

## *Chapter 2*

### **Institutional capacities for Better Regulation**

Regulatory management needs to find its place in a country's institutional architecture, and have support from all the relevant institutions. The institutional framework within which Better Regulation must exert influence extends well beyond the executive centre of government, although this is the main starting point. The legislature and the judiciary, regulatory agencies and the subnational levels of government, as well as international structures (notably, for this project, the EU), also play critical roles in the development, implementation and enforcement of policies and regulations.

The parliament may initiate new primary legislation, and proposals from the executive rarely if ever become law without integrating the changes generated by parliamentary scrutiny. The judiciary may have the role of constitutional guardian, and is generally responsible for ensuring that the executive acts within its proper authority, as well as playing an important role in the interpretation and enforcement of regulations. Regulatory agencies and subnational levels of government may exercise a range of regulatory responsibilities. They may be responsible (variously) for the development of secondary regulations, issue guidance on regulations, have discretionary powers to interpret regulations, enforce regulations, as well as influencing the development of the overall policy and regulatory framework. What role should each actor have, taking into account accountability, feasibility, and balance across government? What is the best way to secure effective institutional oversight of Better Regulation policies?

The OECD's previous country reviews highlight the fact that the institutional context for implanting effective regulatory management is complex and often highly fragmented. Approaches need to be customised, as countries' institutional settings and legal systems can be very specific, ranging from systems adapted to small societies with closely knit governments that rely on trust and informality, to large federal systems that must find ways of dealing with high levels of autonomy and diversity.

Continuous training and capacity building within government, supported by adequate financial resources, contributes to the effective application of Better Regulation. Beyond the technical need for training in certain processes such as impact assessment or plain drafting, training communicates the message to administrators that this is an important issue, recognised as such by the administrative and political hierarchy. It can be seen as a measure of the political commitment to Better Regulation. It also fosters a sense of ownership for reform initiatives, and enhances co-ordination and regulatory coherence.

## Assessment and recommendations

*The establishment of the Regulatory Reform Group (RRG) 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 – finance and economic affairs – responsible for the business-related part of Better Regulation policy into the RRG 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 RRG, 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 Interior and Kingdom Relations is not only responsible for reducing burdens on citizens, professionals and inter-governmental aspects, 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 Steering Group for Better Regulation, chaired by the Prime Minister, meets every quarter and brings together the Ministry of Interior, Ministry of Justice, Ministry of Finance and Ministry of Economic Affairs. 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, 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 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, and perhaps also a stronger and mutually supportive relationship between the business and citizen burden reduction programmes. The Ministry of Foreign Affairs is not part of the group, which is at odds with the fact that it plays an important role in the management of EU regulations, and these account for a high share of the total.

*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 (Interior, Justice, and also perhaps – building on the existing interaction between the RRG and a Better Regulation co-ordinator at the Ministry of Foreign Affairs – a stronger link with that ministry). 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 OECD's report ten years ago picked up the issue, and the World Bank picked it up again in 2007 (Box 2.1).

### **Box 2.1. Recommendation and comments from the 1999 OECD report: Institutional issues**

#### **Better co-ordinate regulatory reform and regulatory quality initiatives**

There are opportunities to improve the degree of co-ordination between the various regulatory quality assurance and regulatory reform initiatives being undertaken in the Netherlands. Improved co-ordination would be particularly beneficial between RIA and consultation processes, between the Ministry of Justice' legislative quality assurance work (including the Directives on Legislation and the scrutiny of Bills process) and RIA and between RIA and programmes aimed at using regulatory alternatives.

There does not seem to be a clear relationship, or co-ordination, between the Directives on legislation, and the Ministry of Justice assessment of legislative quality, on the one hand, and the RIA process and role of the Ministry of Economic Affairs on the other. This appears to reflect the historically dominant role of the Ministry of Justice in regard to legislative policy and a consequent tendency to view legislative quality as primarily a technical legal concept, rather than as one which has a distinct, and possibly paramount, economics/public policy aspect.

Addressing this issue appears to require a role for the Ministry of Economic Affairs that is more integrated with the Ministry of Justice' work on legislative quality assessment. In addition, formulation of legislative quality guidelines covering economic and public policy aspects of quality that are distinct from (though co-ordinated with) a more streamlined set of "legal" guidelines should be considered. Here again there is a need for a strong co-operative relationship

between the two ministries. Moreover, the latter guidelines should be presented in the context of a strengthened set of RIA requirements.

