Chapter 5

The management and rationalisation of existing regulation

This chapter covers two areas of regulatory policy. The first is simplification of regulations. The large stock of regulations and administrative formalities accumulated over time needs regular review and updating to remove obsolete or inefficient material. Approaches vary from consolidation, codification, recasting, repeal, as hoc reviews of the regulations covering specific sectors, and sun setting mechanisms for the automatic review or cancellation of regulations past a certain date.

The second area concerns the reduction of administrative burdens and has gained considerable momentum over the last few years. Government formalities are important tools to support public policies, and can help businesses by setting a level playing field for commercial activity. But they may also represent an administrative burden as well as an irritation factor for business and citizens, and one which tends to grow over time. Difficult areas include employment regulations, environmental standards, tax regulations, and planning regulations. Permits and licences can also be a major potential burden on businesses, especially small to medium-sized enterprises. A lack of clear information about the sources of and extent of administrative burdens is the first issue for most countries. Burden measurement has been improved with the application by a growing number of countries of variants on the standard cost model (SCM) analysis to information obligations imposed by laws, which also helps to sustain political momentum for regulatory reform by quantifying the burden.

A number of governments have started to consider the issue of administrative burdens inside government, with the aim of improving the quality and efficiency of internal regulation in order to reduce costs and free up resources for improved public service delivery. Regulation inside government refers to the regulations imposed by the state on its own administrators and public service providers (for example, government agencies or local government service providers). Fiscal restraints may preclude the allocation of increased resources to the bureaucracy, and a better approach is to improve the efficiency and effectiveness of the regulations imposed on administrators and public service providers.

The effective deployment of e-Government is of increasing importance as a tool for reducing the costs and burdens of regulation on businesses and citizens, as well as inside government.

Assessment and recommendations

Box 5.1. 2004 OECD report: Simplification

Assessment

The example of current progress on reforms made by the Ministry of Finance, which was brought about by the development of a modern work environment rather than by an overhaul of ministry structures, shows that new technology and e-Government can be powerful vehicles of regulatory modernisation. This is particularly true in countries such as France where certain direct structural reforms are sometimes difficult to carry out.

Administrative simplification policies have allowed France to preserve the cohesion and functionality of a highly complex administrative and regulatory apparatus. In some areas, such as codification, the lead given by France has been exemplary and in others, such as the use of electronic tools to lighten the regulatory burden, it currently has highly active policies. On the other hand, there is no automatic *sunsetting* or periodic review programme for legislation. Moreover, simplification initiatives are being deployed without any quantitative measurement to guide them. They also tend to have been developed from the internal standpoint of the government departments concerned and would stand to gain from being more open to the needs of users.

Business representatives thought that any impact was still modest. Furthermore, the very insular nature of the Commission for Administrative Simplification (COSA), which was made up entirely of representatives of government departments, gave it a very introverted focus on the internal problems of those departments and the ease with which they themselves could propose simplification measures, partly with the aim of simplifying the running of the departments. The lack of private sector representatives gave rise to criticism.

An important point to be noted is that despite the clear policy lead, these attempts at administrative simplification are being deployed without any quantitative data on the impact of the administrative burden. Apart from the inventory carried out by COSA, which is the exception, there is no statistical apparatus in France for measuring the economic cost of regulation. Yet, this could serve as a guide for policy, enabling better priority targeting, which would make simplification initiatives more effective.

Simplification of regulations

The French government has made substantial and sustained efforts over time to codify the law, which sets France apart from most other European countries. This traditional legal practice in France has been reinstated, notably through the Higher Codification Commission. Today, more than 40% of the laws in force are grouped into almost 70 codes. Codification is widely recognised as a key instrument for making the law more visible and accessible and as a remedy for the proliferation of regulations.

The experience of the past few years shows that codification has reached its limits and must now be more clearly associated with control over regulatory output. Not all legislation can be codified and, given the volume of new or amended regulations, maintaining existing codes calls for major resources. Codification should not be solely an *a posteriori* cure for the proliferation of legislation; it should be an integral part of upstream efforts to control the flow of legislation and regulations, primarily through impact studies (Chapter 4). Firstly, taking account of the option not to legislate can keep the output of regulations down to what is necessary. Secondly, the impact study must allow new planned provisions to be integrated into the existing legal structure at an early stage in the regulatory drafting process.

Since 2003, annual simplification laws have embedded simplification in the French political landscape. These laws have helped to simplify the legal stock in a large number of domains and also made it possible to reduce administrative burdens on businesses and citizens. The regular use of simplification laws has raised the visibility of administrative simplification policy. This approach can however, lead to a proliferation of measures, thereby undermining clarity.

> **Recommendation 5.1. Evaluate the contribution of codification to regulatory governance and more particularly its capacity to control regulatory inflation.**

Box 5.2. Excerpts from the 2004 OECD report: Management of existing regulations

Recommendation

Pursuing and extending the move towards simplification by introducing sunsetting clauses, extending the use of one-stop shops, and introducing instruments to measure and monitor the simplification process.

France has undertaken a major move towards administrative simplification, which goes beyond previous codification efforts. The experience of many OECD countries shows that administrative simplification is key to improving the cost-effectiveness of regulation. However, the initiatives taken up to now in France have not been systematic. They need to consider the whole of existing regulations in order to reduce the cumulated cost of the total stock. Certain techniques can be very useful in the context of administrative simplification, such as introducing one-stop shops targeting certain groups of clients. These one-stop shops have been introduced in France for setting up a business, or for large enterprises in their dealings with the Ministry of Finance. This move could be extended in the social field, and also for the small and medium business and individual citizens. Automatic *sunsetting* clauses are another type of tool which could be used. This would force the administration to systematically review texts, under the threat that they would no longer be valid beyond a certain date, which would be the opposite of the current system. It is true that such a tool is very far from the French legal tradition. However, an education drive on the benefits expected from this approach could help to change the situation. Finally, a statistical effort to measure the economic deadweight generated by the regulatory burden could help to steer the current simplification efforts towards maximising economic benefits and fix clear objectives for the future. The assessment of the impact of simplifying declarations which was made by the COSA shows that such an approach is feasible in France.

