations and decisions and take appropriate actions when needed; and
- Ensure that contacts from citizens and others are facilitated by a good service and accessibility, by information and by a clear and understandable language in the agency's communication and decisions.⁹

In addition, the Better Regulation Unit was established in order to co-ordinate, support and follow up the work on regulatory reform, including regulatory impact assessment and measures to reduce administrative burdens for business.¹⁰ The Better Regulation unit has a special responsibility for The Ordinance on the special impact analysis of rules on small enterprises (1998:1820), the so-called Simplex Ordinance. It stipulates that a government authority has to undertake, as soon as possible, a special impact analysis on SMEs if there are new or changed rules having significant effects on small enterprises' working conditions, competitiveness, etc. This Ordinance contains a checklist with twelve questions helping to understand the consequences of regulations. This Ordinance indicates that authorities, when carrying out the Regulatory Impact Analysis (RIA), should consult with representatives from the business community and authorities that are particularly affected. This kind of work has indirect impacts on local government but it is also important to note that it was not focused on administrative burdens at the local level of government.

The Impact of National Regulatory Policy on the Regions and Local Levels of Government

National regulatory policy has impacts on the regions and local levels of government both through competence sharing between levels of government, and through horizontal and vertical co-ordination mechanisms. These are set out in an overall way in this section and then elaborated on in more detail in the next main section of the chapter.

Regulatory Competence Sharing Between Levels of Government

Besides the Parliament, only the Government has a competence based directly on the Instrument of Government to issue legal norms. Through specific entitlements for the Parliament and the Government to delegate portions of this competence, national authorities and local governments can be entrusted with a delegated norm-making power. To have legal force, however, a provision adopted by a public authority or by a municipality must have support in a higher statute and, in the last resort, in one of the fundamental laws.

According to the Instrument of Government, the legal framework for local government activities and organization should be set up by the Riksdag in laws. However, within certain areas the right to issue legal norms, through a law, can be delegated to the government. Such areas may also be delegated to government agencies, municipalities and county councils (Chapter 8, Articles 7, 9 (With authority from the Riksdag a local authority may adopt provisions concerning charges which otherwise fall under article three to be adopted by the Riksdag.) and 11 of the Instrument of Government):

- Article 7. With authority in law, the Government may, without hindrance of the provisions of Article 3 or 5, adopt, by means of a statutory instrument, provisions relating to matters other than taxes, provided such provisions relate to any of the following matters:
 1. The protection of life, health, or personal safety;
 2. The sojourn in the Realm of foreign nationals;
 3. The import or export of goods, money or other assets, manufactures, transport and communications, granting of credits, business activities, rationing, re-use and recycling of materials, design of buildings, installations and human settlements, or the obligation to obtain a permit in respect of measures affecting buildings and installations;
 4. The cultural environment, hunting, fishing, animal protection, or nature conservation and environmental protection;
 5. The circulation of traffic or public order;
 6. Training and education;
 7. Prohibition of the disclosure of matters which have come to a person's knowledge in the public service or in the performance of official duties;
 8. The protection of personal integrity when handling personal data.
- Authority of the nature referred to in paragraph 1 does not confer the right to adopt provisions concerning the legal effects of criminal acts other than the imposition of fines. The Riksdag may prescribe legal effects other than fines for contraventions of provisions laid down by the Government in an act of law granting authority under paragraph 1.
- Article 11. Where, under the present Chapter, the Riksdag authorises the Government to adopt provisions in a particular matter, the Riksdag may authorise the Government in such context to delegate the power to adopt regulations in the matter to an administrative authority or a local authority.

The Swedish Local Government Act also contains a section on these conditions:

(Chapter 2, Section 5):

- Provisions concerning the right of municipalities and county councils to issue regulations and to levy taxation for the discharge of their duties are contained in the Instrument of Government.

Consequently, municipalities have in some areas the right to issue regulations, as a result of delegated powers in higher sectoral statutes, according to the principles described above. Examples of this are regulations concerning:

- Public cleaning and refuse collection
- Street cleaning
- Health protection
- Environmentally harmful activity
- Traffic and temporary prohibition against car-traffic
- Rescue service

The regulatory power of municipalities is therefore limited according to the principles described above, and is dependent on support in higher statutes.

The areas where limited regulatory powers exist are listed above.

Budgetary Implications

OECD studies of public expenditure in Sweden have pointed out the inherent tension between priorities of the state and the choices made at the local level in Sweden.¹¹ Several of these contextual budgetary matters must be kept in mind as a dynamic in multi-level regulation, particularly because they were raised as an issue by local governments and their organizations in research for this chapter.

There are no earmarked financial resources for multi-level regulatory governance issues per se. The funding of regulatory bodies at the various levels flows from national and local taxation sources of revenue and in some regulatory realms from fees levied on the regulated entities (see the section on the Food sector).

Local authorities have the right to levy taxes to carry out their tasks. But the State decides what local authorities can tax. Since the early 1990s local authorities have been able to tax labour income (Before 1990, local governments had the right to levy income taxes as well as real-estate tax). This revenue mainly consists of wage income. Local authorities decide the actual tax rate, *i.e.* the percentage rate at which the tax is levied.

Local authorities are also able to charge fees for some of the services they provide, for instance childcare, elderly care and health care. According to the cost-price principle local authorities are not allowed to charge fees that are higher than the costs of the services they provide.

Central government grants were replaced by a single new state grant in 1993. The new grant was not earmarked for any particular activity. Another step was taken in 1996 with the introduction of a new general state grant distributed among municipalities and among county councils as a uniform sum per inhabitant.

A new system of local government financial equalisation was introduced in 2005. The general state grant and some earmarked state grants were abolished and a corresponding sum is instead being used to equalise differences in tax base per inhabitant (tax capacity). The system consists of revenue equalisation and cost equalisation.

According to the local government financing principle, if the State decides on action that is directly targeted at local authority activities, then the financial effects of this decision must be neutralised by adjusting the level of state grants. The financing principle only applies on the mandatory tasks.¹²

Horizontal and Vertical Regulatory Co-ordination Mechanisms

Co-ordination Mechanisms between National and Local Levels

The State monitors the development of local government activities with reference to national objectives. Such objectives are intended to ensure that all citizens, in all parts of the country, should get equally good services. At the same time, local self-government implies the possibility for local authorities to carry out their tasks on the basis of specific local and regional conditions. Balancing these local self-government norms with the norm of equivalence or equality throughout the county is sometimes difficult and contentious.

In each of the 20 counties in Sweden there is a county administrative board. As noted above, this board is a government agency that represents the Riksdag and Government in the county. It is the responsibility of the county administrative board to see that decisions taken by the Government and the Riksdag have the best possible effects in that county. The boards' tasks include nature conservation and environmental protection, social care, communications, control of foodstuffs, agriculture, fishing, gender equality, cultural sites, regional development, peacetime crisis management and rescue services. Some of their responsibilities are ensuring that national goals are reached at county level, co-ordinating different interests within the community from an overall national perspective, watching over conditions in the county, keeping the Government informed and exercising supervisory powers by checking that various bodies observe the law and guidelines. The county administrative boards also have important responsibilities with regard to many of the services provided by the local authorities, checking up on and monitoring compliance with laws and guidelines. Inspections of housing for the elderly or youth homes are one such example.¹³

Organizations to Facilitate Co-ordination between Regions and Local Governments

In addition to the directly co-ordinative county administrative board, two organizations, Verva and Salar, facilitate co-ordination and review between the national and local levels of government. So also, to some extent, do the functions of Committees of Inquiry which are often a part of the national legislative process. National regulatory impact analysis requirements are also a potential source of multi-level regulatory exchange.

VERVA, the Swedish Administrative Development Agency (Verket för förvaltningsutveckling, www.verva.se) is the expert agency in the field of public administration development and has the task to promote and support overall public administration development. One way of doing this is to enhance co-ordination in government administration, including the interaction between the central and municipal level and between government and trade and industry.

SALAR, the Swedish Association of Local Authorities and the Federation of Swedish County Councils, (Sveriges kommuner och landsting, www.skl.se), represent the governmental, professional and employer-related interests of Sweden's 290 local authorities and 20 county councils (two of which are the two new regional government experiments). The Association and the Federation strive to promote and strengthen local self-government and to create the best possible conditions for the work of their members. Their activities are largely financed by membership fees.