**Comments from the 2007 World Bank report**

At the core of this should be consideration of lead responsibility for impact assessment with the burden reduction programme. Individual ministries would remain responsible for their own projects and for preparing impact assessments.

**Recommendation 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.**

*The need for further support for, and culture change among, implementing ministries needs to be addressed.* This is not a new issue (the OECD's 1999 report had already noted it – see Box 2.2), and not unique to the Netherlands. It was raised by several stakeholders with the OECD peer review team. ACTAL, for example, drew attention to the evidence of its attitude surveys and said that a measure of success might be when it could be disbanded (not yet). 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 at the same time this means that old habits can be rethought, as demonstrated by the inspections reform programme). 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.

**Box 2.2. Recommendation and comments from the 1999 OECD report: Culture change**

**Strengthen accountability for results within the ministries through development of measurable and public performance standards for regulatory reform.**

Capacities for central direction are not balanced by effective incentives for the ministries to change themselves, particularly given offsetting pressures from their constituencies and from the political level. In particular, the objectives of the regulatory reform programme are formulated at a high-level of generality, and transparent measures of performance for each Ministry have not been adopted. That is, objectives are strategic rather than results-oriented. Hence, accountability for results is over-centralised, whereas the skills and resources for reform are decentralised. The fact that incentives for the ministries to produce good regulation are still not very strong may be one explanation for why the regulatory habits of the administration have not changed very much.

If the scope, depth, and pace of reform is to increase, the programme should mobilise the energies of the line ministries by reforming incentive structures through development of performance standards for quality regulation, and linkage of those standards to fiscal budgeting and other credible review mechanisms.

---

**Recommendation 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.**

---

*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.<sup>1</sup> 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.*

---

**Recommendation 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).**

---

## Background

### *General institutional context*

#### *Developments in the general institutional context*

The main development has been at the local level. The Dualisation of Municipal Government Act 2002 separated the powers of municipal councils and executives – municipal executive members can no longer be members of the municipal councils. This was followed by the Dualisation of Provincial Government Act 2003 which did the same for provincial councils and executives. The executives are the administrators, while the councils set the agenda, scrutinise the administration, and represent the citizens. There is a slow but growing perception that the changes have resulted in greater council independence, as well as some concerns that bureaucracy has also increased.

The number of municipalities has steadily fallen over time – from 1 064 in 1936 to 443 today – as part of the central government’s policy to improve administrative quality and effectiveness through mergers. The size of population per municipality has also grown in consequence, also because of population growth.<sup>2</sup>

There are ongoing changes in the civil service from the reform programme aimed at making it more efficient. This has encouraged some streamlining, for example in the inspectorates responsible for enforcement.

### Box 2.3. Institutional framework for the Netherlands policy, law making and law execution process

The Kingdom of the Netherlands is a parliamentary constitutional monarchy.

#### The executive

There are thirteen ministries, each headed by a minister (sometimes two), supported by one of more state secretaries. Ministers cannot at the same time be members of the parliament. The civil service is politically neutral. Each ministry is headed by a civil servant secretary general. Policy must be adopted collectively. Policy making is based on a network of ministerial committees, ultimately reporting to the cabinet, which meets weekly. Policy and legislative proposals go to the relevant ministerial committees, after discussions at official level.

#### The legislature

The Dutch parliament has two chambers. The House of Representatives is responsible for enacting all new legislation and for approving amendments to existing legislation. The Senate also scrutinises legislation but can only accept or reject draft legislation in its entirety. The legislative process can be protracted, and it can take five or six years for a bill to become law. Bills are often amended in their passage through the parliament. There is a structure of standing, general and theme committees. Elections are based on a system of proportional representation, under which each party is allocated a number of seats in the parliament corresponding to the proportion of the overall vote won by that party. Because of the large number of political parties resulting from this system, the country is always governed by coalitions. There is currently a coalition majority in the parliament.

#### Coalition agreements

Each government works on the basis of coalition agreements (*coalitieakkoord*) which set the policy framework for the four years of the electoral cycle, and annual budget plans. Together these generate proposals for policy/legislation.

#### The judiciary

The Dutch judicial system is based on the traditions of continental Europe, with a codified law and a written Constitution. The Council of State is a form of constitutional court, advising the government on all draft bills and orders in council.

The court system consists of courts, courts of appeal, and a Supreme Court. Administrative appeals are heard by the administrative branch of the courts. The judiciary can and does interpret the law in its rulings, but cannot challenge it.

