

Executive Summary - Netherlands

Drivers of Better Regulation

The evolution of Dutch economic performance over the last three decades has been closely paralleled by policies aimed at putting Better Regulation on the government's policy agenda, as a means of combating structural and other issues that stood in the way of a stronger growth rate. Regulatory reform gathered momentum through the 1990s, and specific programmes emerged to give regulatory management a clearer shape. The MDW Programme (*Marktwerking, Deregulering en Wetgevingskwaliteit*) was set up in 1994 to improve the regulatory and structural environment for more open markets. Dutch governments at this time sought a new balance between “protection and dynamism”, by means of increased competition, regulatory reform and market openness. Pressures to accommodate the emergence of the Single European Market also promoted change. Part of the MDW Programme was to streamline regulations to return to “what is strictly necessary”, and this included the reduction of administrative burdens. This was also a decade when significant efforts were made to develop a stronger policy for the development of new regulations, including *ex ante* impact assessment, to avoid the problems of the past.

A second phase started in the late 1990s, with growing emphasis on the reduction of administrative burdens for business. Better Regulation's link with economic performance was re-emphasised in the Coalition Agreement that guides government policy making today, which promotes a more innovative, enterprising and competitive economy. A social aspect has also emerged, partly reflecting the Coalition Agreement's emphasis on social cohesion as well as economic progress, but also as means of supporting public sector reform. Important and emerging aspects of today's Better Regulation policies (such as enforcement, local level Better Regulation, and burdens on citizens) are linked to this broader strategy.

Public governance framework for Better Regulation

The Netherlands is a decentralised unitary state with three tiers of government (central government, provinces and municipalities). The number of municipalities has steadily fallen over time as part of the central government's policy to improve administrative quality and effectiveness through mergers. The central government works on the basis of coalition agreements, which set the policy framework for the four years of the electoral cycle, and annual budget plans. There is an ongoing programme aimed at increasing the efficiency of the civil service, with positive repercussions on aspects of Better Regulation such as the streamlining of enforcement practices. The traditional Dutch approach to public governance is based on the corporatist philosophy, which emphasises the principles of consensus building and the use of expert advice to improve regulatory quality, with a view to promoting the legitimacy of regulation and trust in government. Consensus building continues to be an important feature of Dutch governance, but the reforms of the 1990s have also moved the Netherlands towards more open and market driven processes for policy development.

Developments in Better Regulation

Whilst administrative burden reduction has been a key focus of Dutch Better Regulation policy over the last few years, other important policies have also been developed. These include reform programmes for inspection and enforcement, from 2001; programmes to address administrative burdens on citizens which includes elements of regulation inside government, starting in 2003; further work on the legal quality framework for developing new regulations, including assessment of alternatives to regulation; and a growing engagement with the EU institutions over the development of Better Regulation at EU level. Recent developments are extending these foundations. Notably, there is an increasingly vigorous and targeted communication programme, the development of what was previously known as the administrative burden reduction programme, now known as the regulatory burden reduction programme, to cover a much wider scope of issues, moves to strengthen public consultation through the Internet, as well as renewed efforts to work at EU level and with likeminded EU partners to strengthen EU Better Regulation policies.

Main findings of this review

The Netherlands was one of Europe's early starters in the development of Better Regulation policies, and there has been steady progress since the 1990s to build and expand on this. Better Regulation is now on a sustainable track, with successive governments taking initiatives to expand the institutional and policy framework. A range of policies is now in place, alongside the flagship programme to reduce regulatory burdens on business. At this stage, the development of an integrated policy perspective would help to strengthen Dutch Better Regulation by giving it a long term vision and goals.

Institutionally, the establishment of the Regulatory Reform Group, the unit of officials at the centre of government, and of ACTAL, the independent watchdog, have been major milestones in providing a clearer focus for Better Regulation and promoting culture change. The framework is not, however, yet fully complete, as the Regulatory Reform Group only covers business aspects of the Better Regulation agenda. It would be helpful to find a way of further strengthening co-ordination between key ministries. Culture change, as in other OECD countries, still has some way to go.

The Netherlands pioneered the Standard Cost Methodology (SCM) for the reduction of administrative burdens. Achievements for the business sector have been significant, and the 25% net reduction target set by the last cabinet was broadly met. A new 25% reduction target has now been set, and the methodology has been broadened and strengthened. The implementation of this new and even more challenging phase will require sustained attention to the needs of key stakeholders: line ministries, the business community and the parliament. The Netherlands also has a well-developed citizen burden reduction programme, which will require effective monitoring and evaluation.

There is an increasingly urgent need to address *ex ante* impact assessment of new regulations, as current processes do not provide a sufficiently strong framework for a robust, evidence-based development of new regulations. This is an important weakness as it undermines the government's control of new burdens. There appears to be a broad consensus for change. Issues that need attention include the institutional support framework, training and methodologies, the development of an integrated process, and the need to make public consultation an integral part of the process.

There is also a need for rapid improvement of public consultation as an integral part of effective regulatory management. The Netherlands is at cross-roads

between longstanding traditions of very structured consultation and the development of new approaches which reach out to stakeholders very differently, not least via the Internet. Improving the approach to consultation does not imply wholesale abandonment of the traditional approaches, but requires to boost transparency and ensure that effective and timely consultation is integral to the development of government policies and in particular to the impact assessment process for new regulations.

The Netherlands is one of the most active participants in the development of EU level Better Regulation strategies. Well-structured processes are in place for the management of EU regulations. The framework is stronger on procedure. Attention is needed to ensure that impacts of EU regulations under development are effectively captured, and on the substantive aspects of transposition of EU regulations into the national context, not least to avoid possible problems of gold plating.