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Automatic *sunsetting* clauses are another type of tool which could be used. This would force the administration to systematically review texts, under the threat that they would no longer be valid beyond a certain date, which would be the opposite of the current system. It is true that such a tool is very far from the French legal tradition. However, an education drive on the benefits expected from this approach could help to change the situation.

Finally, a statistical effort to measure the economic deadweight generated by the regulatory burden – whether an individual measure or a whole complex set of regulations – could help steer the current simplification efforts towards maximising economic benefits and setting clear objectives for the future. COSA's experience with assessing the impact of simplifying declaration forms shows that such an approach is feasible in France.

Source: OECD (2004).

Administrative burden reduction for businesses

Since the OECD review of 2004, the French government has developed a distinctly more active policy towards reducing administrative burdens. A major element was the programme to "measure the reduction of the administrative burden" (MRCA), rooted in France's commitment, announced at the end of 2007, to reduce the administrative burden on businesses by 25%. Substantial progress has been made, including a mapping of the information requirements burdening businesses, the quantitative measurement of almost 800 of these obligations, the development of a methodology (based on the SCM), and a data base (*Oscar*). This has been accompanied by the adoption of a more open approach to businesses by the administration. This greater openness is recognised by the representatives of businesses, particularly with regard to *e-Government* and in relations between users and administrations (closer attention paid to users and greater account taken of their expectations). Many people questioned stressed that there are substantial potential gains to be made in this area.

Since 2008, the government has moved its administrative simplification policy forward in a new direction, which led to the development of a plan comprising 15 measures in the autumn of 2009. The DGME informed the OECD team that this plan should be followed by with waves of similar measures "designed with the same aim of focusing on a small number of measures with great potential". It has therefore been decided to re-focus efforts on a smaller number of measures (irritants) and to base this selection on an analysis of life events. In doing so, the emphasis has been placed on listening more closely to firms and to what they propose should be targeted.

This new policy includes a number of major points on which less emphasis had been placed previously. It has not been possible to make a detailed assessment of this new simplification plan for the purposes of this report. However, it should be noted that this change in orientation underscores a willingness to respond better to priorities as expressed by users of the administration, including businesses, and to communicate better in order to encourage and sustain interest (political, in the administration, among users).

However, it not been clearly established how this policy meshes with work undertaken under the MRCA programme. In particular, this change occurred without the measurement work carried out within the scope of the MRCA being subject to an *ex post* and detailed assessment of the whole. Furthermore, no plans have been made to update *Oscar*, which in the long run runs the risk of devaluing the capital invested at the point when this tool could be used to help strengthen impact assessments.

From a more fundamental and strategic standpoint, the policy to reduce administrative burdens is not clearly linked to economic policy objectives. Above all, it is incorporated into the wider state modernisation programme (RGPP), in which the main objective is to make the state more effective. In so doing, business competitiveness, even if it is mentioned and is the subject of specific initiatives (such as the simplification of

business creation procedures), is not a prime objective. In the current context of the emergence of the world economy (and that of France) from one of the more serious crises in its history, it would be timely to create a more direct and closer link between the policy on reducing administrative burdens and boosting the economy. This could go beyond pure and simple communication to study the possibilities of steering some of the effort towards economic sectors or actors held to be important for economic growth (for example medium-sized enterprises).

> **Recommendation 5.2. Make a clear connection between administrative simplification policies and economic challenges.**

Several points in the current programme require special attention:

The objectives to be attained have not been clearly determined or assigned. The aim at present is basically to simplify the most irritating administrative procedures. The announced 25% reduction (set by the Council for the Modernisation of Public Policies on 12 December 2007) was a step towards a more quantitative and specific approach, which can be found in the MRCA programme. This objective was set globally, without taking into account the flow of new regulations and without setting detailed objectives by ministry. With the move towards life events, it is even more important to stay on course with regard to clearly determined objectives. However, if the 25% reduction objective is not to be officially abandoned, it is not clear, in the absence of properly-defined quantitative monitoring, how progress made towards achieving this objective can be assessed.

> **Recommendation 5.3. Set up clear objectives on administrative simplification and processes for allocating objectives to the various bodies in charge of conducting simplification. These bodies should be made accountable for the implementation of policies in a detailed and public way. Do not abandon quantification.**

There is a need for more information on progress. Until recently, no detailed information was provided at regular intervals on the progress of the administrative burden reduction programme, so much so that this policy has remained relatively invisible both to external stakeholders and to the rest of the administration. The publication in February 2010 of a follow-up sheet on the 15 simplification measures is a step in the right direction.

- *The project must continue to integrate local and regional authorities.* The idea was to "propagate" good practices and make use of the development of *e-Government*. The 15 measures announced in autumn 2009 are a step forward in that several of these measures require co-operation with local and regional authorities (3 out of the 15 measures require their assistance).

- *Programme follow-up has been relatively light to date.* A traffic light system shows progress on the major headings of the RGPP and is the administration's internal monitoring mechanism.

> **Recommendation 5.4. Prepare and publish scoreboards on the effective implementation and specific results of simplification initiatives, for both government and external stakeholders, in addition to general communication on RGPP.**

Regular ex post evaluations are important if the programme is to meet its objectives. A distinction needs to be made between follow-up and evaluation. An evaluation takes stock from a strategic standpoint, and preferably at arm's length, in order to remain objective.

> **Recommendation 5.5. Establish a schedule for regular evaluations. Identify the body which is best placed to carry out these evaluations (see Chapters 1 and 4).**

Reducing the administrative burden on citizens

The current administrative burden reduction programme includes measures that apply to citizens. Until recently, the main advances were closely linked to the development of e-Government. Half of the 15-measure plan adopted in autumn 2009 applies to citizens. It is also worth noting that there are specific measures aimed at associations.

Reducing the administrative burden on the administration

The policy on administrative burden reduction takes account of the burden on government, but does not actually set out a specific plan for internal simplification within the administration. The *Oscar* methodology for measuring businesses' information obligations, for instance, includes an element measuring the burden on government. As quantification has been abandoned, it is important to maintain a watch on this issue.