As SALAR represents the interests of the county councils and municipalities they often participate as experts in Government Committees of Inquiry and also take part in referrals for consultation and express the municipalities view upon legislative proposals affecting their members (see further discussion below and in the next Section).

There are no formal joint institutions or mechanisms for co-operation between the national and local level. For example, there is no annual or semi-annual formal consultative fora or summit meeting between representatives of the two levels of government to discuss and deal with overall issues or emerging problems and challenges. Such formal multi-level occasions do occur in some neighbouring Nordic countries.

However, there are some forms of co-operation, for instance through the above mentioned committees of inquiry or between state agencies and local authorities within each respective sector and through national regulatory impact assessment processes. Thus, the preparation of databases will benefit from multi-level co-operation to improve statistics and indicators.

Committees of inquiry are normally a part of the process that precedes the development and passage of a new law. When an initiative for change arises, the Government appoints a committee of inquiry. The Government stipulates the committee's terms of reference and the lead minister concerned appoints its members, special advisers and experts. Committees normally include experts familiar with the area or matter to be examined. Often experts are recruited from local and regional authorities, but also from the Swedish Association of Local Authorities and Regions (SALAR). The committee then does its work, including the holding of public meetings. The committee's final report is then circulated by the ministries involved for comment, and the committee report and comments provide the basis for a Government Bill.

There are clearly some opportunities for municipal and county councils to make their views and concerns known through this process, both at the committee stage and in the consultation process following the circulation of the committee of inquiry's report. Their involvement and input can be direct from an individual municipality and council or it can occur through input from their national association. There are of course other channels of discussion and input through direct discussions between elected members at both local and national levels and through political party linkages and channels.

Some concerns were expressed in the research for this chapter that the inquiry process was often not used and that alternative fast-track processes meant that municipalities were denied these potentially useful avenues of input.

As described in Chapter 2 there are requirements for **regulatory impact analysis** to be performed both within the lead national government offices and regulatory authorities when drafting and considering new regulatory proposals, and to consult with affected parties. Insofar as the municipalities are affected by the new rules or are supposed to fulfil certain tasks according to the new rules this should be considered in the regulatory impact assessment (RIA), and the municipalities should be consulted as part of the regular referral for considerations. It must be noted, however, that the RIA requirements do not specify directly the need to consider multi-level regulatory governance issues or impacts. These may arise but only in the context of other possible impacts and analytical criteria.

The supranational dimension

The supranational dimension is a growing feature on multi-level regulatory governance in Sweden. This is reflected in EU's impact on the regional policy debate. The supra-national dimension also includes of course impacts and interactions with international agencies and institutions a sample of which will emerge in the discussion of the food sector in the final section of this chapter. The supranational dimension can also involve numerous cross-border regional issues with neighbouring Nordic states such as Denmark. In this section our focus is on the EU.

EU law is mostly co-ordinated and implemented at the national level by means of legislation or ordinances and official regulations, according to the principles on delegation of powers referred to above where the municipalities' regulatory powers are limited. However, an important part of EU law foresees activities at regional or local level, in particular activities and initiatives within the framework of a legislative act.

A growing proportion of legislation affecting Sweden is enacted by the European Union. Some of these legislations apply directly, without prior sanction by the Riksdag, while others must be implemented in existing Swedish legislation before they can take effect. European Community Regulations apply directly in Sweden. European Community Directives are transposed into national law.

As in regular law and rule making, the State agencies can supplement framework laws with more detailed ordinances or regulations. The agencies are responsible for supporting local and regional authorities, *e.g.* by education and training, information about regulations, development of methodology or through guidelines. For instance, the Swedish Board of Agriculture has a central co-ordinating role among the central and regional authorities involved in the EU's Common Agricultural Policy. This means that the Board's main activities to a great extent are concerned with administering and implementing EU legislation and support measures.

Local implementation related to EU legislation follows according to regular means of administrative powers profiled above. Even though EU decision-making powers do not directly cover the core activities of Swedish local authorities such as education or health and medical care, these services are still affected in a number of ways. Local authorities play a particularly important role in the incorporation of new legislation in the environmental and food policy area, for instance. There is also a strong impact in supervisory activities, public procurement and regional development.

Mechanisms and Tools Available at the National Level to Ensure Regulatory Quality at the Local Level

Mechanisms and tools exist at the national level to potentially ensure regulatory quality at the local level but the national tools such as committees of inquiry and regulatory impact assessment do not explicitly or necessarily focus on local or county level impacts or issues and hence on multi-level regulation *per se*. Committees of inquiry must according to the Committee ordinance (*Kommittéförordningen*, SFS 1998:1474) analyse the consequences of its proposals for the local self-government and costs for local governments.

There are clearly some concerns at the local level about the changing nature of multi-level regulation in Sweden. Municipalities and county councils increasingly seem to feel that they are "regulated" as well as being the executors and implementers of national laws and regulations. Faced with a cascade of laws and regulations from the national level, local governments seem to be raising three overall issues about the adequacy or inadequacy of the mechanisms and tools available to ensure regulatory quality.

The first concern is about the need for less "command and control" regulation and the need for more flexible performance-based regulation and indeed for more managerial autonomy.

The second concern has less to do with problems of co-ordination between levels of government than with inadequate co-ordination among ministries and agencies at the national level raising questions about policy conflicts when regulations are to be implemented sub-nationally.

A third concern centres on the issue of the equality of services among municipalities and councils. The Local government act regulates that municipalities and county councils are to treat their members equally, unless there are objective reasons to the contrary. However, research for this chapter suggests that overall very little information is collected about comparative service and regulatory delivery outputs or outcomes among the 290 municipalities. Such data or “league tables” information is available about some health care and education services but not for most services and regulations. Statistics Sweden (SCB) is involved in a project concerning the development of qualitative key figures for local government services. There is also a local government database where the public and local governments can find qualitative and quantitative figures for benchmarking the local governments (www.kommundatabas.se) as well as in a SALAR database (WebOr). Nonetheless, it is difficult for Swedish citizens to know with any reasonable certainty that they are receiving reasonable equality of service delivery and regulatory governance outcomes. If ongoing projects are successful, data availability on major government services will be improved considerably within a few years.

REGIONAL AND LOCAL INSTITUTIONS AND TOOLS FOR IMPLEMENTATION

Introduction

An examination of regional and local institutions as a crucial feature of Sweden’s multi-level regulatory governance regime calls for a somewhat more detailed account of institutional mandates to complement the initial picture presented in the introduction to the chapter, complemented by some illustrative examples such as animal welfare, consumer regulation, and health and social regulation. This will call attention to possible multi-level regulatory governance problems.

Institutional Framework at Local Level: County Councils and Municipalities

The county councils and municipal assemblies are elected bodies but they differ in the nature and scope of their mandatory tasks. In more specific terms, the mandatory tasks of municipalities are: social services, pre-school, compulsory and upper secondary education, planning and building matters, environmental and public health protection, refuse collection and waste management, water and sewage, rescue services, civil defence, library services, and housing. The mandatory tasks of county councils relate mainly to health and medical care and dental care for children and young people up to 20 years of age. County councils also share with municipalities responsibilities for regional and local public transport.

The county administrative boards are a forum for appeals from some aspects of municipal decision making. They also issue permits for some environmentally harmful activities and they have an overall role to represent the national government to ensure that overall national services and programs are co-ordinated within the county’s geographic area which is composed in turn of numerous local municipalities.

The examples of animal welfare, health and social services, and consumer regulation will be considered to illustrate these administrative arrangements and legal framework for regulatory policy. These examples show a not atypical set of structures at the national level and their relations to the local level, including the types of competences devolved to the local and regional level.

Animal Welfare

Within the area of animal welfare, the responsibilities for supervision are divided between a number of democratic institutions and agencies. The elected officials in the Parliament enact the Swedish Animal Welfare Act. The Act contains the overarching provisions that establish the framework for all work on animal welfare in Sweden. The government adopts the Swedish Animal Welfare Ordinance with support from the Swedish Animal Welfare Act. The ordinance contains more detailed provisions about how animals should be kept and cared for.

The Swedish Animal Welfare Agency writes regulations based on the Act and the Ordinance mentioned above. The regulations are legally binding and therefore must always be associated with a paragraph in the Act or the Ordinance. A regulation is often detailed. For example, it can establish the minimum dimensions for the boarding of animals. The Agency can also issue general advice. The latter is not binding and should be seen more as a guidance approach. One important task for the Agency is to provide guidance and support to the county administrative boards and the municipalities.