Strategy and policies for Better Regulation

There has been steady progress over a number of years and across successive governments in the development of Better Regulation policies. The Netherlands was one of Europe's pioneers with the development of Better Regulation policies in their own right, starting in the 1980s. Better Regulation has been consciously used to drive important structural changes, economic performance and more recently, to address social and public sector issues. Today, Better Regulation appears to have found a sustainable place in the government's broader policy agenda, reflected in, and providing support for, key elements of the Coalition Agreement. It also engages a growing range of stakeholders – including not just the business community, but also citizens and local levels of government – a factor that will help to secure long-term sustainability.

A range of policies are now in place, alongside the flagship programme to reduce regulatory burdens on business. These include a reform programme for inspection and enforcement, a programme to address administrative burdens on citizens which covers some aspects of regulation inside the administration, further work on the legal quality framework for developing new regulations, including the assessment of alternatives to regulation, and a strong and sustained engagement with the EU institutions over the development of Better Regulation at EU level.

Achievements so far have been significant in the programme to reduce burdens on the business community, and considerable by international standards. This is one of the most longstanding programmes so it is perhaps not surprising, albeit also testimony to effective leadership and management. An updated action plan sets a quantified 25% net reduction target for 2011, additional to the reductions that have already been delivered over the last few years. The policy has been significantly broadened to include other cost factors and quality of regulatory services for businesses. There appears to be no loss of momentum in the inner core of government for driving this policy forward. This, however, is not always reflected elsewhere, with worries about how the latest target will be achieved, and what the substance of the programme should now cover.

Other policies and programmes reflect significant efforts to extend Better Regulation beyond central government and beyond the Netherlands. This includes the new policies and structures for enforcement, the work to support Better Regulation at the EU level and not least the engagement of local levels of government. The Framework Vision Programme for reform of inspections and enforcement appears to be well conceived and advancing steadily. Work to raise consciousness of the need to further develop Better Regulation at the EU level is particularly striking given the relatively small size of the country. Dutch leadership (alongside a small number of

other countries) at the EU level is commendable. Considerable effort is also going into developing the interface with local levels of government on Better Regulation.

A significant weakness is the failure so far to implement an effective policy for the *ex ante* impact assessment of new regulations. The weak aspect in Dutch regulatory management today is the absence of any clearly anchored and rigorous process for an evidence-based approach to the development of new regulations. This issue was already picked up in the 2007 OECD report, which noted in effect that whilst the burden reduction programme had been a strong and necessary motor for putting Better Regulation on the map, a broader focus would be needed in the longer term. Fragmentation of the institutional support structure for Better Regulation has not helped.

Two other challenges are apparent, relating to consultation on new regulations and some aspects of EU management. These are the slow progress toward more modern and open forms of consultation for all regulations (not just those which happen to be part of the programmes to reduce burdens on citizens and businesses). The framework for addressing issues of substance arising from EU regulations also needs further attention. Some helpful systems are already in place. The impact of EU regulations on the national market is taken into account in preparing the negotiating position. The Regulatory Reform Group (RRG)'s work includes big efforts to identify and address burdens on business of new EU regulations in the negotiating process. This is helpful but does not address all angles (other stakeholders, the benefits of new regulations). The handling of the transposition of EU-origin regulations remains relatively weak.

The development of an integrated policy perspective including all the elements of a balanced Better Regulation agenda would help to give Dutch Better Regulation a long-term vision. It is beyond the scope of this report to comment on what a longer-term vision might consist of, but we would encourage the Netherlands to start discussing this internally, and with other likeminded countries. Highlighting the links between what is already being done, strengthening the weak parts, and showing how the different elements combine to support and promote high level policy objectives for the economy and society would increase the long-term sustainability of the Better Regulation agenda. It would also demonstrate inclusiveness, by showing that Better Regulation is about new as well as existing regulations, and not (just) about deregulation, nor is it just concerned with the business community. Back in the mid 1990s, the MDW Programme set out a broad vision of Better Regulation and what it could do for public policy goals. The time might be ripe for a “millennium” update. A White Paper could be a useful vehicle for starting the process.

Public communication on Better Regulation is covered by a number of specific strategies and processes. Communication and public documents on Better Regulation tend to be focused on specific programmes. These are essential and need of course to be structured so as to reach their specific target audiences. The most prominent communication strategy is the one established by the RRG for the business burdens reduction programme. The communication policy for the project to reduce administrative burdens on citizens is also well developed. The RRG communication strategy has a broad reach and in some respects acts as the vehicle for communication on overall Better Regulation policy in the Netherlands. As well as the more targeted communication programmes, a more integrated communication of Better Regulation policies might help to highlight the extent of the work carried out, and could also be used as a vehicle for bringing together the different parts of the institutional framework that contribute to Better Regulation.

Many of the programmes are covered by forms of *ex post* evaluation but the approach is not systematic. A number of evaluation processes are in place or under

development for specific Better Regulation programmes. *Ad hoc* evaluations also take place and the Netherlands Court of Audit (NCA) has been active. The approach needs to be strengthened in order to ensure that *ex post* evaluation is not overlooked and is an automatic part of all Better Regulation programmes. Internal mechanisms for *ex post* evaluation are also a necessary complement for external evaluations from bodies such as the OECD and the World Bank.

E-Government capacities, a key support for business and citizen burden reduction initiatives, have been steadily developed over time; monitoring and evaluation may need to be boosted. The Netherlands started early, in the 1990s, and has built up a range of projects as well as an institutional framework which reaches out to the local levels of government. A full evaluation of e-government is beyond the scope of this review. However it seems that initiatives to monitor the large number of projects for their practical effectiveness need to be encouraged.