Background

General background: The aims of administrative simplification in France

For French simplification policy, reducing the administrative burden and simplifying the legislation are closely connected; these are often dealt with as two separate issues in other countries in the European Union. By focusing on "the user" (a term which refers, first, to business and citizens as a whole, but also covers subnational levels and associations), it is taking a global approach as its basis. This policy is focused partly on conformance with the Lisbon Strategy. It seeks to achieve four specific objectives. These are to:

- streamline overly complex formalities and do away with obsolete or redundant formalities;

- strengthen the certainty of existing law and its consistency (by repealing provisions that are redundant, obsolete or no longer relevant, redrafting any that are not readily comprehensible or badly co-ordinated);

- develop one-stop shops and *e-Government*; and

- continue to further codify the law in order to make it more accessible.

Simplifying the law

Codification, repeal and revision

Codification – the work of rationalising and producing a systematic inventory of the law – has resumed over the past 20 years, partly with the aim of curbing legislative inflation. According to a 1999 Decision of the *Constitutional Council*, codification also served "the objective of accessibility and intelligibility of the law, which has constitutional force".[1] The operative principle, as stated in a 1996 prime minister's Circular,[2] is the codification of the law as it stands, by means of which earlier texts are expressly repealed or redrafted, but their contents are included in the code in a new and orderly structure, with the exception of obsolete texts. This is the principle set forth in the prime minister's Circular of 30 May 1996 on the codification of legislative and regulatory texts, which describes codification as a first step towards the effort to simplify the legislation that it is helping to prepare.[3]

The work of codification is conducted within the framework of a national programme established by the High Commission on Codification. The government set up the High Commission in 1989 in order to lend new momentum to the consolidation trend, which was flagging at the time.[4] The High Commission was given responsibility for scheduling the work of codification, establishing the methodology and monitoring progress. The work itself, under the supervision of the High Commission, is left to the ministries. The High Commission published an annual report, which is available on the *Légifrance*[5] website. Since it was first set up, the Commission has gone on to produce 10 or so new codes in addition to recasting existing codes.[6] There are currently almost 70 codes in all, containing more than 40% of the legislation in force.

Codification requires ensuring that all of the legislation produced is consistent. It is also gives legal drafters a thorough schooling in drafting any legal text, not just codes. This was a point mentioned during OECD team interviews with ministries' legal directors. The last few years' experience with codification shows that it contributes to legislative quality, but that complete codification will never be possible, so it can only ever be part of the response to the problems of quality and accessibility. It does not eliminate legal or regulatory uncertainty (10% of the articles of a code are amended on average every year (Bergeal, 2008) and it is not in itself a guarantee that the final text will be intelligible. Codification makes texts more accessible, but the impact it could have is undermined and, in practice, reduced by the constant rush to update codes in a period of high regulatory uncertainty.

Codification appears to have gone as far as it can. In its 2008 annual report, the High Commission on Codification noted that work on new code projects was starting to tail off and that there might to some extent be a decreasing return from new codes: "The more the codification of French law progresses, the more the drafting of new codes comes up against practical difficulties, particularly regarding where to insert provisions".[7] Moreover, some of the "major" laws are more like mini-codes in their own right. From now on, the priority will be to maintain existing codes.

Review and sunset rules

Some laws have built-in clauses providing for the compulsory submission of reports on their implementation status to parliament. Subsequent to these reports, the legislation may be reviewed. Sunset clauses are not used extensively. They have chiefly been used to wind up Advisory Boards (see Chapter 3).

Reducing the administrative burden

Preliminary remark: recent changes to administrative simplification and the DGME programme could not be reviewed specifically by the OECD team, as these changes occurred after the OECD review.

Main developments in policy to reduce administrative burdens

Regulatory simplification policy began at a very early stage in France. As far back as 1953, the executive issued a decree[8] acknowledging the need to simplify administrative formalities. Several programmes were set up and measures implemented over the years to streamline formalities for businesses and citizens (Box 5.3).

Box 5.3. Main stages in regulatory simplification in France

1953: Decree of 26 September on the simplification of administrative formalities.

1966: Creation of an Administrative Forms Registration Centre (CERFA), responsible for compiling a register and controlling the publication of forms by government departments.

1981: Business Formalities Centres (CFEs) set up under Chambers of Commerce and Industry.

1983: Commission for the Simplification of Formalities for Business (COSIFORM) set up; its responsibilities were extended to all users in 1990.

1995: Commission for State Reform set up with responsibility for administrative simplification.

1997-98: New administrative simplification programme, decentralised to the ministries and co-ordinated by a new body, the Commission for Administrative Simplification (COSA), attached to the prime minister's Office.

2002: Launch of the business simplification initiative (MISSE) in the Ministry for the Economy, Finance and Industry.

2003: First simplification law (Law N° 2003-591 of 2 July 2003 giving the government powers to simplify legislation).

2004: Launch of the Administrative Burden Measurement and Reduction Programme (MRCA programme).

    - Second simplification law (Law N° 2004-1343 of 9 December 2004 on the Simplification of the law).

2005: Directorate General for State Modernisation (DGME) set up.

2007: MRCA programme included as one of four priority area in the General Review of Public Policies (RGPP) (June) and France commits to reducing the administrative burden by 25% at the meeting of the Council on Public Policy Modernisation (12 December).

    - Third simplification law (Law N° 2007-1787 of 20 December 2007 on Simplifying the Law and Streamlining Procedures).

2008: DGME reorganised.

    - Fourth simplification law (Law N° 2008-776 of 4 August 2008 on Economic Modernisation).

2009: Fifth simplification law (Law N° 2009-526 of 19 May 2009 on simplifying and streamlining procedures).

> - Ministry of Budget announces a 15-measure programme to simplify administrative procedures.
>
> 2010: Publication of the report "Improving digital relation to users" (12 February 2010), drawing on the work of the "digital experts" group set up in October 2009.