#### Regulatory agencies

There are broadly three types of regulatory agency, generally linked to a parent ministry: enforcement inspectorates; autonomous administrative bodies whose tasks generally require the strict and independent application of regulations in individual cases; and agencies for industry and the professions, with statutory powers over their members, the employer/employee Social and Economic Council being the most important.

#### Local levels of government

The Netherlands is a decentralised unitary state with three tiers of government. It is divided into twelve provinces and 443 municipalities. Each province and municipality has its own council, elected by popular vote. Their executives are chaired by provincial governors (Queen's commissioners) and mayors, who are appointed by the central government, and who also chair their council.

Provincial and municipal authorities have important implementation and enforcement (including inspection) functions, especially in physical and environmental planning, and in licensing, based on regulations laid down by central government. They have limited powers to make their own regulations (by-laws) on matters that directly affect them, but they may also make additional regulations within the framework of national regulations.

### *Developments in Better Regulation institutions*

The first main institutional home for what started out as deregulation policy in the 1980s was the Ministry of Justice, responsible (as it remains today) for legal quality, defined to include early forms of impact assessment on new regulations. With the launch of the *MDW* programme in 1994, which broadened the regulatory policy agenda by linking it to market liberalisation as well as legal quality, responsibility became shared with the Ministry of Economic Affairs. At this stage, small units in each ministry co-ordinated and managed the relevant projects.

The institutional focus broadened further from 2001, with the development of policies aimed at reducing administrative burdens, first for business and then for citizens, which drew in the Ministry of Finance and Ministry of Interior. An inter-ministerial unit for administrative burdens on business (IPAL), originally based in the Ministry of Economic Affairs, was moved after the 2003 election to the Ministry of Finance in May 2003. In 2007, IPAL merged with other relevant units in the Ministry of Economic Affairs to become today's Regulatory Reform Group (RRG). A separate project team *Projectdirectie Administratieve Lasten* (PAL) was established in 2003 in the Ministry of Interior to cover burdens on citizens. In 2007 PAL became REAL (Programme Bureaucratic Simplification) and now covers administrative burdens for citizens, professionals in the public sector and intergovernmental burdens. Also noteworthy is the establishment of ACTAL, the independent watchdog, in 2000.

**Table 2.1. Milestones in the development of Better Regulation institutions in the Netherlands**

1984-89	Ministry of Justice and Prime Minister's Office are the main focus of Better Regulation activity (expansion of Directives on Legislation related to law drafting quality issues beyond technical matters). Council of State is also involved in advising on first steps in reinforcing the quality framework.
1989-94	Ministry of Justice is given explicit responsibility for legislative policy and the General Legislative Policy Division is created. It issues legislative policies guidance paper "Legislation in Perspective" with cabinet authority, and further revises the Directives on Legislation.
1994	The <i>MDW</i> programme which broadens the regulatory policy agenda leads to a sharing of responsibility between the Ministry of Justice and the Ministry of Economic Affairs. Small units in each ministry co-ordinate and manage projects.
1995	The <i>Werkgroep voorgenomen regelgeving</i> (Working Group on proposed legislation) is established, a joint committee of the ministries of Economic Affairs, Environment and Justice.
2000	ACTAL is established as the independent review body for the programme on administrative simplification, to work on the basis of the recommendations of the <i>Slechte</i> Committee.
2003	IPAL is founded. The Inter-ministerial Unit for Administrative Burdens (IPAL).was set up in May 2003 to manage the programme for reducing administrative burdens on business, was originally located in the Ministry of Economic Affairs, but was moved to the Ministry of Finance after the 2003 election.  The Working Group on proposed legislation is renamed to <i>Gezamenlijk steunpunt voorgenomen regelgeving and Meldpunt voorgenomen regelgeving</i> (Proposed legislation desk).
2005	Ministerial Steering Group for Better Regulation – chaired by the Prime Minister – is formed, meeting on an <i>ad hoc</i> basis.
2007	The Regulatory Reform Group – a merger between IPAL of the Ministry of Finance and some units of the Ministry of Economic Affairs – is created.  PAL becomes Programme for Bureaucratic Simplification (REAL) and includes reduction of administrative burdens of professionals in the public sector and intergovernmental burdens.  Formal establishment of the Ministerial Steering Group for Better Regulation, chaired by the Prime Minister.
2007	The Inspection Council is established in order to stimulate a structural and intensive co-operation between the inspectorates of the different ministries. A main goal of this co-operation is the reduction of unnecessary burdens caused by multiple inspections  ACTAL's term of office is prolonged until 2011