Institutional capacities for Better Regulation

The establishment of the Regulatory Reform Group has been a major step forward in providing a clearer focus for Better Regulation. The merger of several relevant units out of two core and influential ministries (Ministry of Finance and Ministry of Economic Affairs) responsible for the business-related part of Better Regulation policy was the right move. The RRG has established itself as a well known and vigorous Better Regulation entity not only with the business community within the Netherlands, but also across Europe and with the EU institutions. The merger also signals that Better Regulation policy in the Netherlands has reached a certain level of sustainability across coalition and cabinet political cycles, since the RRG is a continuation and strengthening of units set up under previous governments.

The Regulatory Reform Group, however, only covers business aspects of the government's Better Regulation policy. Two other key ministries for Better Regulation are not part of the RRG structure. The Ministry of Justice has long played a critical role in managing the development of new regulations and is currently seeking to develop a new and stronger approach to impact assessment. The Ministry of the Interior and Kingdom Relations is not only responsible for the citizen burden reduction programme, but also has general co-ordinating responsibility for key issues related to Better Regulation (e-Government, general co-ordination of the municipalities and the enforcement inspectorates) and for the civil service (including civil service reform) as well as general relations with the parliament. The Ministry of Foreign Affairs is responsible for important aspects of the general management of EU regulations.

In this context, the establishment of the Steering Group for Better Regulation was a positive move to strengthen links between the key Better Regulation ministries. The group, chaired by the Prime Minister, meets every quarter and brings together the Interior, Justice, Finance and Economic Affairs ministries. It is supported by an officials group. It reviews progress reports on Better Regulation policies and prepares the ground for cabinet and parliamentary reports. The OECD peer review team were told that, from low key beginnings, this group had started to become more proactive, in response to the more controversial phase of reform that the Netherlands now appears to be entering.

The independent watchdog ACTAL is another important institutional asset helping to hold different parts of the agenda together. Since it was established in 2000, the Advisory Board on Administrative Burdens (ACTAL) has played an important role in helping to motivate and structure regulatory reform in the Netherlands (and provided inspiration for other countries to set up similar structures, most recently in Sweden). It is not only important for its challenge function to the

government. It also, alongside the Steering Group on Better Regulation, covers several elements of Better Regulation (the business and citizen burden reduction programmes, advice to the Cabinet on the burdens of new regulations which gives it a role in *ex ante* impact assessment, and promotion of Better Regulation at EU level).

An effective institutional framework has also been established for sharing the Better Regulation agenda with the local levels of government. Municipalities have a key interface with business and citizens via their enforcement, planning and licensing responsibilities. The central government agreement with the municipalities and its linked Better Regulation Action Plan provides shape and substance to the roll out of shared Better Regulation goals, such as meeting burden reduction targets.

The central institutional framework for overseeing Better Regulation in its entirety remains, however, relatively weak and fragmented. The Steering Group for Better Regulation, which unites the four main ministries, has so far played an uncertain contribution to the Better Regulation agenda. It does not, for example, appear to have yet played a defining role in promoting the development of a new impact assessment process, which needs a strong central lead to encourage cross ministerial co-operation. This relative fragmentation stands in the way of an even stronger Better Regulation performance. It also means that responsibilities – who does what – are not clear to stakeholders outside the system, and that the system itself does not provide an optimal framework for tackling next steps, notably the development of a stronger impact assessment process. The Ministry of Foreign Affairs, which plays an important role in the management of EU regulations, is not part of the group.

What should be done to strengthen the institutional oversight framework? The radical option would be to expand the RRG's role and structure so that it includes relevant units from other ministries engaged in Better Regulation. However this may not be the most effective way to strengthen co-operation between ministries which each have a strong and distinctive contribution to bring. Short of this option, it is essential that the Steering Group on Better Regulation and its supporting group of officials start to play a more proactive role, based on a well-defined agenda that includes the development of the impact assessment process. In that case, the RRG, as the current main focal point for Better Regulation in the Netherlands, would appear to be best placed to provide the secretariat for the group, perhaps including secondments from other ministries. Strong institutional links between the Ministry of Justice and the other ministries are especially important. The Ministry of Justice is a key player through its role in overseeing legal quality. The 1999 OECD multidisciplinary review on regulatory reform picked up the issue, and the OECD review of the Dutch administrative burden reduction programme picked it up again in 2007.

The need for further support for, and culture change among, implementing ministries needs to be addressed. This is not a new issue (the 1999 OECD report had already noted it), and not unique to the Netherlands. The increasing complexity of the modern reform agenda is a factor. Ministries face a number of challenges for which they need to be well prepared. Stakeholders are more demanding (sometimes both requesting more freedom as well as criticising regulatory failures). The Better Regulation agenda has been broadened to cover the different levels of government. The burden reduction programmes are starting to address more controversial issues. Civil service reforms add a further layer of complexity as well as opportunity (resources are being cut, but this can also be an incentive to update processes). As well as the need for support through enhanced guidance and training, effective carrots and sticks for change need to be in place. The strong link that has been established between showing results for the business burden reduction programme and the budget cycle is helpful. The RRG training and guidance on Better Regulation tools is also important.

The parliament plays a particularly important role in the development of the Better Regulation agenda in the Netherlands. A key player beyond the executive is the parliament. The Dutch political system works on the basis of coalition agreements which set the policy framework for the four years of the electoral cycle. The parliament holds the government closely accountable for implementation of the coalition agreements. It is regularly sent progress reports on different aspects of the Better Regulation programme, and has itself initiated reform of inspections policy. With the extension of the Better Regulation agenda into more difficult and complex territory, its support will be critical.

