Review of Denmark’s Program for Better Business Regulation
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Foreword and Introduction

This report is a brief review of the Danish government’s 2001–2010 administrative burden reduction program. The review was carried out in response to a request by the Government of Denmark (the Commerce and Companies Agency) to the World Bank Group.

The purpose is to review selected features of the Danish approach to reducing regulatory costs and risks for businesses with a particular focus on regulatory reform efforts after 2010, including targets, challenges and action. The review aims at covering institutional arrangements, methodological developments, cultural change and communication of reform.

The report has been prepared by Martin Bilberg (consultant), Simeon Djankov, Peter Ladegaard, and Stephen Rimmer of the World Bank Group. The main part of the review was carried out from October 2008 through January 2009. If not otherwise mentioned, the content of the report is built upon data collected during this time period. The review team visited Denmark several times and was provided with extensive documentation from the Danish Commerce and Companies Agency. The World Bank Group team wishes to thank Danish officials, organizational representatives, academics and consultants for their time and invaluable input provided in interviews. Furthermore, the team is grateful for comments provided to earlier versions of the report by: Professor Claudio Radaelli, University of Exeter, Professor Jørgen Grønnegård Christensen, Aarhus University, Peder Andersen, University of Copenhagen, and Frank Høgholm Pedersen, New York University.

The report is organized as follows: The executive summary (I) pulls together all major conclusions and recommendations of the report. The following five sections then focus on key requirements of any successful regulatory reform program: (II) Business Regulation Policy, (III) Measurements and Targets, (IV) Organization and Procedures, (V) Incentives for Reform, and (VI) Communication of Results. Sections I-VI focus on regulatory reform impacting directly on the private sector. The final section (VII) broadens the discussion and highlights potential benefits of further consolidating and integrating other regulatory reform efforts into a broader and coherent policy for regulatory quality and reform. Two annexes provide more details on two aspects of particular importance for the Danish regulatory reform program after 2010: Measuring broader impacts of existing regulation, and regulatory advisory bodies.
I. Summary and Recommendations

Denmark has an outstanding record on regulatory review and reform. According to the World Bank’s *Doing Business* report, Denmark ranks first in Europe and fifth in the world on the ease of doing business. Other international indicators related to investment climate and competitiveness paint a similar picture. The current regulatory reform program has an ambitious target of reducing administrative burdens on businesses by up to 25 percent. This goal is pursued further through several innovative projects which promise to be successful not only in Denmark, but also to serve as examples for other reform-minded countries.

If it ain’t broke, why fix it?

There is an understandable temptation to continue “business as usual” given the high regulatory quality and performance of Denmark. The flexible practices of the administration have often proven to provide a good basis from where to respond to new and unexpected developments. It could be argued, therefore, that there is little need for an overall revision of the current approach, apart from reactive fine tuning of the existing set-up in response to new problems and challenges as they appear. Indeed, several stakeholders interviewed during the preparation of this report have asserted that the organization of current regulatory policy is working satisfactorily. This report argues, however, that constraints in the current model as witnessed by the challenges in achieving the 25 percent reduction target, as well as a global shift in the role of regulatory quality and reform give good reason for a redefinition and reorganization of regulatory policy in Denmark, when the current program lapses in 2010.

Denmark can remain a leader in regulatory reform

Already a highly regarded frontrunner of the “Standard Cost Model (SCM)-generation,” Denmark has the potential to inspire and lead a new regulatory reform paradigm based on a target-driven, cost- and benefit-focused approach to regulatory reform, which delivers on a broader range of public policy goals, not just a reduction in administrative burdens. This can be done through a series of measures, some of which can be implemented within the current administrative and organizational set-up:

- **Policy shift.** Broaden the regulatory reform focus from administrative burdens to also systematically include other impacts on businesses, and establish a much stronger link of regulatory reform in the private sector to the achievement of other public policy goals.

- **Targets and Measurements.** Regulatory reform after 2010 should remain target-driven. New baseline measurements should be prepared on the basis of pragmatically adapted methodologies. Targets should be assigned to broader categories of regulatory impacts (not just administrative burdens) in high-priority areas selected in dialogue with the private sector. Where possible, Denmark may also experiment with net-benefit targets for a few high-priority areas with significant social and economic impacts. Measurements of administrative burdens every other year should be maintained as a monitoring device.