As of 2003-04, the government adopted a more systematic approach, largely geared towards business. This policy hinged on the following elements:

- *Simplification laws* including measures to modernise the operation of government and simplify the law as well as simplifying administrative procedures and formalities.

- *E-Government*. Administrative simplification was closely linked to the development of e-Government (for both business and the public in general).

- *The "Administrative Burden Measurement and Reduction Programme"* (MRCA programme). This programme, set up as of 2004, established more systematic methods of simplifying life for business. Its aim was to find out more about the costs induced by administrative obligations by measuring and then reducing them. It was also part of the broader European vision mapped out by the Lisbon Strategy. The MRCA programme did not necessarily include all of the simplification measures launched by the ministries in 2007-08 (such as the establishment of a regime of auto-entrepreneur by the economy modernisation law of 4 August 2008). Some of these measure were implemented by the simplification laws.

- *Life events*. New departure since 2008. After a period of inventorying and measuring the administrative burden on business and government, the strategy followed since 2008 has been extended to all user categories (members of the public, business, subnational levels and associations) and is based on a new method of selecting areas for simplification, based on "life events".

Simplification laws

Enacting simplification laws (some of which originated in parliament) is the first key step in the process of simplifying the law. After a first law in 2003, three more were passed in 2004, 2007 (originating in parliament) and 2008. A Bill is currently under review (Box 5.4). Simplification measures can also lead to legislative or regulatory texts independently of these simplification laws. The recurrence of these simplification laws have helped to make simplification part of the governmental and parliamentary landscape, but the end result of an overload of different measures can be to make those measures more difficult to understand.

Box 5.4. Examples of simplifying the law for businesses

Laws of 2 July 2003, 9 December 2004 and 20 December 2007:

- trial introduction of a simplified single employment form;
- changed conditions for setting up in business in certain regulated occupations such as travelling sales representatives or travel agents;

- modernisation of public procurement in order to ensure a better partnership with the private sector;
- collection of training tax reorganised;
- introduction of a social security scheme for the self-employed; and
- introduction of an electronic payslip for businesses.

Law of 4 August 2008 on Economic Modernisation:

- creation of simplified "sole trader" (*auto-entrepreneur*) status;
- invoice payment times reduced;
- simplification of company law;
- extension of advance ruling on social security contributions;[9]
- made it simpler to take over and transfer businesses;
- mentoring for first-time job seekers and job seekers who set up a or take over a business was also made easier;
- employment made simpler for VSEs;
- annual declaration of income to social security dispensed with for the self-employed for very small and micro-enterprises (VSME);
- introduction of a simplified, streamlined planning applications procedure for businesses (reform of urban planning regulations for business premises); and
- simpler employment and salary formalities for businesses with no more than nine employees (merging VSE employment cheques and enterprise employment vouchers (*titre emploi enterprise, TEE*) into one cheque, the enterprise service employment cheque "*titre emploi service enterprise,TESE*".

Simplification law of 2009 (Law N° 2009-526 of 12 May 2009):

- possibility to send employees their pay slips in electronic format;
- digital display of local government decisions;
- simplification of condominium operating rules;
- modification of rules relating to the sale of jointly owned property, such as the possibility for two thirds of the owners to sell even if the third partner refuses to do so; and
- simplification of tax collection procedures to avoid taxpayers being asked to pay even if he/she holds a tax credit for an equivalent or larger amount.

The role of e-Government

As in other EU Member States, administrative simplification went hand in hand with the development of *e-Government*. Paperless administrative procedures for members of the public and businesses were one of the main thrusts of the strategic plan for the development of *e-Government*, particularly in the area of taxation and business creation. The development of online government websites was initially aimed at allowing users to search for information from a distance (in order, for example, to identify the relevant department, the papers that need to be provided, or even to simulate entitlement to assistance or obligations with regard to the user's own personal circumstances, such as the right to a student grant or simulation of taxes payable). It is now increasingly aimed at all allowing services to be made completely paperless, thereby eliminating the need for visits to be made in person, reducing the time needed to process application and allowing financial transactions to be carried out on line. Lastly, the administration is trying to promote a standard of digital quality by developing sites which respect ergonomic

burdens and shared references. Box 5.5 presents some examples of online government services.

One of the current objectives is to make the *www.service-public.fr* website, created in 2001, the one-stop shop for online administrative procedures.[10] Since the end of 2009, *mon-service.public,* allows users to create a personal account on line (almost 400 000 user accounts had been created by February 2010), providing access to all websites and a confidential area for storing information. The range of online services is gradually growing through extension of the network to partners outside central government (notably social protection bodies)[11] and the development of new online procedures. The DGME's programme "My online procedure" is aimed at "industrialising" the production of new online services and at responding to users' life events such as marriage, loss of identify papers or the death of a family member (see below).

In October 2009, the Budget Minister mandated a group of experts in digital relationships to draw up an inventory of the state of *e-Government* and propose a strategy for the development of e-services by government departments. The report was submitted in February 2010 and suggested that government policy towards *e-Government* be based on a three-fold approach: (i) provide clear, simple and coherent access to online government services; (ii) offer more services tailored to individual needs which best meet user expectations; and (iii) allow users their say in how to improve online public services and innovate (Riester, 2010). The DGME's mission is to draw up a detailed programme work of work with the ministries concerned by June 2010.

Box 5.5. Administrative simplification and e-Government:
Examples of e-services

- Applications for birth certificates: with over 7 000 applications per day, this is one of services most used by the French public. In response to user expectations, it will be extended before the end of 2009 to all other civil status certificates.

- On line change of address: with just a few clicks, users can inform a dozen or so public services of a change of address through this service. With 1.25 million changes of address entered since the launch of the site in May 2005, nearly 30% of households changing address use this site to forward their new contact details to public bodies that are partners of this service.

- Almost 30% of the French public now pay their taxes on line, compared with 15 % two years ago.

- Online tax declarations: approximately 9 million tax declarations were collected on line following the 2008 campaign for the declaration of income of physical persons.

- Introduction of the "Vitale" card used for the processing of health insurance forms (1 billion forms submitted every year).

- For businesses, the *Télétva* site for online VAT payment was an instant success and was even made compulsory for payments over a certain amount.