Transparency through consultation and communication

There is a need for rapid improvement of public consultation as an integral part of effective regulatory management. The Netherlands appears to be at cross-roads between longstanding traditions of very structured consultation (via the search for a consensus through established groups and committees, and the commissioning of expert advice), and the development of new approaches which reach out to stakeholders very differently, not least via the Internet. There is an increasingly urgent need to improve and update the approach to consultation. This does not imply wholesale abandonment of the traditional approaches, but there is a need to boost transparency and ensure that effective and timely consultation is integral to the development of government policies and in particular to the impact assessment process for new regulations. The business and citizen burden reduction programmes have shown the way with new approaches to capture more effectively the real concerns of stakeholders. The pilot project for Internet-based consultation on new regulations across ministries looks very promising.

The introduction of common commencement dates is a very positive step forward. This will put the Netherlands ahead of many other OECD countries. Common commencement dates are fundamentally helpful to business. The presentation to the business community with a set of new regulations “in one shot” may need some management to ensure that it does not (perversely) contribute to poor perceptions of the government’s control over the flow of new regulations.

The development of new regulations

Although impact assessment has been established a long time, there is widespread agreement that the current process is in practice unsatisfactory, weak and ineffective. Issues raised in the review included the fact that impact assessment comes too late in the decision-making process to have any effect on outcomes, inadequate consultation, lack of transparency, failure to take into account benefits as well as costs, and the need to define a clear methodological approach balancing qualitative and quantitative analysis. There is an overemphasis on business costs defined fairly narrowly, and an under emphasis on alternatives to regulation (despite the efforts of the Ministry of Justice), benefits, non business impacts, consultation, and on support and quality control, which is fragmented and ineffective. There is little appreciation of the importance of evidence-based, cost-benefit analysis and other methodologies for effective impact assessment. Many of these issues had already been raised in the 1999 OECD report, which drew specific attention to the need for effective quantification, the need to consider alternatives, and the need to consult. There has been progress on some fronts since then, notably the quantification of administrative burdens for business, but not enough to generate an effective approach.

There is concern to control new regulations more effectively. Many stakeholders expressed an underlying concern at the need to control more effectively the burdens that are likely to arise from the flow of new regulations. Some interviewees made the important point that reforming governments – the Netherlands

has carried out recent major reforms of its health and education sectors – are bound to generate significant new regulation, the effects of which need to be controlled.

At the same time, there does not appear to be a coherent view of how a strengthened impact assessment system might be structured, and no clear vision seems to have emerged from the work of officials to give shape to a new system. For the past two years, a group of officials has been examining ways of improving the process. Despite some useful elements (examining alternatives, web-based consultation) it seems unlikely that these proposals will give rise to an effective, integrated process with real buy-in across government, as the work is mainly promoted by one ministry (Justice) and no clear plan for a new process has yet emerged.

A new approach needs to be developed. The government needs to develop and promote a clear vision and integrated approach to impact assessment, which sets out what impact assessment is for and how it can contribute to stronger, more effective, evidence-based policy making, ensures that new regulations are fit for purpose, and conveys the message that the government understands the importance of bringing new regulations under control. The significant common ground that appears to exist over what is wrong now needs to be translated into a new strategy emphasising the central place that impact assessment has in the policy making process.

Responsibility for carrying out impact assessments should remain with the individual ministries, framed by strong central supervision and quality control. Effective supervision and quality control is crucial to the success of an impact assessment process. The Netherlands rightly emphasise the responsibility of individual ministries. However the current institutional structures for overseeing impact assessments are weak and have fallen into disuse.

Effective training and guidance need to be in place. Officials will need to be trained in the new approach and especially, in the application of the new methodology. The current guidance does not cover cost-benefit analysis or any of the methodologies for quantification. The cultural changes required, particularly in terms of ensuring that senior management is on board, are as important as the development of technical expertise. The recent training on Better Regulation techniques developed by the Ministry of Finance and ACTAL in conjunction with the Ministry of the Interior and Kingdom Relations and the Ministry of Economic Affairs is a positive development.

Methodological rigour is essential and most obviously achieved by cost-benefit analysis, but a quality dimension is equally important. The Netherlands, through its development and promotion of the Standard Cost Model (SCM) for administrative burdens, already has the benefit of a culture that is used to quantitative methods, and quantification is a fundamental pillar for evidence-based policy making. The methodology should therefore have a strong quantitative element, drawing inspiration from the experiences of other OECD countries that are already applying quantification (such as the USA, United Kingdom, Australia). It should also incorporate a strong qualitative aspect, supported by multi-criteria analysis, not least to capture future benefits that may be difficult to monetise. It is important that benefits as well as costs are drawn out, as this is about Better Regulation, not deregulation.

A single integrated, standardised process will help to give impact assessment the focus it needs to be adopted by ministries. Current separate processes need to be integrated into a single process which regroups the different assessments and legal quality tests. This standard process should be adopted across the government. The format for presenting the new integrated impact assessment should be standardised, and kept simple and clear, so that it is comprehensible (the rationale for action and key conclusions of the impact assessment should be readily understood by decision makers as well as other stakeholders including the general public). A staged approach to the

process is needed, as now, but institutionally stronger. This would make it clear when, early in the policy development process, impact assessments need to be started, developed and updated, taking account of the need for efforts to be proportional *i.e.* distinguishing between proposals that merit a full impact assessment and others which need less attention. The current process generally only covers primary laws and Orders in Council. Consideration should be given to extending impact assessment to other regulations that are likely to be important for Better Regulation.

Consultation, which is not formally covered at all in the current process, needs to be addressed. Consultation needs to be a formal part of the impact assessment development process and engage all potential stakeholders. Broadly-based consultation (including on the web, building on the Internet pilot for consultation on new regulations that has been launched recently) should start early to give stakeholders the opportunity to comment on proposals before it is too late to influence the outcome, including the possibility of alternatives to regulation. Public consultation on draft impact assessments promotes the sharing of information and expertise, which enriches the draft and encourages ownership.