- **Expert and Private Sector Dialogue.** Establish an independent Regulatory Reform Council to support and advise the government in developing and monitoring regulatory policy initiatives related to businesses. Apart from providing strategic advice, the Council should, on a yearly basis, review the quality of ministries’ assessments of impacts on the business community. In addition, the government should consider establishing a formalized dialogue with businesses on regulatory reform, as seen most recently in the Netherlands. The business advisory body would be a good forum to exchange views and information, reach agreements about future reform priorities and enhance cooperation and understanding.
• **Coordination and Institutional Support.** Capacities to develop and monitor regulatory policy can be strengthened and clarified, while maintaining the benefits of ministerial autonomy and informal coordination. Under a renewed, broader and ambitious business regulatory reform policy championed by the Government’s Coordination Committee, the cross-ministerial working group of key regulatory reform ministries should be revitalized and charged with the development, implementation and monitoring of the regulatory reform program. The ministries of Finance and Economic and Business Affairs can provide the support to the working group. The role of the Commerce and Companies Agency’s expert Division for Better Business Regulation (DBBR) can be redefined to generally act as a facilitator and service provider to reforming ministries. In order to stress the increasingly important role of regulatory reform, it should be considered to place the DBBR within the department of the Ministry of Economic and Business Affairs.

• **Regulatory Impact Assessments of New Regulation.** The quality of advice to the Government and Parliament on impacts of proposed regulation could be strengthened considerably by broadening the scope of the Regulatory Impact Analysis (RIA); applying a standard, separate RIA format for business impacts; and assigning a formal vetting mechanism, possibly to the DBBR. The function would be similar to the Ministry of Finance’s sign-off on extraordinary budget appropriations (“Aktstykker”). A vetting mechanism could ensure that RIA is put more “to the front” among other guidelines and requirements policymakers must observe. The active use of RIAs could be further improved by making them publicly available before submitting draft legislation to Parliament.

• **International Dimension.** Denmark should keep up its impressive momentum on the European agenda by inserting a stronger early warning mechanism for upcoming EU regulation, by creating an overview of the level of over-implementation in Denmark, and by continuing a powerful international showcasing of Danish regulatory reform experiences.

• **Incentives.** Denmark should continue to pursue a change of culture and incentives supportive of regulatory (and other) reforms. This could include a greater use of performance contracts linked to achievement of specific regulatory reform targets; an extension of obligations for officials working with regulation to visit companies; a shift in the responsibilities of the DBBR from driver to facilitator catering more directly to regulating ministries; prizes, awards and publicity for innovative ideas and good results; and a continued strengthening of communication to Cabinet (the Coordination Committee) and Parliament. A stronger link to the budget process, as practiced in the Netherlands, could also be actively explored.

• **Communication.** Communication efforts can be significantly improved by professionalizing and exploring new channels of communication, including mass media; by implementing clear distinctions between targeted service information to businesses and political communication of reform; and by shifting from negative campaigning on burdens and bureaucracy to a more positive phraseology focusing on benefits of high quality regulation.

Further benefits and scope for improvements have been identified. Some of these, however, may be more appropriate for the medium term in part because they may have administrative and organizational implications beyond the realm of the Ministry of Economic and Business Affairs. This report recommends that Denmark moves towards a consolidated perspective on regulatory governance, including through the following measures:

• **Integrated Regulatory Reform Policy.** There is considerable scope for synergies by allowing a closer integration of the various elements of Denmark’s regulatory policy now divided between several ministries. A first step would be to prepare a white-paper to consider how initiatives directed towards businesses, citizens and public administration can be consolidated into one coherent regulatory reform policy with a strong institutional underpinning.
• **Institutional Consolidation.** In a long-term perspective (and related to the establishment of a single regulatory reform policy), it is recommended that the coordination of regulatory reform efforts in a single ministry be considered.

• **Strengthened Expert Advice and Monitoring.** The proposed independent Regulatory Reform Council could be assigned with providing advisory support to Government, while monitoring and reporting on the state of affairs in Danish regulatory governance in general. The Council could be modeled on recent Swedish, German and British experiences, where regulatory reform, including and integrating business, public sector and citizen perspectives, is regarded as a coherent policy area. The Council could also review and report on the operation of the RIA process and the quality of RIAs on a yearly basis as part of its annual report to Parliament.

• **Parliamentary Involvement.** Longer term sustainability and support for the broader regulatory reform agenda could also be pursued through a more proactive involvement of the Parliament, e.g. through an annual regulatory session similar to dedicated sessions devoted to the budget.