The county administrative boards help and co-ordinate the municipalities' animal welfare inspectors, make decisions on animal care and in certain cases conduct their own inspections out in the field.

The animal welfare inspectors in the municipalities are mainly responsible for inspections in the field and act as "hands and eyes" for the Swedish Animal Welfare Act. The primary responsibility for ensuring that the Act is truly applied in the municipality lies with the politicians in the local municipality's Environmental Protection and Public Health Committee. The politicians' decisions establish both the economic and administrative framework for the work on animal welfare in the municipality.

Health and Social Services

With respect to the second example, health services and social services, most local authority tasks are regulated in special legislation. The overall directions of health and medical care as well as the duties of the local authorities are mainly regulated in the Health and Medical Services Act, which is enacted by the Parliament.

The National Board of Health and Welfare is the Swedish national expert and supervisory authority for the social services, public health and the health services. Its role as expert and supervisory authority means that the Board has an influence on local authorities through the establishment of norms, supervision and the furthering of knowledge.

The Board issues regulations that contain more detailed provisions than the Health and Medical Services Act. Furthermore, the Board follows up and evaluates reforms, legislation and activities conducted by municipalities, county councils and other organisations. The Board is also responsible for official statistics in the social services, medical care and health and disease. The broad range of responsibilities gives the Board the possibility to follow the development in the different local authorities and gradually adjust regulations and norms to this development.

Besides the Act and the regulations, there are a number of national action plans that aim to affect decisions and activities at the local level. These documents are not legally binding. The action plans also include general information and education initiatives.

There are also more binding agreements between the State and the local authorities. These agreements are limited in time and direction and often include state grants. The Swedish Agency for Public Management has recently presented a study on regulation and other means of control where the health and social services area serves as one of three examples.¹⁴

Consumer Regulation

A third illustrative example centres on consumer regulation. The Swedish Parliament has passed nine main laws that underpin the Swedish consumer regulatory regime. These laws deal variously with marketing, consumer contract terms, product safety, consumer sales, consumer credit, consumer services, consumer insurance, price information, and distant sales and door-to-door sales.

Three central government agencies are pivotal in the consumer field. The Swedish Consumer Agency, Konsumentverket, provides the Swedish general public with protection, information and redress on consumer affairs. It acts in the collective interests of consumers and does not resolve individual consumer disputes. The National Board of Consumer Complaints deals with disputes. These can be brought before the Board at no cost to the consumer and overall this system can handle disputes between buyers and sellers in a less costly and simpler way than through the Swedish court system. The National Food Administration, discussed in the final section of the chapter, is also quintessentially a consumer agency regarding food products and health and safety. In addition, there are also other independent sectoral consumer advice bodies such as the Swedish Consumer Electricity Advice Bureau, the Swedish Consumers Insurance Bureau and the Swedish Consumers' Banking and Finance Bureau.

The Swedish Consumer Agency is headed by a Director General who is also the Consumer Ombudsman and who represents consumer interests to the business world and pursues legal action on behalf of these interests under the various statutes. The Consumer Agency has a staff of around 180 persons which pursues the Government's main policy and regulatory goals. There are three intermediate goals:

- Consumer protection must be comprehensive and available to everyone,
- Consumers must be aware and knowledgeable to be able to use common and individual resources wisely,
- Manufacturers and other businesses must act responsibly with consumers.

The role of local government in the Swedish consumer regulatory regime comes mainly through local government-centred local consumer counsellors or advisors. These exist across the country and provide advice to individual consumers. The Consumer Agency supports these local centres through staff training, information and advice. These counsellors are often at the front lines of consumer complaints and engage in dispute settlement. As in many consumer regulatory systems, such counsellors are part of a system of soft law where information and persuasion are needed to complement laws and rules *per se*.

With EU membership and with the great expansion in global trade, the consumer regulatory regime has a growing international dimension. This involves related EU consumer and food law and also institutions such as the recently established European Consumer Centre, Konsument Europa, located in Stockholm. It provides information on cross-border shopping in the EU and helps consumers settle cross-border disputes out of court. Consumer protection has also worked through the committees of the Nordic Council of Ministers regarding cross-border issues with Sweden's immediate neighbours. The Consumer Agency also participates in the work of the Consumers International, the global umbrella organization for consumer movements and in the European organization for the co-ordination of consumer product testing. The Consumer Ombudsman takes part in the International Marketing Supervision Network.

Actual or Potential Multi-level Regulatory Governance Challenges

A number of challenges are currently emerging from a multi-level regulatory governance perspective. These issues include: regulation, rent control and housing; the intersection of local planning and environmental laws and processes; public procurement, local government as an entrepreneur in competition with local business or potential local businesses; appeals to county councils; and the continuation of national “stove-pipe” models of regulation into the local level as well. In different ways these concerns were all raised as issues of regulatory inertia in that they could affect local economic development or simply be judged by some as unfair or excessive, or as producing adverse social consequences that could be remedied by better regulatory (and related policy) co-ordination among and between levels of government.

The issue of **rent control and housing** is the not uncommon one in many cities in Sweden and in other countries where rent control rules in combination with elaborate planning law gradually mean that investors in new housing are reluctant to build new homes and hence the local housing stock is simply insufficient for the emerging or changing population. In Sweden, rents per se are not regulated, only the rent setting process (how rents should be determined and by taking into account the cost of Municipal Housing Companies the rents will in general cover actual costs for providing rental housing.) The models take into account local conditions rather than following centrally determined rent levels or changes in the rent that probably would be the same all over the country. Also, rents in newly built dwellings can be contested by tenants after a period of six months, which is one of the factors that has caused most uncertainty for investors. For this reason the Swedish Parliament decided earlier this year that, provided the rent for a newly produced dwelling has been set after negotiations with a local Tenants’ Association, the rent shall not be compared with the rent for comparable dwellings owned by Municipal Housing Companies for a period of 10 years.

With respect to **planning and environmental laws** and procedures, the concerns are similar but in this case the focus shifts to business and the perceived excessive slowness and delays in getting permission to build new plants and facilities or to expand existing ones and to establish retail outlets. At a time when many are advocating the need for local systems of innovation as cities and communities compete for investment and jobs, there are growing demands for better attention being paid to these kinds of often unintended regulatory obstacles.

The issue of local government’s being directly **in business in competition with local entrepreneurs** emerged occasionally in research interviews and discussions. These concerns are therefore related to competition policy as discussed in Chapter 3 and also potentially to concerns about open markets as examined in Chapter 4. Examples were cited such as local governments owning hotels (which under Swedish law is within the competence of municipalities) or exercise centres. Obviously this is a concern in some specific local settings but overall it does not appear to be a major problem.

Arising mainly out of planning and environmental law concerns is the closely linked issue of **appeal procedures to county councils**. One part of this concern is simply the previously noted issue of regulatory delays. The Swedish government is very well aware of the planning and regulations process (including appeals as a whole, not necessarily just to county administrative boards) being perceived as slow. The issue has therefore been addressed by a committee of inquiry. The Committee has proposed a number of changes in procedure and regulations in order to simplify and speed up the process. The delays in the appeals system are however also caused by the right for landowners to take legal actions when there are new exploitations in their neighbourhood. The difficulty is to strike a balance between their legitimate expectations and bureaucratic efficiency. The Ministry of Sustainable Development is currently dealing with the proposals from the Committee.

Another concern about such appeals is the argument that the county administrative board in some sense has a conflict of interest and should not be able to play the role of a court. This is because one of the key roles of the boards is to represent the national government and its ministries and agencies. But many of the key regulatory issues being raised here deal with multi-level regulation including the national government's own regulations. This argument leads some to argue that all appeals should be to the courts. Normally decisions from the county administrative board could be appealed to the administrative court system (county administrative court, administrative court of appeal and the Supreme administrative court) or to the government depending on the reason for appeal. At the county administrative boards different divisions are in charge of making decisions regarding appealed cases (as an appellate level) and representing the national interests in planning regulatory processes (when cases are referred to the board for consultation). Thus, they are able to some extent to keep their different roles apart.