- In the specific case of Business Formalities Centres (CFEs – single access points for setting up, changing or closing down businesses), online completion and return of forms has been possible since the end of April 2007. Procedures are totally "paperless": formalities can be

completed, and supporting documents and payments can be sent on line (see: *www.cfenet.cci.fr/*). This measure genuinely simplified procedures since the CFE formally checks[2] all of the paperwork on behalf of the various bodies concerned: tax and, social security services as well as the legally required public register(s). It also contacts INSEE for a unique company identification number. CFEs receive the single declaration and send the information, legal documents and/or supporting documents to every addressee required by the regulations via Electronic Data Interchange (EDI). This procedure avoids duplicate checks.

- Opening in January 2010 of the paperless one-stop shop for new business start-ups, which allows users to set up their own business on line in any non-regulated activity.

- Website operational since December 2009 where firms bidding for public procurement contracts can download their tax statements (12 000 requests received in the first month of operation).

Notes:

1. An application form for aid for setting up or taking over a business (ACCRE) can also be completed on line.

2. Consistency check (*i.e.* checks that all the paperwork is there). The addressees carry out legality checks.

Source: DGME.

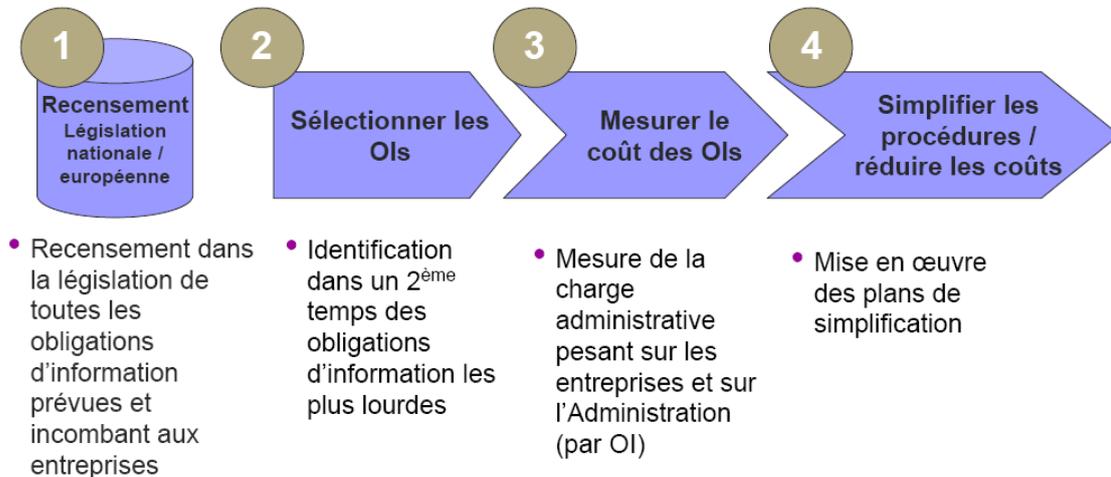## *"Administrative Burden Measurement and Reduction Programme" (MRCA programme)*

The MRCA programme initially centred on four consecutive steps (Figure 5.1):

- *A full and systematic inventory of legal obligations to provide information.* The MRCA programme entailed a stage of systematic measurement, which was based on the Standard Cost Model (SCM) and targeted on the cost burden for business. The analysis, carried out from 2006 to March 2008, focused on European and national legislation. For European legislation, the focus was on legislation in the 13 priority areas that had been identified by the European Commission. For national legislation, 49 codes (both legislative and regulatory sections) and approximately 600 non-codified texts were examined. A grand total of more than 10 000 information obligations were identified, of which 800 were quantified. This work put the total cost of the administrative burden for businesses at an estimated EUR 60 billion. The current DGME programme does not provide for a specific date or methodology for updating this baseline estimate.

- *Selection of obligations to be measured.* Over the period 2007-2008, the information obligations to be quantified were selected from the inventory already made. Various sources were used to identify priorities (the *Camdessus* and *Attali* reports, consultations with trade organisations and ministries, existing ministry plans). Five areas were identified as priorities: taxation, social security formalities, exports, public procurement and company law.

- *Measurement of the obligations selected.* In 2007-08, the DGME measured the impact on business of obligations in the five priority areas using the SCM method. Measurements were made on five batches of obligations in succession and an estimate of the potential savings to be made from simplification measures obtained. The DGME adapted the SCM method to measure the burden on

government and include the cost to business of the time spent waiting for government decisions. The DGME put in place a database to record all of these measurements. A point that should also be noted is that the *Oscar* database for measuring the administrative burden imposed by new regulations was developed as part of the MRCA programme (see Chapter 4).

- *Implementation of action plans.* Simplification measures are implemented through action plans, which are rolled out in successive stages (each stage covers around 200 information obligations). These action plans were implemented by the ministries in liaison with the DGME.

Figure 5.1. The MRCA process

Note: IO = information obligation.

Source: DGME (2008), Reduction of administrative burden for business: MRCA presentation (in French) www.thematiques.modernisation.gouv.fr/UserFiles/File/MRCA_Evenement%208%20avril%20_Presentation%20MRCA_france _europe.pdf.

Recent Progress: Life events

The DGME no longer uses the SCM to measure the administrative burden. It is seeking to develop a simpler, less systematic measurement method in order to focus its efforts on transforming the processes under review. The action plans are no longer aimed at simplifying administrative procedures on the basis of the SCM measurement of information obligations, but on the findings of user surveys. These surveys are based on life events which generate administrative procedures (*e.g.* birth of a child, setting up a business) and must make it possible to identify the most complicated, frequent and/or irritating administrative formalities for different categories of user (members of the public, firms, associations). The approach therefore changes from one that is basically top down to one that is bottom up, and the emphasis has squarely been placed on "listening to users".