Source: Dutch government

## ***Key institutional players for Better Regulation policy***

### *The executive centre of government*

#### Key ministries

The ministries of Finance, Economic Affairs, Justice and the Interior share responsibility for Better Regulation policy, each from a different angle. The Ministry of Finance and the Ministry of Economic Affairs share responsibility for co-ordinating and monitoring the business programme for regulatory burden reduction, for which they have established a shared directorate, the Regulatory Reform Group. The Ministry of Justice is responsible for legal quality, defined broadly. The Ministry of Interior and Kingdom Relations is responsible for a range of relevant cross-cutting issues including e-Government, the citizens' programme for administrative burden reduction, general co-ordination of the municipalities (including their financial oversight) and the inspectorates, for the civil service (including civil service reforms), and general relations with the parliament.<sup>3</sup>

#### The Regulatory Reform Group

The Regulatory Reform Group (*Regiegroep Regeldruk* – RRG) was established in 2007 as a successor to the Inter-ministerial Unit for Administrative Burdens (IPAL). IPAL, set up in May 2003 to manage the programme for reducing administrative burdens on business, was originally located in the Ministry of Economic Affairs, but was moved to the Ministry of Finance after the 2003 election. This move was intended to strengthen the unit's position within government and not least, to create a stronger link to the budget cycle. IPAL continued to co-operate closely with the Ministry of Economic Affairs, and in 2007 it was decided to merge IPAL and three project groups in the Ministry of Economic Affairs (responsible among other issues for the business impact assessment) into a single entity that reports simultaneously to both ministries.

The Regulatory Reform Group is jointly “owned” (staffed and financed) by the Ministry of Finance and the Ministry of Economic Affairs, and reports to their state secretaries (junior ministers). It is physically located in the Ministry. It has a staff of 40,<sup>4</sup> half of whom originate from the two ministries (Finance and Economic Affairs). The RRG is divided into teams formed around ten themes, varying in size. The themes are: measuring targets; planning and control (monitoring); ICT; international co-operation (including the EU); municipalities; interaction with the business community; advising the Council of Ministers; communication; quality of service delivery; and overall management. Most staff members belong to several teams.

The RRG covers the following main activities:

- *Day-to-day co-ordination and monitoring of the business burdens reduction programme.* The RRG has “account managers” for each ministry who interact daily with counterparts in ministries (which each have a satellite contact). They monitor the development of specific reduction measures for each ministry on proposed new legislation which is submitted to cabinet. If this is expected to generate administrative burdens, they try to intervene as quickly as possible. Account managers visit their ministries at least four times a year to review progress and results. When specific draft legislation is under development contact will be considerably more frequent.

- *Monitoring, advice and reporting at the political level.* The state secretaries for the two ministries have regular discussions with each minister, to review progress toward meeting the reduction target, opportunities and challenges for progress. Reports are then submitted to the cabinet, so that it can discuss overall progress. Full reports to the parliament are made twice a year and there are two abridged reports as well, making four reports in total each year.<sup>5</sup> The reporting structure to the parliament is linked to the reporting cycle of the budget (with key documents to the parliament in September and May). This means that the round of budget negotiations with respective ministers is preceded by a round of bilateral talks about the progress on their respective regulatory burden reduction programmes, allowing this – if necessary – to be discussed further in the budget talks.
- *Co-ordination of EU policy regarding administrative burden reduction for business.* This includes bilateral contacts with other member states and the European Commission. Since 2007 the RRG has invested heavily in the Dutch inter-ministerial framework for addressing substantial regulatory burdens for businesses arising from EU regulations. This is reflected in the revised 2008 Dutch guidelines for the preparation of the national position on new EU proposals. The RRG interacts regularly with the Ministry of Foreign Affairs co-ordinator for EU matters.
- *Development of methodology, education and training of civil servants.* This includes risk analysis of burden reduction initiatives, and *ex post* measurements of the efficiency of burden reduction initiatives. The RRG has provided training for ministries in the use of the Standard Cost Methodology (SCM). Workshops have also been organised, together with ACTAL and REAL. A standard module “regulatory impact” has been established and is currently being developed for inclusion in the general introductory training courses for civil servants.