Ex post evaluation also needs to be built into the new process. Feedback to the government on the effectiveness of the impact assessment process should be built in from the start, as part of the new strategy. There are several options for securing this, which are not mutually exclusive. They include giving ACTAL a role in *ex post* evaluation (building on its role of advice to the Cabinet on regulatory burdens); annual reports to the parliament; tracking the development of new regulations; and last but not least, encouraging the Netherlands Court of Audit to carry out audits of the process. Audits by the NCA equivalents in some other countries, notably the United Kingdom, have made an important contribution to evaluating the effectiveness of policies to control the development of new regulations, including impact assessment.

The Ministry of Justice efforts to draw attention to consideration of alternatives to regulation need support and further development, including and not least as part of an enhanced impact assessment process. Regulation may not be the only option. Before it is too late, the process should include consideration of alternative approaches to achieving desired regulatory outcomes. The significant efforts that were started over a decade ago in the use of alternatives need to be given a renewed impetus. The Ministry of Justice has issued a number of relevant documents and these now need to be made operational. An effective approach might examine the consequences of several different options, including an alternative to “command and control” regulation, and the “do nothing” option. Guidance should be developed on the appropriate use of alternatives (such as non-legislative action, exemptions, principles-based rather than rule-based approaches, and outcome standards rather than process standards).

The management and rationalisation of existing regulations

There is no systematic effort to consolidate or simplify the regulatory stock. As in other countries with well developed burden reduction programmes, simplification is mainly a “derivative product” of the efforts to reduce administrative burdens (as for example in the review of regulatory clusters or related laws). As complexity accumulates over time in all areas of regulation, there is a need for more systematic “spring cleaning” at regular intervals. The OECD review team was told that the business community would welcome a “clean-up” of the existing law.

Achievements with the regulatory burden reduction programme have already been considerable by international standards, and the Netherlands’ 2003-07 policy identified the main elements of a successful model which has been replicated elsewhere. The 2003-07 Cabinet had a 25% net burden reduction target

allocated across ministries, which it broadly achieved. The Dutch model has been an inspiration to other countries, and the considerable investment made by successive Dutch governments since the 1990s has largely paid off. The success factors have been a combination of measurement (the SCM method for the measurement and mapping of burdens); setting a time-bound quantitative target (divided among ministries); a strong inter ministerial co-ordinating unit at the centre of government (the RRG and its predecessor, IPAL); independent monitoring via the watchdog ACTAL; link to the budget cycle; and not least, political support, helped by the narrow focus of the programme on administrative burdens which helped to avoid controversy. It is fair to note that the Netherlands may have had further to go than some other countries, in terms of the relative weight of administrative burdens as a proportion of GDP. But this also means that the Netherlands was probably right to put particular emphasis in the last few years on this part of its Better Regulation strategy.

A new phase has opened up, with the establishment of an ambitious, broad and well-designed new policy. This builds on key elements of the previous policy which have proved their worth (not least a reinforced institutional structure), as well as adding new aspects. The current cabinet has set a further 25% reduction target, based on a (largely) new baseline measurement. The current action plan captures a number of important new issues, as well as addressing weaknesses in the original methodology. This reflects the price paid for being a first mover with no role model to follow, but is also testimony to the fact that the Netherlands is remarkably open to learning from its own and others' experiences, as well as taking advice from independent experts, which it calls in regularly. Among the issues which are being vigorously addressed in this new phase are the extension of the programme to cover burdens at the sub-national levels of government (still very unusual in OECD countries); addressing the burdens raised by enforcement; a renewed attack on the issue of licences; the development of an *ex post* evaluation framework; the establishment of common commencement dates for new regulations; targeting the quality of services related to regulation and not least, the development of the SCM methodology to cover qualitative as well as quantitative aspects and to broaden the definition to cover all compliance costs.

A substantial update and broadening of the programme was necessary, in order to sustain progress towards a new target, but this also raises new challenges. The programme has until recently enjoyed broad support, politically, within ministries, as well as from outside stakeholders. This now looks more vulnerable. As already noted in the 2007 OECD/World Bank report, a politically neutral programme is no longer an option. Proposals for further reform, if they are based on a broader definition of compliance costs, are likely to be politically more sensitive and engage more vested interests. The report also underlined the importance at this stage of having clear goals.

The key stakeholders that matter for progress are: business, implementing ministries, and the parliament. Business is frustrated at what it considers to be slow progress and the failure to tackle issues that really matter from its perspective. There is some discouragement, even resistance, within ministries with regard to the new target, based on a worry that it will not be easy to achieve, as many of the "low hanging fruits" have been cleared off the trees. Even some of the remaining low hanging fruit can raise unexpected problems. The parliament for its part, whilst it takes a keen interest through the regular reports on general progress by the RRG, does not always seem prepared to turn this into specific backing for proposals that require legislative action, without which the new target will not be met.

As regards business, the government is taking the right direction with its expanded definition of compliance costs, and a new communication strategy which is well conceived. For a number of reasons, which are broadly shared with

other countries at advanced stages in the deployment of burden reduction programmes, the Netherlands has been confronted with negative business reactions despite evident progress on a number of fronts. The reasons for this include time lags before promised results are delivered; frustration at the scrapping of rules that were not complied with in the first place; and slowness in identifying and addressing key issues for business such as licences delivered by the local level. The situation has not been helped by the redefinition of the baseline for the new target, which calculates that burdens are now only some EUR 10 billion compared with some EUR 16 billion in 2003. The main reason is that information obligations to third parties are no longer part of the definition of administrative burdens, but are now defined as substantive compliance costs. In addition to the administrative burden reduction, the expanded programme has also set targets to reduce these substantive compliance costs. ACTAL underlined to the OECD peer review team that irritants as well as substantive regulatory changes must be addressed at this stage, as businesses do not readily distinguish between administrative burdens and other compliance costs.