For each of these life events, the DGME analysed the procedures users had to follow and, using the findings of sample satisfaction surveys, identified points along the way where procedures could be improved. Since October 2008, the DGME conducted studies,

working closely with a specialised institute, to gain an understanding of what users expected (users were divided up into four target groups: members of the public, businesses, subnational levels and associations). The surveys were aimed at identifying both problems encountered in the course of administrative procedures and users' expectations as regards the procedures to be simplified (how easy/complicated the user perceived them to be for a given life event).

After the surveys had been completed and their findings analysed, the DGME established lines of approach to simplification in collaboration with different ministries and identified 15 areas of work or measures to be pursued by the ministries. These 15 work areas or measures constitute the simplification plan announced in October 2009 (Box 5.6). The DGME identified a lead ministry (or inter-ministerial body as the case may be) and prospective head of project for each area of work. The monitoring of progress in each work area is part of the overall process of monitoring the RGPP programme. Indeed, the DGME published an initial report on the progress made with each of the 15 measures in February 2010 (Annex A).

The aim is to put in place "seamless" and beginning to end *e-Government* services in different areas. The initial situation was one in which life events generally required the completion of administrative formalities involving several different bodies, with all the complexity and risk of omitting certain formalities which that entailed. The information systems must take care of all this complexity. From the user's standpoint, online procedures are completed in two stages. Firstly, an online conversation in the form of a series of questions and answers allows the user's personal situation and need to be determined. The system then transmits the information collected to the different departments involved in the procedure.

Box 5.6. 2009 Administrative Procedures Simplification Plan

On 19 October, Eric Woerth, Minister for the Budget, Public Accounts, the Civil Service and State Reform, announced 15 measures to simplify administrative procedures, namely:

- allow citizens to register on electoral rolls;

- allow all young French citizens 16 years of age to carry out citizen census formalities on the Internet;

- allow firms selected as part of a public procurement tendering process to obtain a paperless tax certificate;

- simplify the life of entrepreneurs;

- improve the processing of claims;

- simplify the procedure for transferring the registered offices of an enterprise and allowing the procedure to be completed on line;

- allow associations to file their subsidy application on line;

- allow users to declare the loss of administrative papers at the same time as they apply for them to be replaced;

- allow urban planning procedures to be made paperless;

- simplify the declaration prior to hiring and experimenting with a simplified declaration by telephone;

- remove the obligation to produce official records relating to civil status, or copies of such records, as documentary proof for certain procedures;

- avoid the need for associations to provide the same information several times over every time they apply for an approval;

- simplify the granting and renewal of the entitlement of handicapped persons to given benefits;

- on the death of a family member, avoid the need for the family to supply the same information several times to different administrations; and

- avoid firms having to supply the same basic information (turnover, number of employees, etc.) several times to government departments.

Source: DGME.

Institutional framework, assistance and support

Co-ordination

The Directorate General for State Modernisation (DGME) has responsibility for co-ordinating administrative simplification projects developed by the different ministries. The Directorate is attached to the Ministry for the Budget, Public Accounts and the Civil Service, which is itself responsible for state reform. The *Projects* service is more specifically responsible for major inter-ministerial administrative simplification and *e-Government* projects. The service includes a small team responsible for the Administrative Burden Measurement and Reduction Programme (MRCA programme). (See Box 5.7).

Box 5.7. Structure of the DGME

The DGME comprises three departments:

- The "Projects" department (which leads inter-ministerial streamlining projects) is responsible for major inter-ministerial administrative simplification and *e-Government* projects. It includes a small team responsible for the Administrative Burden Measurement and Reductions Programme (MRCA programme).

- The "Innovation" department (user services strategy) is a "foresight think-tank", tasked with predicting what the government of tomorrow will be like, setting priorities for action in line with user demands and keeping a watch on good practice in France and abroad particularly in the area of simplification. It establishes "transformation" mandates, which the "Projects" service is then responsible for carrying out, rather in the way a marketing division and production directorate would operate.

- The "Advisory" department (implementation of RGPP-related decisions) provides assistance to the ministries in implementing decisions taken by the Council for Public Policy Modernisation (optimising organisations, processes, and information systems).

Its staff are 46% contract staff (*i.e.* not civil servants), 30% from the Ministry of Finance and 24% from other ministries (DGME brochure).

In each of the ministries, modernisation contacts designated by the Secretaries-General liaise with DGME and are its contact points for inter-ministerial co-ordination of simplification projects and for modernisation projects in general. The DGME also works with a network of territorial correspondents set up jointly with the Ministry of the Interior, Overseas France and Local Authorities.

The DGME ensures co-ordination with the European Union's project on administrative burden reduction. It acts as the EU's Single Point of Contact (SPOC), which involves: i) informing the General Secretariat for European Affairs of progress on the EU project; ii) obtaining the reactions of ministries to simplification proposals put forward by the European Commission and passing on the reactions of the French public to the General Directorate for Enterprise and Industry through the General Secretariat for European Affairs; and iii) informing the European Commission of progress on the national project.

Monitoring the programme

One of the DGME's duties is to monitor ministerial action plans. Monitoring these plans comes under the broader scope of the RGPP for which a traffic-light system was set up to show progress against a set schedule.[12]

As part of the development of action plans based on life events, the lines of approach to administrative simplification identified through listening to users are then incorporated into the programme and then validated at the inter-ministerial level. Each decision is then steered by the minister concerned or by an inter-ministerial body (RGPP monitoring committee) in cases where it concerns several ministries. The DGME stresses that to ensure decisions have a real impact and rapid results, the implementation of each decision is monitored by committees set up to monitor the progress of the RGPP. The DGME hopes to develop support services it can supply to ministries to assist with initial work on priority simplification measures that are particularly challenging or complex.

Methodology and process

The methodology used for administrative burden reduction has changed recently. The MRCA programme started with a comprehensive approach (inventorying obligations) and used the SCM method. The DGME is now basing simplification initiatives on the analysis of life events. The *Oscar* database (see Chapter 4) was developed in order to take account of the administrative burden of new regulations, which implies a "net" target.