II. Business Regulation Policy

Focus on administrative burden has created visibility and spurred innovation

Regulatory policy in Denmark has since the 1980s focused almost exclusively on the reduction of administrative burdens. On the business side, the 25 percent burden reduction target set in 2002 has provided a strong platform for organizing reform, for monitoring progress, and for several methodological innovations based on the SCM. Other initiatives focusing more broadly on regulatory quality and benefits have been tested and launched, but so far with little policy-traction beyond the promoting ministries. Cutting red tape for businesses remains the politically most attractive approach to Better Regulation.

Post-2010 offers a new frontier to rethink regulatory policy

As the current policy ends in 2010, there is now room and time to prepare a new regulatory policy for the business sector. Denmark can remain a frontrunner in regulatory governance, and a renewed Better Business Regulation policy should address:

• how the regulatory reform focus can be broadened from administrative burdens to include other impacts of regulation, including annoyance and compliance costs, but also benefits;

• how to establish better links between the gains of regulatory reform and the delivery on other important public policy objectives;

• if and how a more proactive engagement in regulatory issues at European level can benefit Danish interests;

• how the institutional and procedural underpinning of regulatory policy in Denmark can be strengthened so that benefits of the current “networked” approach to reform can be maintained, while improving institutions and processes involved in overseeing, reporting and implementing reforms; and

• how to alter policy phraseology of regulatory review and reform policy from negative campaigning on burdens and bureaucracy towards an increasing importance of regulatory quality and safety.
III. Measurements and Targets

The 25 percent target is the strongest feature of the burden reduction program

One of the key features of the current Danish regulatory policy is the ("up to") 25 percent target for reduction of administrative burdens by 2010. The target provides the basis for ministerial action plans, monitoring and transparency of progress. Actual performance monitoring is working well and transparently. Progress is reported biannually to the Government’s Coordination Committee and an annual report is prepared for Parliament. A burden barometer displaying overall progress and the level of reductions in each ministry is available on the internet. In a user-friendly manner, the shares of eliminated administrative burdens are shown to the world.

Pursuit of the target is supported by good data and has spun off innovations

Extensive and successful use of digitalization is an important aspect that has contributed to progress towards a reduction of administrative burdens. The Danish business portal (www.virk.dk) has supported the reduction target by aiming at being the natural digital entrance to the public sector for all types of Danish companies and to provide an overview of public sector information to businesses. According to the current timetable, businesses will be able to access all state and local government business forms via the portal using single-sign-on and digital signature by 2009. Expected future developments of the portal includes a personalization towards the individual companies by making a "my virk" feature.

Compared to the original Dutch model, the Danish SCM methodology has been improved to be more precise. The use of sound empirical measurements, a central SCM-database and validation of measurements in ministries and business organizations also help ensure a good data quality.

All in all, the Danish use of the SCM has worked well. One exception, however, is the lack of distinction between administrative burdens and administrative costs. As in other countries, discussions regarding inclusion of business-as-usual costs in the measured reductions have entailed some critique from the business community. Prominent examples exist where the removal of some obligations for small businesses, allegedly will not have any effect, as most small businesses will be likely to continue to incur the administrative cost for other reasons. These kinds of examples are expected to have contributed to a discrepancy between the measured and the perceived reductions of administrative burdens.

Another point can be made towards the wording of the reduction target with its watered-down and in principle non-binding "up to" 25 percent. As media and the business community always have interpreted it as exactly 25 percent, the flexibility of the wording is not helpful, and in setting new targets this ambiguity should be avoided. On the positive side, the Danish reduction target has been clearly defined as a net target, being much more ambitious than the gross targets that have been set in other countries.

It is well known that SCM does not always adequately account for the experienced burdens on businesses. Obligations, which might not be very costly according to the SCM can be very annoying to businesses—and vice versa. As a result, the Danish government has pursued new ways to grasp annoyance burdens as a supplement to the traditional SCM. The projects described in Box 1 use qualitative approaches with a strong focus on user-centred innovation.
Identifying annoying problems is an important first step, but ensuring a framework that takes findings seriously and actually systematically eliminates unnecessary annoyances seems a great challenge. Performance would be more likely if quantifiable targets were set, and the business community was extensively involved and thereby committed to reform plans.

In assessing the Danish efforts to reduce administrative costs, it is important to note that Denmark seems to have started its reductions from a relatively low level of administrative costs on businesses. Indeed, international comparisons suggest that among the countries that have measured the total level of administrative costs, Denmark has the lowest share of administrative costs to GDP. Therefore, Denmark does not seem to have as many low hanging administrative burden fruits to pick.