The government has reacted comprehensively to the concerns expressed by the business community. As well as the ongoing work to expand the scope of the programme with a methodology that includes irritants and broader compliance costs, and the quality of services, its new highly proactive communications strategy targets needs as identified by business rather than civil servants. This includes the establishment of the *Wientjes Commission* to be the voice of business (which seems to meet with general approval), and a wide range of tailored mechanisms to capture business interests as well as to communicate meaningful achievements (what the recipient wants to know, rather than what the civil servant thinks is interesting). The RRG's communication handbook underlines that concrete results must have been achieved before they are communicated. It is too soon to give a view on the effectiveness of the strategy and regular evaluation will be important, as the government plans to do. The government needs to show results from the new approach fairly quickly if a positive business attitude is to be restored. It plans to evaluate its communications strategy shortly, alongside a "perception monitor survey" this year.

As regards implementing ministries, despite a strong underlying institutional structure, spearheaded by the RRG and ACTAL, there is a need for further support and strengthening of the framework in order to encourage ministries to deliver. The need for enhanced co-operation with "delivery" ministries and further culture change is acknowledged by the RRG. As in other countries, a judicious mix of carrots and sticks is needed. Carrots are important as ministries experiencing fatigue from years of efforts need encouragement. So are sticks, for which sanctions must be credible. The Netherlands has gone further than most other countries in linking achievements to the budget cycle. Consideration should also be given to making a link between achievements and performance appraisals (which would have both a carrot and stick effect). At the same time, ministries need to feel supported in their efforts to push through controversial proposals. This implies some hard choices and trade-offs, for which political support is required. The Cabinet and the Steering Group for Better Regulation chaired by the Prime Minister have an important role to play in this regard.

As regards the parliament, the dialogue needs to be extended to cover specific decisions that will require its approval. The parliament is already heavily engaged in the programme at a strategic level, with the regular reports that it gets from the Cabinet via the RRG. There is a need to strengthen and clarify the link between these reports and the specific measures that come to the parliament for approval under the programme. Since the easier targets have been achieved, much of the new work, especially if it is based on an extended interpretation of compliance costs, may need to go through the parliament in order for regulations to be changed or adopted. Skilful piloting will be required. At the same time, although regular updates are essential to

sustain parliamentary interest and general support, quarterly reports (even if two of these are short updates) seem excessive, detracting the *RRG* (which prepares the reports) from getting on with the substantive work of developing the programme.

The citizen programme for administrative burden reduction has been carefully developed and adapted to take account of experience in the first phase. The Ministry of the Interior and Kingdom Affairs has developed a programme based on a careful review of what actually matters for citizens. As with the programme for the reduction of burdens on business, from which it was inspired, this project seeks to learn from previous experience (the first phase was acknowledged to be unsatisfactory), to identify the challenges that still need to be met. It makes extensive use of external experts in moving forward. Such openness and willingness to learn is an extremely positive aspect of the Netherlands' general approach to Better Regulation. Among a number of positive features of the project, the local level is engaged in the programme, and extensive use is made of Information and Communication Technologies (ICT). Efforts are made to cover important aspects in the Netherlands geographical context, such as the needs of cross-border workers. Considerable effort goes into promoting an EU level approach to the issues. It is not, however, clear how real progress will be evaluated and measured under an approach which does not set any clear quantitative baseline and reduction target. Without this, it is likely to prove difficult to demonstrate that there have been improvements.

There are considerable and possibly unexploited synergies between the citizen programme and the business burden reduction programme. In a broad sense, the Ministry of the Interior and Kingdom Affairs has learnt from the much longer standing business programme in developing the citizen programme. An element of friendly competition between programmes is also no bad thing. That said, there are numerous points of convergence. These include an overlap in coverage, communication strategy, the use of ICT, a shared independent watchdog (*ACTAL*), and also the development of new qualitative as well quantitative methodologies, some of which might have a shared interest for the two programmes.

Regulation inside government is already part of the citizen programme but could be expanded. Part of the citizen programme addresses regulation inside the administration, notably for professionals working in public services such as hospitals and schools. The aim is to free up time spent on administration so that services to citizens can be enhanced. The Ministry of the Interior and Kingdom Affairs report to the Parliament notes that there is a 25% reduction target for the local levels of government in this respect. Greater emphasis on addressing regulation inside government was already recommended by the 2007 OECD/World Bank report. With a planned cut of 25% in the civil service, development of this part of the programme could help to release resources as well as making a contribution to better service quality.

Compliance, enforcement, appeals

The Netherlands has engaged in pioneer work to ensure that compliance and enforcement are considered at the start of the rule making process. This was already picked up in the 1999 OECD report but deserves to be repeated, in the context of today's interest across the OECD in tackling policy related to the enforcement of regulations as well as their development. Efforts by the Ministry of Justice to raise awareness go back over two decades, via the Directives on Legislation (which it drafts), the legal quality criteria which it applies, and the Practicability and Enforcement Impact Assessment which it also applies. The Netherlands is also responsible for the development of the so-called Table of Eleven determinants of compliance, which have widely influenced other countries' efforts in this field.

There has also been steady development toward a new risk-based approach and structures for enforcement. A well articulated policy which engages the local as well as national levels has been refined through successive cabinets, starting in 2001. Local levels are formally engaged through the central government agreement with municipalities, including pilots for new approaches with a sample of pioneer municipalities.