Concerns about “stove-pipe” regulatory government are of a much broader kind. Local governments feel that they themselves are “the regulated” and that they face a cascade of regulation and ordinances from about one hundred national agencies each one of which is a separate regulatory and institutional stove pipe. The large majority have normative competences with about fifteen issuing regulations directly concerning local government affairs to some noticeable extent. This is itself a problem of regulatory co-ordination at the national level but often at the local level the stove-pipe model simply continues among the local government committees and regulatory compliance and inspection operations. There are some examples where local governments were trying to breakdown the stove-pipe model at the local level by creating more integrated inspectorates. These examples did seem to be the exception rather than the rule and thus an overall problem of multi-level regulatory co-ordination undoubtedly continues.

Making New Regulations vs. Enforcement: Extent of Regulatory Powers and How They are Implemented in Practice

As noted in the previous section, municipalities have in some areas the right to issue regulations, mainly as a result of delegated powers in higher statutes, and within the framework set out in these statutes. Within the political organisation of each municipality, a number of committees are involved in this work. In the making of new regulations, the committees are responsible for the underlying data on which a decision is based. The municipal assembly takes the final decision. These procedures have long traditions and date back to the 19th century.¹⁵

There are some exceptions from the basic provisions in the Local Government Act. Concerning local traffic regulations, the municipality must consult a number of state agencies before making a decision. The municipality is also obliged to consult the county administrative board on decisions concerning regulations regarding environmentally harmful activities.

Individual local authority residents can appeal against decisions taken by the local authority assembly. Decisions on new regulations can be appealed against in the administrative court. There are no established forms for control on the part of the state agencies. However, the municipalities are obliged to report changes in local public order regulations to the county administrative boards.

Making Use of Regulatory Tools

This section considers the nature and extent of local and regional government use of basic regulatory tools such as regulatory transparency and predictability overall; the transparency of procedures for making regulations; public consultation; communication practices, and compliance and enforcement appeals. Since municipalities and county administrations have very limited regulation making roles, the use of these tools is by definition limited compared to the extent to which they are used at the national level. The issues of transparency and predictability in enforcement and compliance activity are, however, a central concern given the key role of local government in these aspects of multi-level regulatory governance.

Regulatory transparency and predictability

Because Sweden has historic traditions of strong and transparent local government, the issue of overall transparency is not problematic. Transparent procedures for the limited areas where local government makes rules are good in the sense that such rules are made public and discussed through quite open local government decision processes. The question of the adequacy of regulatory transparency and predictability on matters of compliance, control and enforcement presents a more mixed picture, and will be related in the closely linked aspects discussed below and also in the case study of the food sector.

Public Consultation

In most cases, there are only limited formal consultation mechanisms if such consultation is seen as opportunities and invitations to present formal written briefs, or verbal presentations by local groups and individual citizens. Some of the contact with groups and citizens occurs through the normal work of local municipal councils and committees in the course of their normal public business. Informal consultation mechanisms also involve contacts with local enterprises and business organizations, other municipalities, the Swedish Association of Local Authorities and Regions (SALAR) or state agencies. As discussed earlier, some local and county public views do find their way into national consultations via the process used for committees of inquiry.

Communication

State agencies communicate regulatory requirements to the local and regional level on a regular basis. Information and guidance about regulatory requirements are also included in the municipalities' supervision of affected parties, as a preventive measure.

When it comes to renewal and change of directions, this can also take place on the initiative of the local authorities themselves. Some decisions are communicated according to the Local Governments Act, through an announcement on the municipal notice board stating where the minutes of the decision-making meeting is available. The minutes record which items of business were discussed and the decisions made. The use of E-government is also increasingly apparent as a two way communication medium.

Municipal regulations per se should also be added to the county statute book as soon as possible but it was not possible to determine the extent to which this is actually done. However, it is common practice that a notice of the regulation is posted in public places and announced in the local press, and also printed copies are made available to the public. Specifications are also made as to others that should be informed about the new regulations, for example the county administrative board. The protocol from assembly meetings shall according to the Local government Act be published on the poster board of the local government. The protocol shall according to the same act include proposals and decisions etc. Central registries of laws, regulations and processes have not been set up at the regional or local level.

It does not appear that any "plain language" drafting requirements are *formally* integrated into the regulatory process at the local or county level on a regular systematic basis. Local governments certainly seem to aspire towards a plain language approach but are not reflected in a formal stated "plain language" policy requirement. It is, however, a stated feature of national rule making guidance advice on how to regulate.

Compliance and enforcement appeals

Compliance and enforcement activity is a major local government activity in the multi-level regulatory system and of course covers a wide range of policy fields, national agency rules, and various inspectorates. Enforcement and compliance flows from the general operational dynamics of these varied

fields including the need to deal with the volume of cases or events that have to be implemented, how to treat normal law-abiding behaviour and how to treat individuals, firms or groups which do not comply either willingly and knowingly or who do comply due to lack of awareness or knowledge of rules.

Because of the above operational requirements, no general or explicit enforcement policies exist at the local or regional level including those which might deal with the needed resource requirements for effective enforcement. The food case study shows that there are some areas where local authorities may have risk-based criteria for enforcement actions and activities.

It should be stressed that the national government has no right to impose a fine on a local authority. Some local regulations include penalties and/or fines. Offences against the rules are reported to the police or other relevant enforcement bodies and inspectorates.

Within this overall compliance system, there are provisions for appeals. Individual local authority residents can appeal against local authority decisions such as decisions taken by the local authority assembly. Every resident can have the legality of a decision reviewed in court through a legality review. Then the court can annul all or part of the decision, but it cannot replace it with a new decision.

Decisions concerning the exercise of public authority, such as the right to social assistance or an application for planning permission, can be appealed by people affected by the decision. This is called administrative appeal and under this form of appeal a court can replace the appealed decision with a new decision.

Appeals under planning law can also be lodged to the county administrative level and this can lead to delays in decision making which many regard as harmful to local economic development and also to standards of fairness. Concerns arise that the county level may have a conflict of interest in such appeals given that one of its key roles is to represent the national government against citizens who are appealing a local decision based on national laws and regulations. There has been general criticism that it takes too long for cases to travel through the whole appeal system. The problem is not necessarily at the county administrative board level. Cases are currently appealed from the municipality to the county administrative board. In general, the county administrative boards are efficient and a decision is usually given within a shorter period of time than decisions/judgements due to appeals to the administrative court system. In fact, some county administrative boards have been very efficient. At the county administrative boards different divisions are in charge of making decisions regarding appealed cases (as an appellate level) and representing the national interests in planning regulatory processes (when cases are referred to the board for consultation). Thus, they are able to keep to some extent their different roles apart.

Ex ante and ex post assessment

The Use of Regulatory Impact Analysis (or other tools) at Regional and Local levels

There are no systematic requirements for RIA procedures in those areas where local and county governments have some limited regulatory authority. Overviews of regulatory proposals are made in relation to the work of committees of inquiry and RIA is conducted by national agencies. But there is no requirement to use RIA at the county or local level nor does it appear that RIA at the national level explicitly requires a review of multi-level regulatory governance issues that may arise. According to article 15 of the Committees Ordinance (1998:1474), consequences regarding, *inter alia*, local self-government shall be taken into account, before making regulatory proposals but it is not clear how this provision is linked to RIA per se. Nor are regulators at the regional or local level required to identify and assess alternative policy instruments before adopting new regulations.

Assessing the Performance of Tasks at the Municipal Level

There is no explicit system of program evaluation and assessment at the local municipal level. Nor, is there any system of benching-marking among all municipalities that would allow citizens to know if they are even roughly receiving equality of service provision, including regulatory activity and regulatory compliance activity. The Swedish government is presently in negotiations with SALAR concerning a project on voluntary local government benchmarking. The project will be financed by the state. There are already some local governments working with benchmarking,

Local levels of government are audited and these audits and reporting requirements certainly can reveal some performance issues, successes and concerns. Audits tend to focus on financial matters rather than on regulatory compliance per se and thus auditing cannot be regarded as a systematically available tool for assessing regulatory quality. There are also some ad-hoc or one-off evaluations of programs and activities and also local committee review processes. Overall regular systematic program evaluation, however, is not built in to the current regulatory system at the local level.

Updating and Simplifying Regulations at the Local Level

Updating and Reviewing Regulation

There are no systematically performed procedures for updating local government regulation. The regulations are updated when needed, for instance when a new act that has consequences for local regulations has been enacted by the Parliament. There are no processes for systematically reviewing and updating regulations nor is the practice of “sun-setting” regulations used at the local and county level.