According to the DGME, the current strategy is based on listening to users, which is an approach that is clearly distinct from the systematic measurement of the administrative burden. This choice of methodological approach does not exclude, however, the occasional *ex ante* or *ex post* use of quantification, notably to check that the life events identified represent major challenges. The overall approach makes it possible to establish, in collaboration with the different ministries, areas where administrative procedures could be simplified. The suggested areas for simplification are drawn up on the basis of an upstream study that takes account of elements relating to a "return on investment" for both users and government departments.

Public consultation and communication

The DGME has put a consultation process in place to identify users' expectations as regards simplification which has identified several suggested areas for simplification (for public consultation policies, see Chapter 3). The process consisted of the following:

- Open consultation via the Internet, with a dedicated consultation webpage in web 2.0 mode on the site *www.modernisation.gouv.fr*. The first round of consultations was for members of the public, while the two subsequent rounds in April and July 2008 were for business.

- Three events targeting business were held in 2008. The first (in April) brought together around 100 business representatives and business owners and addressed issues such as public procurement, company law, taxation, customs procedures, the work environment, statistics and the environment. It was followed by a round table which brought together businesses and government (April) and further discussions (October) with business federations and a significant number of firms in order to continue the work of consultation and identifying priority needs.

- "Let's simplify together" days were held (6 October and 18 December 2008) including members of the public, business and subnational levels of government and organised in the form of workshops on different themes: the life of the citizen, identity papers, family life, tax and social security issues, as well as starting a business.

As well as this, the DGME consults business through the "Entrepreneurs' Council"*,* which was established in July 2007 under the Secretary of State to the Minister of the Economy, Finance and Employment, responsible for enterprise and external trade. The Council is an official body, which is tasked with promoting dialogue and discussion between business and government. One of the main areas of its work is "simplifying the business environment". Three expert groups composed of active members of the business community (certified accountants, lawyers, tradesmen, notaries, bankers, etc.) were set up to address this theme. In all, twelve professional and consular organisations and orders of the professions took part in this work. Each group worked on simplification in a specific field: simplifying regulations, tax or social security. In September 2007, the Council put forward thirty or so proposals, several of which have already been incorporated into the Law on Economic Modernisation (LME) of 4 August 2008 (sole-trader status and advance rulings on taxation for instance).[13]

The creation in 2009 of a standing panel made up of 5 600 members of the public and 2 400 firms is, according to the DGME, a new starting point for consultation aimed at avoiding "life event" simplification measures being based on an "anecdotal" approach. As this system was put in place after the mission carried out by the OECD team, it has not been possible to evaluate it, although the fact that it is a standing panel and the number of participants should ensure that the administration can take good measure of major projects. Given that a number of other EU countries have also moved towards a "life events" approach, it would be helpful to take stock of the approaches adopted by these other countries in order to share and take note of good practices in this area.

The DGME has not published any detailed information on progress with action plans relating to the MRCA, either on an overall or a ministry-by-ministry basis. The DGME website has information on the various projects under way as part of the programme for

the general review of public policies (RGPP). For example, the RGPP stage report includes information on the MRCA. In contrast, a table was published in February 2010 (Annex A) presenting the progress that has been made with the 15-measure administration procedures simplification programme announced in October. In addition, the DGME notes that regular announcements are made as soon as new measures are decided, while they are being implemented and once they have met their objective.

Assessment: Progress made, outlook

The DGME thinks that the potential annual savings (savings on total hours spent on procedures by businesses, converted to the equivalent in money) from simplification could total over EUR 1 billion, in addition to the savings of EUR 1 billion already recorded in previous years. A whole range of measures has been implemented, particularly in the area of *e-Government* (Box 5.5). However, the data do not allow measurement of actual progress towards the reduction target of 25 % of the administrative burden.

Table 5.1. Results of simplifying information obligations

	Batch 1	Batch 2	Batch 3	Batch 4	Batch 5	Total
Period	2007	2008	2008	2008-09	2008-09	
Number of IO measured	30	216	189	NA	NA	780
Cost (EUR million)		2 100		NA	NA	NA
Estimated savings (EUR million)	17	575	400 to 700	NA	NA	NA
% gain	18 %	28 %	> 25 %	NA	NA	NA

IO: information obligations, NA: Not Available.

Source: DGME.

Stakeholders outside government have stressed the progress made on relations between government and business (single tax contact, for instance), on paperless procedures and *e-Government* in general (with the *monservicepublic.fr* website, for example). They also noted that government was taking more account of needs and expectations through various consultation processes. However, progress was not always plain to see and communication was poor. Although e-Government projects were in the public eye, the projects and results of simplification initiatives and the MRCA programme, in particular, were not so well-known.

While progress is acknowledged, one thought widely shared – both inside and outside government – is that there are very substantial potential savings to be made, principally through faster government deployment, and that there is a need to move beyond simplifying procedures (the benefits of simplification were stressed), start taking overall costs into account and tackle the underlying problems. The 25% reduction target also met with for strong reservations. The savings made did not necessarily mean a reduction in costs for business.

Subnational levels of government

Territorial authorities are starting to become involved in administrative simplification programmes. In the administrative procedures simplification programme, 3 out of the 15 measures require their collaboration (online registration on electoral rolls, Internet-based "citizen" census registration, and introduction of paperless urban planning procedures). The method consists in trialling the new procedure in a limited number of authorities, before giving thought to their wide-scale adoption by authorities who volunteer to do so.

There are two programmes that concern them more specifically:

- The Ministry of the Interior has put in place a technical facility called ACTES for the paperless transmission of local authority documents to the reviewing authority. Before this, hard-copy documents were sent to the *Prefecture*. From now on, subnational levels will be able to send these same documents in paperless form via a secure exchange system. The result has been a significant reduction in costs, as subnational levels can now save on printing and transport costs.

- The Joint Committee for the Evaluation of Regulations (*Commission Consultative d'Evaluation des Normes*, CCEN) was also set up in response to this concern with reducing the burden on subnational levels (Chapter 8).