The establishment of the co-ordinating Inspection Council to promote the new approach has been a successful move and there is close co-operation with the work of the RRG. Is the Ministry of Justice fully engaged? The Council came across to the OECD peer review team as motivated and enthusiastic in its role. There is a close link with the regulatory burden reduction programme for business (reflected in the fact that a reduction of state supervision forms part of the current action plan for the reduction of administrative burdens on business) and close involvement by the RRG in this work. The involvement of the Ministry of Justice, which has played a longstanding upstream role in drawing attention to compliance and enforcement when regulations are developed, is not so clear. Yet the reform programme implies the need to address regulations as they are developed, as much as how they are implemented once adopted.

The current Framework Vision is ambitious as well as quite precise in its goals; careful evaluation of progress is essential if credibility and momentum are to be sustained. The results to date set out in the 2008 report to the parliament appear to be impressive. The report documents for example the establishment of joint risk analyses between inspectorates, co-operation between inspectorates and municipalities, facilities for digital co-operation, and the reassignment of tasks. What has been the real effect of these reforms on the ground? Are these the right targets?

The Ministry of Justice's research report on the state of compliance is a useful initiative to back up further reform. The results should be directly relevant to the further development of the Framework Vision.

The interface between members states and the European Union

Consciousness of the importance of EU origin regulations in shaping the national regulatory environment is high, and the Netherlands are active participants in the development of EU level Better Regulation strategies. For a relatively small country, the Netherlands have been commendably active in raising consciousness of Better Regulation principles at EU level, so that problems are tackled at source, including most recently the importance of effective EU management to keep down burdens on citizens.

Well structured processes are in place for the negotiation and transposition of EU regulations. As in most other EU countries, the Netherlands have developed and established a clear procedural framework for dealing with EU regulations. A particularly strong feature is the process for establishing an implementation plan when an EU regulation is adopted, in which the local levels of government are invited to participate, and the subsequent monitoring of transposition via a centrally co-ordinated database (run by the Ministry of Justice) which systematically tracks and disseminates progress in meeting deadlines for implementation. Transparency as regards the correlation between EU and national regulations is covered under the framework. The processes for ensuring consistency between EU and national regulations (which extend to taking account of the rulings of the European courts) are also noteworthy.

The framework is more effective in securing a sound procedural performance than in addressing issues of substance arising from EU regulations. The EU was a recurring theme across the interviews with the OECD team, with concerns expressed by a number of stakeholders inside and outside government at the difficulties of

implementation into the national context. These included a concern about staying up to date with EU developments, with information sometimes being available too late to affect the outcome, and about failures to pay sufficient attention to likely national impacts of EU regulations both at the negotiation and transposition phase of the process. Although the local levels have a formal seat at the committee tables to discuss these matters, the team also heard that more targeted efforts should be made to involve these levels where needed. The most fundamental critique of the current approach was the failure to assess impacts adequately. There is currently no requirement for impact assessment at the negotiation phase, and it is not clear how much is actually done at the transposition phase. The Ministry of Foreign Affairs and the Ministry of Justice lead the various processes, which may leave the framework short of input from other key Better Regulation ministries (Interior, Finance and Economic Affairs).

The interface between subnational and national levels of government

Considerable effort and resources are being put into linking up the local level with national objectives for Better Regulation, and results have started to emerge. There is increasing co-operation between central and local levels of government in key areas of Better Regulation such as reform of inspection practices, the reduction of administrative burdens and licensing reform. Core ministries (Interior, Finance and Economic Affairs) are clearly working hard to involve local governments in their Better Regulation programmes. Central government is providing direct support for municipalities, including consultancy funds to address burden reductions. Concrete results have started to emerge such as the review and simplification of “model regulations” (templates for local regulations produced by the association of municipalities VNG), the establishment of a Better Regulation website dedicated to local level Better Regulation issues, and pilot schemes to test the principle of “silence is consent” for licensing.

The central government agreement with the municipalities is an effective means of structuring the approach and identifying priorities. This agreement (under which a specific action plan is drawn up), which is concluded between central government and the VNG at the start of each government term, has been used to good effect to define shared goals.

Uneven progress can be expected and the role of the VNG is important for evening out differences across the country. With 443 municipalities (a large number for a relatively small country) and considerable variations in size (and culture), some municipalities are doing better than others. The OECD team were told that progress on licensing reform is especially patchy. The role of the VNG is important for disseminating best practice and encouraging horizontal co-operation.

The action plan rightly addresses not only what municipalities can do for central government but also what central government can do for municipalities. The task force for addressing burdens generated by central government (part of the action plan) addresses the important issue of regulatory burdens generated by central government. There is concern at the local level at the weight of new regulations and a desire to see more targeted management of the development of new regulations which will “hit” the local level. The VNG has proposed that each ministry appoint a co-ordinating lawyer for new regulation that will affect the local level.

Key recommendations

<i>Strategy and policies for Better Regulation</i>	
1.1	Efforts to engage a wide range of stakeholders beyond the business community should

	continue to be actively pursued, in the interests of consolidating the broadest possible support base for the future promotion of Better Regulation policies.
1.2	The development of a new policy for the <i>ex ante</i> impact assessment of new regulations should be taken forward.
1.3	Efforts should be pursued to strengthen public consultation on new regulations. The overall management of EU regulations should be evaluated with a view to building on the RRG initiatives, and in particular to ensure that transposition of EU – origin regulations is effectively managed.
1.4	Consideration should be given to developing a strategic perspective for the development of Dutch Better Regulation over the longer term.
1.5	As well as the initiatives to communicate on specific programmes, consideration should be given to developing a more integrated communication strategy, so that stakeholders (both within the Netherlands and beyond) can appreciate the complete picture of what is being taken forward, which extends well beyond programmes aimed at the business community.
1.6	Ensure that <i>ex post</i> evaluation processes cover all the relevant policies, are systematically applied, and that there is adequate investment in this.