### *Programme Regulatory and Administrative Burdens*

Programme Regulatory and Administrative Burdens (*Regeldruk en Administratieve Lasten* - REAL) was established in 2007 as a successor to the Programme Administrative Burden Reduction (PAL). PAL was set up in 2003 to manage the programme for reducing administrative burdens on citizens. The programme is located in the Ministry of the Interior and Kingdom Relations.

REAL has a staff of 18 and co-ordinates three different projects: reduction of (administrative) burdens for citizens, reduction of administrative burdens for professionals in the public sector, and the reduction of intergovernmental administrative burdens. A common approach is being used in all three projects, which includes a focus on bottlenecks and the use of typical profiles.

REAL’s activities cover similar ground to that of the RRG:

- *Day to day co-ordination and monitoring of the three burden reduction programmes.* The difference is that REAL does not have account managers for each ministry, but it does monitor proposed new legislation which is submitted to Cabinet.
- *Monitoring, advice and reporting at the political level.* REAL monitors progress towards meeting the reduction target in a similar way to the RRG. An annual report on progress is submitted to the cabinet and to the parliament.

- *Addressing administrative burdens of citizens at the EU level and exchange of knowledge and experience with other European countries.* This is not as extensively developed as the approach of the RRG, especially concerning the EU level. However, several actions have been taken to address administrative burdens for citizens at the EU level and an informal network on administrative burdens for citizens has been established.
- *Development of methodology, education and training of civil servants.* REAL is, specifically, a pioneer in studies concerning the qualitative side of administrative burdens and improvements in the quality of service delivery, via the identification of the most important irritations and bottlenecks, using the concept of trust as a vehicle to reduce burdens, and the development of profiles and role models. In addition REAL facilitates several courses for officials in areas such as mediation techniques and the development of simpler forms.

### *Co-ordination across central government*

#### Prime Minister's Office and the Ministerial Steering Group for Better Regulation

There is a relatively small Prime Minister's Office (PMO).<sup>6</sup> The PMO co-ordinates work across government on the six pillars of the coalition agreement which give high-level shape to government policy over the electoral cycle. The PMO also chairs a Ministerial Steering Group for Better Regulation, which meets every quarter. This group is supported by an officials' group drawn from the four key Better Regulation ministries (Interior, Justice, Finance, and Economic Affairs). The Steering Group started informally during the last cabinet term and has now taken more formal shape. The group monitors progress on the different aspects of the Better Regulation policy, including the programmes for the reduction of administrative burdens on business and on citizens, and the Ministry of Justice's programme to improve law making.

### *Regulatory agencies*

The fourteen national enforcement inspectorates are playing an important role, alongside the municipalities, in the current reform of enforcement policy toward a more risk-based approach. The practical roll-out of the reform programme is overseen by the Inspection Council.

### *The legislature*

The parliament holds the government closely accountable for implementation of the coalition agreements that underpin the electoral cycle. For example, the cabinet reported annually to the parliament on progress with the 2003-07 programme for public sector reform (*Andere Overheid – A Different Government*). Although there is no specific committee for Better Regulation, the parliament takes a keen interest in reports on progress, and has started several initiatives for reform. The RRG reports, through cabinet, four times a year to the parliament on progress with the policy to reduce administrative burdens for business, and the Ministry of Interior also reports regularly on its projects including the citizen programme. The parliament was instrumental in pushing for a new approach to inspections and enforcement. There are regular progress reports to the parliament on enforcement policy, including the Inspection Council's annual report. The European Affairs Committee plays an important role in the scrutiny of EU legislation.

### *The judiciary*

No special issues or developments were drawn to the team's attention in the review.<sup>7</sup> The judiciary appears to play a relatively low-key role in Better Regulation issues.

### *Local levels of government*

As in most other OECD countries with a unitary structure, municipalities have a key interface with business and citizens, via their enforcement, planning and licensing responsibilities. The provincial level is mainly relevant in this context for its role in environmental matters. There is a complex and close relationship between the local levels and the national level. Local government is independent of central government. At the same time the mayors are not elected locally, but are political appointments and so have close links with central government.