Reducing Administrative Burdens and Use of E-Government

The issue of reducing administrative burdens through simplification and the greater use of e-government has been of increasing importance at the local and county levels in Sweden, both in terms of reviews and action.

With respect to the issue of reducing administrative burdens, there is no specific co-ordination mechanism with national authorities, but reforms to reduce burdens can be included in broader programmes aimed at improving regional and local economic growth. One of them is the “The regional growth programme” which the Swedish Agency for Economic and Regional Growth (NUTEK) co-ordinates.

The Government believes it is important to pay greater attention to work by the permit-granting authorities on formulating concrete objectives for processing times and on following up such objectives. The Government has therefore formulated more concrete targets for government agencies such through directions regarding appropriations. It is important that corresponding action be taken in the municipal sector. Some general actions from the Action Plan, for example fewer forms and less reporting information, greater co-operation between agencies, improved service and accessibility, facilitate the co-ordination between different authorities in a multi-level framework.

In 2003, a questionnaire was sent out by Nutek to the local authorities. One question in the survey concerned whether any programmes aimed at improving or simplifying the licensing and permitting process for businesses was underway. 71 percent of local municipalities answered “yes” and 29 percent “no”. Examples of programmes included better information on websites and the ability to download registration forms. Some local authorities had started providing “one stop shops”, where businesses and people who are about to start a business only have to have contact with one person initially when dealing with the local authority.

A pilot study regarding the procedure of alcohol permits has also been launched by Nutek. Participants included a few local authorities. Its aim is a more efficient administration which would improve efficiencies not only for the applying enterprises but also the local, regional and national authorities working with the permit administration process. The future of the pilot study is uncertain due to difficulties regarding how to standardise the permit procedure and also on the financing of the project. The county administrative boards are also working with a program aimed at providing web-based systems for permits and applications, called LITA. It is a part of the project “24/7 agencies”. Work is also underway regarding the measurement of administrative burdens. It covers administrative requirements in laws, ordinances or regulations and their application at regional or local level. The results of the measurement are to be used to identify administrative burdens and the possible scope for reduction of administrative burdens at the regional and local levels.

Within the regional growth programme of the County Council of Västra Götaland a pre-study concerning the conditions for entrepreneurship in relation to public administration has been carried out. The study, “Den företagsamma förvaltningen” (“The entrepreneurial administration”), discusses efforts which have been made by regional/ municipal administrations for them to act more efficiently towards entrepreneurs. The study also presents best practises from around the world and from other areas in Sweden and also categorizes them and proposes possible models to be tried and developed in Västra Götaland. The pre-study was co-financed by Nutek and has led to training programs in enterprising administration for municipal officials. Seven municipalities in Västra Götaland have participated in these programs that have been carried out by the County Council of Västra Götaland in co-operation with the Swedish Foundation for Small Business Research and “Startcentrum Örebro”. Several other municipalities will be involved during 2006-2007.

As indicated above, ICT is often an important part of the efforts to reduce administrative burdens. A lot of the programmes aimed at improving the procedures for licences and permits, and the solutions often involve the use of the Internet, computer based platforms and related activities. In this context it should be noted that the Government’s Action Plan to reduce administration for enterprises consists of a number of actions whose main purpose is to facilitate a simpler, quicker and cheaper procedure for companies by using Internet applications.

The objective set by the Government is that all public authority services that can be delivered electronically with the same or greater cost-efficiency must be delivered in this way. However electronic services must not exclude groups of citizens. The Government’s aim is to enable citizens and companies to use electronic means to obtain information, file data and carry out business in a simple and rapid way whenever they want. It must be easy for citizens and companies to collect and file the information of relevance in any specific situation irrespective of how particular public tasks are divided between different agencies or between central government, municipalities and county councils. As far as possible a single contact with a public authority should be sufficient to present a matter. One example is the Swedish Board of Customs’ automated customs operation, which have resulted in a halving of costs for many companies compared with manual procedures. Another example is the joint project for the automatic handling of register data from a number of agencies that has been run by the Stockholm County Administrative Board and has led to a reduction in the processing time for an application for a commercial traffic permit from 30 days to three days.

In addition to the above actions, SALAR runs an e-government project with the aim being to integrate e-Government issues into the regular business development, processes and governing models of its members.¹⁶

THE FOOD SECTOR AND MULTI-LEVEL REGULATORY GOVERNANCE

The final section of the chapter analyses the food sector as a case study of multi-level regulatory governance in Sweden. This considers the food regulatory regime as being reasonably illustrative of many of the issues highlighted in the previous two sections of the chapter. This section examines first the basic flow of the food system from farm gate to plate and then the basic multi-level structure of the food regulatory regime. This is followed by a discussion the system of enforcement, compliance and inspections which is carried out mainly at the local government level.

The Basic Flow of the Food System: From Farm Gate to Plate

A brief initial picture of the basic flow of the food system, *from farm gate to plate* is needed to give an initial sense of scope and scale and of spatial and territorial reach.¹⁷ From farm gate to plate sounds like a simple journey but of course it is far from simple. Not only are there processes before or within the farm yard as food is grown and harvested and treated in various ways but there are also numerous points of regulatory and monitoring as food is transported, sold at wholesale and retail levels, eaten in restaurants, and consumed by children at schools.

These patterns and journeys are complicated further by the great diversity of food products and produce and also by the fact that the farm gate and farm plate can refer to locations outside of Sweden as foreign food enters and is consumed by Swedish consumers and as Swedish food is exported and consumed in neighbouring Nordic and EU counties and in the world at large.

Swedish regulation complements the almost completely harmonized EU food law. Swedish complementary law concerns control, penalties etc. so that rule-making and surveillance goes to the front lines of food production wherever it occurs in the Swedish-EU and Swedish-global food chain. In recent years food security has expanded globally to include explicit concerns about terrorists potentially using the food system as a target of terrorist activity.

The Swedish food regulatory regime, anchored in the work of the National Food Administration (NFA) has to control about 52 000 food establishments, including water works in Sweden. This is done in close co-operation with the municipal authorities, who are responsible for most of the supervisory work, and with county veterinarians at the county level. As suggested above, the controls are comprehensive and concern all links in the food handling chain—from the industry, to the retailer, to the restaurant, and from water source to the consumer's tap.

Food supervision is based on the companies preparing their own internal control programs (the term used is “in-house programs”) on the basis of relevant regulations (the food regulations clearly states that the company is primarily responsible for the food safety of its products). The program is then approved by the supervisory authority, which ensures that the program is followed and provides advice and instructions. The inspectors check that the company abides by its own in-house program and that the identification of critical control points (CCPs) are fair and probable and that the follow up is correctly and well documented. The official inspectors may take samples for analysis if that is called for.

About 500 of the larger food-producing establishments are supervised by the NFA, including all the slaughterhouses, where they are inspected by veterinarians employed by the NFA. Fruit, vegetables and grain are examined to ensure that they do not contain unacceptably high concentrations of pesticide residues. The NFA also employs the veterinary inspectors at its border control posts (BIPs). Among the 51 000 businesses supervised by municipal authorities, generally via their environmental and health protection committees, there are small-scale food industries, as well as shops, catering establishments, street kitchens and municipal waterworks. Ultimately the regulatory regime also extends to individual consumers through an extensive program of information provision.

Basic Structure of the Multi-level Food Regulatory System

In Sweden, food sector rule-making is a typical example of multi-level governance (see Box 5.4). The Parliament, the Government and the National Food Administration, NFA (Livsmedelsverket) all have their own responsibilities. The Parliament passed the Swedish Food Law in 2006. It mainly contains provisions regarding control authorities, administrative measures, penalties, fees and delegations of norm-making competence. The principles of what food is, how it should be handled and under what conditions it should be let out on the market are set out in EU-regulations (notably 178/2002). The Swedish Food Law complements the EU rules. The government in an ordinance has further developed the rules on control authorities and has given the NFA the right to issue more detailed rules. It is usually the NFA that implements EU-directives in the food area in Sweden. In parallel with this system the EU regulations are directly binding in all member states.

The **National Food Administration** reports to the Ministry of Agriculture, Food and Consumer Affairs and deals with all types of foodstuff, including drinking water. The meat inspection organization is also a part of the NFA. The NFA's mandate is to protect the interests of consumers, in relation to three goals:

- Safe foods of high quality;
- Fair practices in the food trade; and,
- Good and health eating habits.