Administrative burden reduction for businesses

For businesses, the government made a commitment to reduce the administrative burden first by 20%, then by 25%, by the end of 2011. The administrative burden was defined as "the 1 000 most burdensome or irritating formalities for businesses". This commitment, entered into at the meeting of the Council for Modernisation in December 2007, comes under the public policy modernisation programme (General Review of Public Policies, RGPP). The simplification initiatives are based on action plans defined ministry by ministry, in liaison with the DGME, and rolled out in successive stages. These initiatives may also be an outcome of simplification laws. The interviews conducted by the OECD appear to show that ministries are more proactive on simplification initiatives that they themselves have initiated and launched (for instance in the *e-Government* field) than on programmes co-ordinated by the DGME, such as the MRCA, which appear to be of secondary importance.

The shift towards a "life events approach" has a particular impact on policies to reduce the burden on business, since the MRCA programme was geared to business. Since this shift, the "measurement" part of the MRCA programme and the 25% quantitative reduction are becoming less important than a more qualitative analysis of the administrative burden which is focused on "irritating" obligations. This change in focus of the programme reflects DGME's wish to redistribute the resources allocated to measurement work (highly resource-intensive) to the practical implementation of the action plans and to be more selective in the projects it chooses to concentrate its efforts on. According to the DGME, the life events approach is also more motivating for the ministries and easier to get across politically. This means that the reduction target applies only selectively to the administrative burden for business (some other EU countries have followed the same course and restricted the field of application).

Developing one-stop shops was another way of simplifying life for businesses. Business Formalities Centres (CFE) are single access points where vehicle registration applications can be filed and, change of business and business closures can be registered. These centres are the only place that businesses need to contact to file start-up declarations or get in touch with the government departments that deal with businesses on a day-to-day basis: principally tax and social service bodies. Via their online business case-files service they act as a clearing house for official documents and are responsible for forwarding them, after checking that they are in due form, to all of the bodies and government departments concerned with business start-ups. Since February 2009, the formalities for setting up a business can be totally paperless: electronic payment, supporting documents can be sent on line, formalities can be completed on line. At the

same time as the introduction of one-stop shops for business, ministries were restructured so that they would be able to provide support for the one-stop shop structure (structures have been streamlined and new directorates set up).

Administrative burden reduction for citizens

The life events approach is proceeding with closer attention to the administrative burden for members of the public. The initiatives taken to date relate mostly to facilitating paperless procedures. The 2009 simplification law contains a chapter on measures designed to reduce the burden on members of the public. To that end, it also includes provisions that amend family and consumer law.

Administrative burden reduction for government

Reducing the administrative burden for government itself is not a direct aim of the simplification measures. However, the burden for government was considered under the MRCA programme in that the measurement of the burden of information obligations for business included both the impact on business (using the SCM method) and the impact on government (using a methodology defined by the DGME). Rather than being simplification measures designed specifically for the civil service, the aim was to factor the costs to government into the analysis of administrative measures applicable to businesses.

The 2009 Simplification Law contains a chapter on subnational levels and public services. It partly recasts numerous rules on the organisation and operation of local institutions as well as amending certain provisions to do with local authority resources.

Notes

1. In its Decision N° 2007-561 DC of 17 January 2008 on the law ratifying the Ordinance of 12 March 2007 on the Labour Code, France's Constitutional Council clarified the role of codification from the standpoint of the objectives of accessibility and intelligibility stating that 'codification serves the objective of intelligibility and accessibility of the law, which has constitutional force deriving from Articles 4, 5, 6 and 16 of the 1789 Declaration; that in effect equality before the law as set out in Article 6 of the Declaration and the "guarantee of rights " required under Article 16 might not be effective if citizens did not have sufficient knowledge of the rules applicable to them; that such knowledge is moreover necessary for the exercise of the rights and freedoms guaranteed under Article 4 of the Declaration, by virtue of which such exercise is bounded only by the Law and Article 5 thereof under which "nothing that is not forbidden by the Law may be hindered and non-one may be compelled to do what the Law does not ordain".

2. Prime Minister's Circular of 30 May 1996 on the codification of legislative and regulatory texts.

3. *http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000742705 &dateTexte=.*

4. The composition and operation of the Commission (which took over from the Commission set up in 1948) were established by Decree N° 89-647 of 12 September 1989. The Commission is chaired by the prime minister and its permanent members are appointed by order of the prime minister.

5. *www.legifrance.gouv.fr/html/codification/codification_accueil.html.*

6. Among the new codes are the Education Code, the Administrative Justice Code, the Research Code, the Heritage Code, the Code on Entry, Stay and Right of Asylum for Foreigners, the General Code on the Property of Public Bodies and the Monetary and Financial Code. Among existing codes that were recast are the Commercial Code, the Public Health Code and the Labour Code in 2008.

7. *Commission supérieure de codification*, 2008.

8. Decree N° 53-914 of 26 September 1953 simplifying administrative formalities.

9. For an explanation on advance rulings, see Chapter 4.

10. Declaration to the Council of Ministers by Mr. Eric Woerth, Minister for the Budget, Public Accounts, the Civil Service and State Reform on 9 December 2009.

11. The partners present since services were first introduced in December 2008 are as follows:

− portal for serving and retired civil servants (CNRACL, FSPOIE, *retraite des Mines,* IRCANTEC and RAFP);
− PAJE (allowance for caring for a young child) online service;
− CESU (universal service employment cheque) online service
− *Mutualité sociale agricole* (MSA) portal;
− AMELI portal (general regime and various special regimes of the health insurance system);
− online services of the *Caisse nationale des allocations familiales* (CNAF) ;
− portal for retired workers proposed by the *Caisse nationale d'assurance vieillesse* (CNAV); and
− online services proposed on a trial basis by towns of Vandœuvre-lès-Nancy and Parthenay.

Furthermore, contacts have been made to prepare for the entry of new partners such as the *Pôle Emploi*, in order to increase the coverage of the system through voluntary membership. The DGME gives priority to seeking the adhesion of bodies offering services already widely used online in order to rapidly expand the range of potential services.

12. A green light for a reform project means that it is "proceeding satisfactorily and the expected results should be delivered on schedule"; an amber light is for projects that are under way but not proceeding totally according to schedule; a red light shows that a project is not yet underway.

13. *www.pacteforce5.fr/PacteForce5/pacte_force5.htm.*