### *Other important players*

#### Advisory Board on Administrative Burdens

ACTAL (*Adviescollege Toetsing Administratieve Lasten* – Advisory Board on Administrative Burdens) is an independent regulatory review body which was originally set up in 2000 for a period of three years. It has been renewed twice, and was recently given a further lease of life until 2011. It has a board of three, and a secretariat of twelve.<sup>8</sup> It was originally set up to advise the government on the impact of proposed new regulations on business, but its remit has been steadily expanded to encompass other Better Regulation policies as they emerged. Its current mission thus also covers the citizens' programme for the reduction of administrative burdens. For the remainder of its term ACTAL will pay special attention to culture change within ministries with regard to regulatory impacts. ACTAL's annual work programme is endorsed by the Minister of Finance and the Minister of Interior and Kingdom Relations, who then submit it to the parliament.

ACTAL's current tasks are to advise the government and the parliament on:

- Administrative burdens for businesses and citizens as a result of proposed regulation.
- Programmes and measures regarding the reduction of administrative burdens for businesses and citizens as a result of existing regulation.
- Strategic issues on the subject of regulatory burden, part of which is the advising on the development and the use of the integral assessment framework in preparing policy and regulation.

It also advises local and regional governments on regulatory burdens, upon their written request.

#### The Netherlands Court of Audit

The Netherlands Court of Audit (NCA) provides *ex post* scrutiny of government actions. It investigates whether public funds have been collected and spent legitimately, efficiently and effectively. It is independent of the government and the parliament. It decides for itself what to audit, how to do so and what to publish, although it considers requests from government and the parliament. That said it considers the parliament, to which it is ultimately accountable for its own management, to be its main "customer", and

seeks to gear its work programme to meet the needs of the parliament. It publishes an annual programme of audit projects. Reports set out factual findings, and make recommendations for improvement. The NCA has carried out two audits of the programme for administrative burden reduction on business, and an audit of the transposition of EU directives. The government wants to reduce the cost of auditing (part of the proposed 25% cut in the civil service), and the NCA's response to this is that a stronger policy to address regulation inside government could release resources.

### ***Resources and training***

At the national level there are approximately 100 officials directly involved in Better Regulation, on a total of more than 100 000 (approximate figure) officials in the national public service.<sup>9</sup>

Training in Better Regulation is picked up in several ways. In 2000, the Ministry of Justice set up an Academy for Legislation, which provides “on the job” training for legal drafters, including Better Regulation. The policy academies set up by some other ministries for training in policy making also cover aspects of Better Regulation policy. The RRG provides training and support for ministry officials in the SCM methodology and burden reduction (see above). A positive recent development has been the establishment of training on regulatory management techniques, including *ex ante* impact assessment and regulatory burden management.

There is an important general link between Better Regulation and the roll out of the “Modernising Central Government Programme”, which has the objective of a smaller and more effective central government.<sup>10</sup> Culture change has some way to go as regards Better Regulation. Studies were commissioned by ACTAL and conducted in early 2005 and late 2006 by the Institute for Research on Public Expenditure (IOO), to measure the attention given to administrative burdens in ministries. The research found that there has been only marginal change in the “internalisation” by ministries of knowledge, attitude and behaviour towards administrative burdens.<sup>11</sup> There is some way to go with culture change.

## Notes

1. The fact that government ministers cannot at the same time be members of the parliament explains part of this.
2. An average of 33 744 people were resident in a municipality in 2006, almost triple the figure of 1960.
3. The ministry also mentioned “plain Dutch” in its interview with the OECD peer review team.
4. This compares with a smaller IPAL staff of the equivalent of 18 full-time positions, of which 7 were on secondment from line ministries.
5. There were two reports originally, but the parliament asked for more.
6. 497 staff, 0.4% of all national civil servants.

7. In some countries there can be issues – for example an increase in appeals, or delays in court judgements.
8. The board currently consists of Mr. Steven van Eijck, Mrs. Francine Giskes and Mr. Tjark de Lange, who between them have significant experience of public administration and politics, the business sector, and public administration related to administrative burdens for citizens.
9. Assuming EUR 100 000 per official the overall budget can be estimated at around EUR 10 million.
10. Twenty per cent reduction in staff over four years by 2011 (25% in policy departments, 5-16% in executive agencies, 5% in the tax office).
11. The reports are based on surveys of 670 and 1 460 civil servants and policy officials. Both studies achieved a high response: 79% in 2005 and 67% in 2006. These “internalisation studies” measured what civil servants know about administrative burdens (knowledge), what they think about them (attitude) and how they deal with them (behaviour). Internalisation is expressed as an unweighted average of the scores for knowledge, attitude and behaviour and amounted to 49% in 2005 and 53% in 2006. This means that the culture shift in the 18 months between the two studies improved by merely four percentage points.