The duties of the NFA are:

- To prepare food regulations;
- To enforce the Food Act and to lead and co-ordinate public food control;
- To provide information to the Government on important matters concerning food;
- To help the Government with and take part in its international work in the food area, in particular towards the European Union;
- To take an active part in ensuring that the guidelines drawn up by Parliament;
- And the Government on diet and health are followed;
- To conduct enquiries and practical scientific investigations on food and dietary; and,
- Habits and to develop methods for food control.

The staff of the NFA number about 300 persons at their headquarters in Uppsala and another staff members work in slaughterhouses throughout the country and at border control points. Expert scientific advice for the NFA's work is provided by the NFA's own scientific divisions and experts and by expert advisers and expert committees.

Box 5.4. The multi-level food regulatory system in Sweden: main features

Parliament and National Government

- Swedish Food Law of 1971;
- National Food Administration (reporting to the Ministry of Agriculture, Food and Consumer Affairs) controls 52 000 food establishments, with 500 larger establishments directly supervised by the NFA;
- 12 other national agencies with relevant expertise also draw on;
- Laws and Regulations of the European Union and other International Agreements
- Regulations and laws related to general food law; hygiene; food and feed control;
- Membership in International Codex Alimentarius and its science-based standards; and,
- Co-operation under the auspices of the Nordic Council of Ministers on matters such as food control, toxicology, risk assessment, diet and nutrition.

Municipalities and County Councils

- Municipalities carry out most of the inspection and control activity regarding the above noted 52 000 food establishments.

Through regular surveys the NFA acquires information about consumer food habits. A prerequisite for these studies is the NFA's food composition data base. Through these and other activities the NFA supports the work being done by the county councils and municipalities to improve dietary habits and thereby public health.

The NFA also has to co-operate with, and draw on, the expertise of other government agencies with related responsibilities. These include: the Swedish Board of Agriculture, the National Chemicals Inspectorate, the Medical Products Agency, Environmental Protection Agency, Swedish Consumer Agency, National Institute of Public Health, National Board of Health and Welfare, Institute of Infectious Disease Control, National Veterinary Institute, National Board of Fisheries, the Board for Accreditation and Conformity Assessment (laboratory accreditation), and Swedish Institute for Food and Agriculture Economics.

In addition, the food sector has been the subject of cases before the Swedish competition authority since there have been some concerns about the concentration of market power in the oligopolistic food retail segment of the industry. Local food co-operatives also have considerable market power in local settings where there have been strong efforts to ensure local high quality supply and provision and hence some resistance to allowing supermarket chains into communities. With a VAT tax of 12 percent, Sweden has also had high food prices compared to other EU countries. More global markets and other forms of pressure have resulted in more competition in the food retail sector in recent years but competition concerns still remain a potential problem adversely effecting consumers and also firms wanting to ensure that there is an open internal market. The Consumer Agency is another regulator which becomes engaged on food matters due to these same forces and pressures. It seeks an open market for food and also argues that the more open the market, the more consumers need regulatory watchdogs at all levels of the food regime.

The **directives and regulations of the European Union** are a growing part of the Swedish multi-level food regulatory regime. As a member of the EU, Sweden is bound by EU legislation, such as the general food law (Regulation 178/2002), the regulations on hygiene (regulations 852/2004 and 853/2004) and on food and feed control (regulation 854/2004, 882/2004). This helps Sweden to take a horizontal approach throughout the food chain, so that the roles and responsibilities of different stakeholders – authorities and food business operators – are clarified.

Due to the recently adopted EU-regulations concerning food and food-safety the Parliament has in 2006 passed a new food-law and the government has adopted a new food ordinance.

From the EU general food law, it is clear that regulation should be science-based but the precautionary principle is also a part of the law. Sweden is also a member of the **Codex Alimentarius** and therefore obliged to follow Codex standards which by their nature are science-based. The NFA participates actively in Codex work.

Legislative acts also contain common approaches to risk management. At present emphasis lies on the implementation of the hygiene package regulations which means focusing on risk based system inspections and advising and supporting food organisations in their work with guidelines for different sectors.

In many sectors, including food, there is also considerable Nordic co-operation under the auspices of the **Nordic Council of Ministers**. This co-operation covers legislation, food control, toxicology tied to the assessment of risk, food hygiene, and questions relating to diet and nutrition.

With respect to the handling of food emergencies, one must start with the key point that government organisation in Sweden is built on small ministries and a number of government agencies. The administrations all have contingency plans so that if something happens fast action can be taken. Examples where emergency groups with members from different authorities have been set up are the BSE-crisis and the recent Avian Flu outbreaks.

The NFA is contact point for the EU Rapid Alert System, and co-ordinates with other relevant authorities, such as the Swedish Board of Agriculture, the Swedish Animal Welfare Authority, the National Veterinary Institute, the National Board of Fisheries and the corresponding agencies for human medicine.

The Swedish food industry represented by organizations such as the Swedish Food Federation has quite diverse views about the nature and impact of the evolving multi-level food regulatory regime. At the EU level, the industry works through the CIAA, the Confederation of the Food and Drink Industries of the European Union. From a Swedish food industry perspective, the various CIAA committees seem to produce quite a good working relationship with EU authorities dealing with food trade, health and safety, and food quality. The European Parliament can become the genesis of new rules on matters such as food labelling and standardized packaging. Overall, the industry tends to regard the EU-national regulatory interactions as working reasonably well. Its views on the local level compliance aspects of the regime are noted in the next section.

Enforcement and Compliance: Inspection Mechanisms

The enforcement of food law and regulation crucially involves the local and county and central levels. Both the NFA and the local authorities (usually Environment and Health Protection Committees, carry out inspections and have direct responsibility for the control of certain establishments as specified in the food ordinance, whereas the county administration has more of a co-ordinating role and does not carry out inspections. The government lays out criteria for when the NFA is the competent authority and when the local authority is responsible in a government ordinance. Recent legislation which came into force July 1, 2005 has sought to enhance food enforcement. The municipalities are encouraged to co-operate and there

will also be a possibility for an inspector from one municipality to carry out inspections in another municipality. In this way the inspectors can become more specialised. If a local authority does not fulfil its obligations the NFA can issue an administrative sanction to force the local authority to take action. If there is grave misconduct on the part of a local authority, the NFA can also take over the control responsibility for a food business after an application to the Government. Moreover, the government has already presented a bill to the Parliament on a new fee system for food control paid by food businesses.

From the regional level there are also examples of horizontal multi-level governance. A campaign in Stockholm called “Operation Krogsanering” (joint supervision of restaurants) has been quite successful. It involved co-operation between food control, financial /taxation control and the police – where common inspections of restaurant with all relevant authorities present at the same time has led to very good results.

A bill has recently been presented to the Parliament concerning making the results of food controls more easily available to consumers by obliging restaurants and other food businesses to clearly show with a symbol “Smileys” the results of the most recent inspections. The bill suggests that a system involving a few voluntary municipalities be set up during a trial period. A similar system is in place in Denmark.

Each of the County Administrations in Sweden is responsible for co-ordinating food control at the regional level but they do not carry out any direct food control work.

At the municipal level, the municipal Environment and Health Protection Committees carry out food control at all food handling establishments except those under the direct supervision of the NFA, including food production establishments, wholesalers, retailers, catering establishments and water works, altogether about 52 000 establishments.

Approximately 1 000 inspectors are involved in food control at the municipal level. However, some of these only work part-time with food control and thus the personnel involved in food control correspond to only about 300 full-time inspectors.

Food samples collected by municipal food control authorities are usually analyzed by private laboratories accredited by the Swedish Board for Accreditation and Conformity Assessment. Of these 60 such laboratories, 47 work mainly in the analysis of drinking water. Municipal food control is partly financed by local taxes and partly by fees. According to the new EC regulations the fees that the food businesses pay should cover the costs of the inspections. A new system will take effect in 2007.

Since the amendments to the Swedish food law and the food decree came into force the July 1 2005, the roles of the NFA and the county administrations as co-ordinators has been strengthened. The NFA leads and co-ordinates food control and also is obliged to give guidance to local authorities. Several tools give this guidance, which aims at making food control more uniform throughout Sweden and of course in the long run, assure safe food for all consumers and fair competition for the business operators.