Institutional capacities for Better Regulation

2.1	The government should consider the best way in which the institutional oversight framework for Better Regulation can be strengthened. The Steering Group on Better Regulation and its supporting group of officials should in any event play a more proactive role, based on a well-defined agenda that includes the development of the impact assessment process.
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2.2	The government should review whether incentives for culture change could be strengthened. For example it should review whether the link to the budget cycle for setting targets and assessing performance needs to be given sharper teeth (real consequences for ministerial budgets, effect on the performance appraisal of key officials). Further support for ministries in the shape of guidance and training should also be put in place.
2.3	The government should take active steps to develop a dialogue with relevant parliamentary committees in order to encourage a shared vision of Better Regulation goals and their contribution to wider public policy goals (see also recommendation in Chapter 5 on the business burden reduction programme).

Transparency through public consultation and communication

3.1	The plans to introduce Internet-based consultation should be pursued, with special attention to accessibility by the general public. Public consultation should be woven into the impact assessment process for new regulations. A code of good practice to be followed by ministries and others with significant responsibilities for new regulations might also be considered.
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The development of new regulations

4.1	The Netherlands should develop a new strategy, structures and processes for the <i>ex ante</i> impact assessment of new regulations, taking account of the more detailed proposals set out below.
4.2	A considerably more authoritative form of the Proposed Legislation Desk at official level should be established, reporting directly to the Ministerial Steering Group on Better Regulation chaired by the Prime Minister. This unit, which could be developed on the basis of the current officials' group that supports the Ministerial Steering Group, would have the functions of issuing and updating the relevant guidelines, providing advice and support for ministries in the development of impact assessments, and monitoring the quality of impact assessments, as well as advising ministers directly on the development of the process and the performance of ministries. Consideration should be given to whether the Steering Group should have a formal gatekeeper role for significant new regulatory proposals before they are submitted to the Cabinet (this could be a formal 'sign off', or referral back to the relevant Ministry for more analysis). ACTAL should be considered for an external oversight role, building on its current responsibilities for providing advice to the Cabinet.
4.3	Training should be developed further to cover the overall process and to encourage the development of expertise in evidence-based policy making. There should also be specialised training on applying the methodology, drawing on support from economists as necessary (given that many officials are not economists by training). Methodology should be incorporated into authoritative step-by-step guidance for officials, which should also make clear the responsibilities of the various decision makers through the process (ministers, officials, the ministerial Steering Group, the supporting officials' group, officials themselves).
4.4	A clear methodology with a quantity/quality balance should be established.
4.5	Establish a single integrated process for impact assessment across government, which includes a simple format, the stages of the process with the emphasis on starting early, and a clear and comprehensive definition of the regulations covered.
4.6	Ensure that the EU and local dimensions are effectively covered in the new process.
4.7	Impact assessment reports should be published on ministry websites, as well as the website of the lead supervisory authority, both at an appropriate drafting stage, and when finalised. Those who have contributed to consultation should be advised of the impact assessment's publication, and where important comments have been made, given feedback on how the comments were used (or an explanation of why they were not used). The views of the external

	oversight body should also be made public. Efforts should be made to ensure that the non-business community (those who may not have such a strong voice such as citizens and consumer advocacy bodies) are engaged with the process.
4.8	Consideration should be given to the best way of arranging systematic <i>ex post</i> evaluation of the impact assessment process. The Ministry of Justice should be encouraged in its work to track the trends in development of new regulations.
4.9	As already recommended in the 1999 OECD report, the consideration of alternatives needs to be clearly and firmly anchored into a revitalised impact assessment process.

The management and rationalisation of existing regulations

5.1	The government should evaluate regularly the effectiveness and results of its action plan and communication strategy (as it plans to do).
5.2	The government should ensure that budgetary and performance sanctions (or rewards) are in place and are credible, to encourage meeting of targets. The Steering Group for Better Regulation needs to play a strong role in dealing with the more controversial proposals that will arise, settling trade-offs and providing collective political support under the aegis of the Prime Minister for the adoption of such proposals
5.3	The government should reduce the number of reports made to the parliament on the programme, from quarterly to half yearly, without reducing their substantive content. It should balance reporting with a consideration of how to strengthen the dialogue with key parliamentary committees in order to encourage a positive attitude to proposals for change under the programme. The RRG should also, as far as possible, encourage ministries to link related proposals into packages before they are put to the parliament, drawing attention to their contribution (where appropriate) to the main strategic objectives of the programme.
5.4	The government should consider how it can best give shape to a concrete target or targets, linked to a clear baseline that would enable stakeholders to assess progress.
5.5	The government should consider whether it would be helpful to reinforce links between the different programmes, and ensure that areas of common interest are addressed jointly.

5.6	Consideration should be given to expanding the elements of the project that address regulation inside government.
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Compliance, enforcement, appeals

6.1	The government should consider how it can share experiences and ideas on more effective enforcement with other countries, both to learn from them and to disseminate its own successes.
6.2	The Ministry of Justice needs to be fully engaged in developing the programme, especially as the current Framework Vision seeks to promote a fundamental reform of attitudes to underlying rules and policy.
6.3	Steps should be taken to ensure that regular and independent evaluations are carried of the results emerging from the Framework Vision.

The interface between member states and the European Union

7.1	The government should carry out a review of current processes for the negotiation and transposition of EU regulations, in order to map strengths and weaknesses, to deepen the involvement of the Interior, Finance and Economic Affairs ministries, and to strengthen procedures and guidance aimed at addressing substantive issues. Impact assessment of EU regulations both at the negotiation and transposition phase should be made a formal requirement and an integral part of the new impact assessment process.
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The interface between subnational and national levels of government

8.1	Further development of the shared agenda for Better Regulation should pay particular attention to licensing, and to finding effective ways of addressing the likely impact of centrally generated regulations on the local level. This issue should be included in the proposed review of <i>ex ante</i> impact assessment.
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