There is a unit in the NFA specialised in helping local authorities, and the NFA arranges training courses in different places for local inspectors. The NFA has developed on guidance for inspectors on the new rules of food control which enter into force in 2006. NFA staff makes “normative inspections” to educate local inspectors. County veterinarians are also encouraged to participate in these normative inspections. The NFA has carried out two-day courses open for all local authorities introducing the new legislation. Further in-depths courses will be offered in the autumn of 2006 and spring 2007.

The NFA can issue rules on how the local food control should be conducted and both the county administrations and the NFA can ask for information about how food control has been carried out locally. The municipalities are obliged to answer. The NFA also provides local authorities with practical tools such as check lists, model documents, computer based inspections, leaflets etc. Co-ordination groups meet regularly at regional level. The county veterinarian chairs these meetings. The aim of these meetings is to enhance the exchange of information, cost savings, better uniformity and efficiency of inspections.

The municipalities are obliged to report annually to the NFA the results of their official controls. The NFA, in its turn, reports these results to the European Commission according to article 44 Directive 882/2004. The results concern mainly inspections, microbiological and chemical tests and analyses, and measures taken. It does not appear that these municipal annual reports are routinely made public to local citizens nor are they aggregated to produce comparisons among municipalities.

According to regulation (EC) 882/2004 a set of administrative measures are at their disposal to correct situations of non-compliance with the regulations. They may impose any action deemed necessary to ensure compliance with food legislation they may *e.g.* impose sanitation procedures, restrict or prohibit the placing on the market of food, order withdrawal or destruction of food and suspend or withdraw an establishment's approval. The action, or indeed the obligation to non-action, that is imposed on the food operator can be combined with an administrative fine in case of non-compliance according to the Swedish food law. Certain acts of non-compliance are also sanctioned within the penal system and tried in the courts of law. The criminal acts are set out in article 29 in the food law.

Criminal matters are of course dealt with by the public prosecutors and the courts of law. The competent authorities in the food sector have as one of their tasks to report violations of food law to the police or the public prosecutor. Violations of food law are punishable by fines only. (The prison sentence was removed from the new food law due to the fact that a prison sentence cannot be decided without direct support in law – certain criminal acts are only criminalized in the NFA regulations). Convictions have occurred through this process but the compliance system as a whole is geared more towards overall compliance based primarily on information, education, normative and regular inspections and fines.

In 2004, the inspection frequency for food establishments in general was once every two years, on average. The slaughterhouses, however, are not included in that count, because they are controlled by the NFA staff on a daily basis. The number of establishments that had their approval withdrawn in 2004 was 303. There are no statistics available as to how many times administrative fines have been issued.

Firms in the food sector are, as all other businesses, bound by the general environmental and planning legislation, which will not be discussed here since this legislation is not applicable exclusively to the food sector. The criteria especially concerning premises used for handling food are to be found in the EU-legislation (the regulations on hygiene, regulations 852/2004 and 853/2004).

The Swedish food industry has a reasonably positive view of the EU-national parts of the food regulatory regime. On the other hand, at the local level of the regulatory system, the Swedish food industry tends to see regulatory problems and congestion and has even argued for a more centralized national regulatory system centred on a strengthened NFA. Larger Swedish firms with operations in numerous cities and municipalities see too many inconsistencies in how the local level enforcement and control system works. They cite local situations where there are insufficient resources devoted to the control task or very uneven qualifications in the backgrounds and competences of inspection staff. They cite instances of unequal responses, widely varying fees charged, and often situations where plants receive no visits. The evidence for these failings and inconsistencies tends to be anecdotal but it also seems more than plausible. It could only be proven or disproven systematically if there was good benchmarking data publicly available on comparative local government regulatory compliance practices. Overall, the food business sector argues that if a reasonable equality of local compliance/service delivery is a desired goal, it is not occurring to a sufficient degree in the food regulatory sector.

Regulatory inspection staff at the local level working under the supervision of their local environment and health boards have diverse and some critical views of the day-to-day issues of the multi-level regulatory regimes. They operate at the front lines of the food compliance system. They may have to cover several municipalities with a small band of staff, with each staff person called on to inspect several hundred objects, about half inspections “announced” and half “unannounced”. The frequency of inspections and visits is determined by risk-based criteria but there are also expectations that all objects will be visited/inspected with reasonable frequency. Local regulatory control staff also needs particular kinds of regulation and food-centred training and knowledge. The adequacy of resources is also a constant concern, in particular with the prospect of new legislation being put in place which has led to a broader field of inspection.

At the local level, there are constant trade-offs that have to be made between narrowing the work of inspectors to gain ever-more specific expertise versus widening their work and experience across different realms of inspection so that they have knowledge of the food chain and more systemic issues. And all of these choices have to be made with a small core of staff who also want interesting work that will keep them in the field.

These kinds of front line concern are tied to the larger general point made earlier in the chapter about “*stove-pipe*” regulatory government. Local governments' perceptions are that they themselves are “the regulated” and that they face a cascade of regulation and ordinances from several hundred national agencies each one of which is a separate regulatory and institutional stove pipe. This is itself a problem of regulatory co-ordination at the national level but often at the local level the stove-pipe model simply continues among the local government committees and regulatory compliance and inspection operations. There are some food regime examples where local governments were trying to breakdown the stove-pipe model at the local level by creating more integrated inspectorates and varied jobs for their front line staff. These examples, however, seem to be the exception rather than the rule and thus an overall problem of multi-level regulatory co-ordination undoubtedly continues and is partly captured by some of the concerns of the food sector business community as noted above.

CONCLUSIONS AND RECOMMENDATIONS

General assessment of current strengths and weaknesses

Multi-level regulatory governance is of growing importance. Globalization, expanding global, regional and bilateral trade agreements, the inherent dynamics in constitutional federations, and strong traditions of local government and county government as in Sweden give rise to issues of co-ordination between regulatory levels and among regulatory bodies and agencies.

Three policy issues have been the central focus of the analysis in this chapter. The chapter has examined how well multi-level regulatory governance functions in Sweden, and whether multi-level regulatory governance contributes to a proper achievement of Sweden’s economic and social goals. These are obviously linked issues because ultimately this complex regulatory system must service, benefit and protect all Swedish citizens in both the economic and social aspects of their lives. It has also looked at how well this system of multi-level regulation is understood by Swedish citizens and how consensus for reforms can be generated on these issues.

Overall, multi-level regulatory governance in Sweden produces a mixed picture of strengths and weaknesses. It exhibits strengths, particularly regarding the co-ordination that occurs at the EU-national levels. Sweden has taken its EU responsibilities very seriously, and continuous efforts are made to ensure that rule-making and compliance occurs in a systematic way. Sweden makes known in advance of rule-making what its preferred regulatory provisions are. As illustrated in the discussion of the food sector and

in references to areas such as consumer regulation, Sweden's overall regulatory governance capacity is aided greatly by the lobbying and networking at the EU level by national business and consumer organizations working directly at the EU level and through EU-level confederations of business organizations and NGOs.

However, Sweden is also facing challenges with regard to the national versus local level nexus in the regulatory system. There are issues deserving greater attention by Swedish authorities at both the national and local-county levels. There are clearly some concerns at the local and county level about the changing nature of multi-level regulation in Sweden. Municipalities and county councils increasingly seem to feel that they are "the regulated" as well as being the executors and implementers of national laws and regulations. Faced with a cascade of laws and regulations from the national level and its many agencies, local governments seem to be raising three overall issues about the adequacy or inadequacy of the mechanisms and tools available to ensure regulatory quality.

The first concern is the need for national government and its agencies to "set goals and to steer" rather than to engage in detailed regulation. These kinds of concerns and preferences seem similar to what business interests have often expressed in other OECD country studies about the need for less "command and control" regulation and the need for more flexible performance-based regulation and indeed for more managerial autonomy.

The second concern expressed often at the local level is that such problems also arise, as often as not, from both the perceived and real problems of co-ordination *among ministries* and agencies at the national level rather than from problems between levels of government per se.

A third concern centres on the issue of the equality of services among municipalities and councils. According to Chapter 2, Section 2 of the Local Government Act, "Municipalities and county councils are to treat their members equally, unless there are objective reasons to the contrary". This applies to equality within municipalities, not between them. Research for this chapter suggests that, in general, only limited information is collected about comparative service and regulatory delivery outputs or outcomes among the 290 municipalities. Such data or "league tables" information is available about some health care and education services but not for most services and regulations; health care and education however account for 53% of local government expenditure.

The second policy issue examined in this chapter has centred on how well the multi-level regulatory governance system is integrated with the overall Swedish regulatory policy framework, including implementation and compliance. Regulatory governance has a dual meaning in that it refers to both rule making at different levels of government and at the level of overall implementation, compliance and enforcement. Governance also involves closely linked supporting activities by business, non-governmental organizations and civil society to ensure the full effectiveness of rules and their implementation.

To the question whether there is an overt or clear regulatory policy framework for multi-level governance per se, the answer is very mixed. Multi-level regulation is clearly a central part of regulatory governance but policies toward it are often not explicit or even identified as such. They are instead simply subsumed into the normal everyday arts and practices of co-ordination between levels of government.

Thus, in the official descriptions of Sweden's overall legislative framework and also in the basic descriptions of delegated law making (regulations and ordinances) the issues of multi-level regulation are not sufficiently drawn out or noted. The democratic basis of local government is of course set out in the constitution and so also is the basic notion that local governments are mainly the implementers of national policies, laws, and regulations while retaining some limited areas where they may regulate as well.

General principles on regulatory quality are also stated in different binding regulations and several guiding documents to ensure uniformity and high quality in the legislation. The guidelines target all levels of bodies involved in the drafting of new legislation, the Government Offices, government agencies and committees of inquiry. Explicit principles are defined concerning: targeting (fulfilling the aim, solving the problem identified), regulatory impact analysis, reduction of administrative burdens on business, consultation, alternatives to regulation, plain language drafting, intelligibility (clear structure and clear language) and access to legislation.

The third policy issue explored in this chapter has centred on how well multi-level regulatory governance in Sweden is understood by the public, and whether a democratic consensus for reforms can be generated on issues that might require change. The overall impression is that the arts of democratic consensus are well practiced in Sweden and that, because of these strong traditions, any publicly debated and examined reforms to multi-level regulatory governance can garner support.

Swedish citizens seem to have a reasonable basic understanding of their constitution and of the overall place of the national, local and council levels of government in it, but research for this chapter did not probe this question systematically. As in other countries with unitary or federal systems of government, citizens may also be unclear as to which level of government or which agency is carrying out regulatory tasks in general or in particular fields or problem areas.

Policy options for consideration

The 2005 OECD Guiding Principles for Regulatory Quality and Performance call on governments to adopt broad programmes of regulatory reform at the political level, and to “encourage better regulation at all levels of government, improve co-ordination and avoid overlapping responsibilities among regulatory authorities and levels of government...” The first and second recommendations build on these principles.

1. Strengthen co-ordination at the central level to take better account of sub-national impacts.

There is a need for the national government to develop an explicit mechanism that would better enable national ministries and agencies to co-ordinate overlapping regulatory and compliance issues in ways that explicitly take into account impacts at the local level and among different municipalities and counties. This would allow for multi-level regulatory governance issues to be more explicitly included in framework policies. It would support a more concerted approach to multi-level regulatory governance and would ensure that reforms receive broader public support. This would be consistent with the Swedish tradition for democratic transparency and consultation in regulatory and compliance processes.

2. Integrate multi-level issues into the national regulatory policy framework, including RIA.

The Swedish Government should review its overall regulatory policy framework so that multi-level regulatory governance is unambiguously part of that framework. Multi-level regulatory governance issues and processes need to be highlighted and integrated into future regulatory policy frameworks and statements in explicit ways. This should cover the inclusion of multi-level regulation as a separate and more explicit analytical feature of RIA processes at the national level and at local and county levels. This would also help bring a clearer and earlier awareness of issues relevant to the links between local planning and environment policy, housing and construction, and appeal processes.

3. Determine capacity-building needs at sub-national level to improve regulatory practice, and explore areas where flexibility and innovation can be encouraged.

The study noted that local decisions can affect progress towards integrated national regulatory goals and compliance. National regulatory decisions can also affect how local authorities respond to problems facing their community. National and international regulatory authorities in particular face choices in terms of how much they can or should supervise national, sub-national and local authorities. Multi-level regulatory governance is very much a two way street. Sweden needs to conduct more research and analysis on how regulatory policy objectives at the national and EU and international levels are affected by weaknesses at the local and county level in regulatory governance and practice. This could include research and analysis on staff needs and capacities at the local and county compliance levels; the possible encouragement of integrated regulatory teams at the local and county levels rather than “stove pipe” approaches; the identification of regulatory areas and activities where more local discretion can help or harm national policy; and areas where performance-based regulation at the local and county level may work better than detailed command and control styles of regulation.

4. Provide comparative data and information on regulatory performance at sub-national levels.

Sweden’s national and local governments need to develop and publish better comparative and information data on standards of regulatory performance among county and local governments in order to ensure that equality of public service and of regulatory provision occurs across all municipalities, and is seen to occur, in the eyes of Swedish citizens. This should also include efforts to collect and publish reliable data on compliance and enforcement activities at local and county levels and on issues such as time taken for regulatory and compliance decisions dealing with local planning processes including times for appeals. This could be an initial initiative to be undertaken through an annual national-local government summit process as suggested below.

5. Institute an annual multi-level regulatory forum.

Sweden should adopt – as have some neighboring Nordic states – a regular annual national institutional forum where the national government and representatives of local and county governments could discuss and act on key emerging regulatory governance issues. This forum could also take the lead to ensure that better comparative regulatory performance data is collected and published, particularly regarding service achievement. It could also provide a mechanism to ensure that municipalities and county councils have more systematic input consultation processes linked to the EU-national frameworks. This annual forum would also correspond well to the traditions of Swedish democratic practice.

NOTES

1. OECD (2004), *Multi-level Regulatory Governance*, OECD, Paris, April.
2. See Bruce Doern and Robert Johnson (2006), eds, *Rules, Rules, Rules, Rules: Multi-level Regulatory Governance*, University of Toronto Press.
3. See OECD (2004), *Building Capacity for Regulatory Quality: Stocktaking Paper*, OECD, Paris, June.
4. See Local Government in Sweden. www.sweden.gov.se/content/1/c6/03/86/64/0ad1f9ae.pdf.
5. See “Innovation capacity for sustainable welfare” (SOU 2003:123) from the Committee on Public Sector Responsibilities (Ansvarskommittén). Summary in English is available at: www.sou.gov.se/ansvar/pdf/Engelsk%20sammanfattning.pdf.
6. The Council of Europe and the Congress are not bodies of the EU. All European states participate in the Council of Europe. The Congress is a consultative body to the Council and it consists of representatives from local and regional authorities.
7. The Congress of Local and Regional Authorities (2005), Council of Europe, *Local and Regional Democracy in Sweden*, Strasbourg, June.
8. See OECD (2005), *Strengthening Competitive Metropolitan Regions: The Case of Stockholm*, Paris.
9. See the Government Agencies and Institutes Ordinance, SFS 1995:1322.
10. See Chapter 2 on Government Capacity for High Quality Regulation.
11. See OECD (2002), *Enhancing the Effectiveness of Public Expenditure in Sweden*, OECD, Paris, pp. 13-14.
12. See Local Government in Sweden www.sweden.gov.se/content/1/c6/03/86/64/0ad1f9ae.pdf.
13. See “The County Administrative Board –Its Work and Its Role” (brochure). English: www.o.lst.se/NR/rdonlyres/ABB9963B-E168-4D37-BADB-6780788C6FEF/0/lst_vad_vi_gor_och_for_vem_eng.pdf.
14. The report is available at www.statskontoret.se/upload/Publikationer/2005/200528.pdf.
15. See Local Government in Sweden, www.sweden.gov.se/content/1/c6/03/86/64/0ad1f9ae.pdf.
16. See “E-Government and Co-operation – Operations development with IT-support in local authorities and county councils (The Swedish Association of Local Authorities and Regions – SALAR)”: <http://kikaren.skl.se/artikeldokument.asp?C=4120&A=15986&FileID=89279&NAME=e%2Dgovern.pdf>.
17. See Tim Josling, Donna Roberts and David Orden (2004), *Food Regulation and Trade: Toward a Safe and Open Global System*, Institute for International Economics, Washington.