The above observations suggest that setting an additional and new administrative burden target may not be cost efficient or the best way to utilize scarce reform resources. Instead it is recommended that the levels of administrative burdens are monitored on a biennial basis.

**Time to move beyond administrative burdens**

Although administrative burden reductions have shown to be a politically attractive target in many European countries, there is little evidence that administrative burdens are among the most pertinent challenges to the investment climate in Denmark.

Regulatory reform and performance is much more than cutting red tape. Reducing the number of information obligations is just one particular aspect of the Better Regulation agenda. With a dedicated administrative burden reduction program, there is risk of distorting reform efforts away from broader (and more important) regulatory impacts. Thus, a broadening of the regulatory reform focus is a key issue in revising the Danish regulatory reform policy.

Going forward, however, it is crucial continuously to have a target-driven policy with quantifiable objectives. In order to broaden reform agenda, it is therefore necessary to develop a methodology of stock review for other impacts than administrative burdens. While it may seem a difficult project, it is possible. Since the 1960s many efforts have been put into quantifying the impact of existing regulation, mostly on sector basis. Only one government—the United States’ federal government—prepares annual estimates of total compliance costs and benefits, but several other governments are considering or preparing similar approaches. During the last couple of years, the Dutch advisory committee on regulatory reform, ACTAL, has been working on methodologies to measure other types of regulatory costs than administrative burdens, and a recent report concludes that “a baseline measurement of the other costs of compliance is both possible and feasible.” Annex 1 provides a list of selected international experiences with measurement of broader impacts of existing legislation.
Setting new targets for regulatory performance

Measuring total compliance cost is expensive and time consuming, and it is not practical or desirable to measure all existing regulations. Most analyses in other countries take a selective view, studying a particular sector or looking at particular effects. For the next round of reforms in Denmark, this type of selective approach is recommended—looking at specific industries or sets of regulations that businesses say are the most burdensome. Some clusters of problems may already have been identified in previous studies and projects (e.g. burden hunter) and thus calling for new baseline measurements. That way the current focus on irritation burdens could be connected to a new and broader target for regulatory reform.

It is recommended that a future reduction target is related to direct regulatory costs, i.e. capital costs, operating costs, paperwork costs, and time costs incurred in complying with regulations. Being frontier work, net benefit quantification is not yet ready to be used for the systematic measurements that operational quantitative targets require.

While useful for the political debate, the quantification of benefits and risks should only be used on a select basis, where the debate is heated and/or where data is more readily available. Denmark, however, is encouraged to pilot net-benefit quantifications as part of a new ambitious regulatory reform policy.

With a reduction target on broader types of direct compliance costs, there is a risk that controversies related to difficult trade-offs can stall reform momentum. In order to minimize this risk, it is recommended that clear assessment criteria and reform “values” are established and politically endorsed.

Summing up, a new quantifiable target should be set using a selective approach that relies on business input, focuses on direct costs and is guided by politically endorsed assessment criteria or values. By setting a new quantifiable target to reduce the most annoying compliance costs, and monitoring performance using an expanded set of methodologies, regulatory reform in Denmark can remain an international frontrunner post 2010.

Improving assessment of new regulation is essential

As a new target is presumed to be a net target, which includes the regulatory impacts of the flow of new legislation, the above recommendations are closely linked to the establishment of an improved RIA system, which will be discussed in more detail in following sections.

The current Danish RIA manual does require responsible ministries to assess direct and indirect (short-term derived and long-term structural) economical impacts on businesses. However, while there are effective mechanisms and processes supporting assessment of administrative burdens, no such mechanisms or processes support assessments of other types of regulatory impacts, such as regulatory adjustment and compliance costs.

Building on the strengths of the set-up for administrative burdens, a broader RIA system can become the backbone for integrated assessments of new regulations, with administrative burdens being just one of several impact categories. A strong RIA system resembling the one that is recommended in this report will thus be a crucial component supporting the Danish government in reaching a new regulatory reform target.
IV. Organization and Procedures

Flexible organization has delivered results

Steady progress on the regulatory reform agenda has been supported by a highly competent and well-resourced bureaucracy, a mix of formal and informal coordination mechanisms, with the responsibility for better business regulation divided among ministries.²

The institutional and procedural underpinning of Denmark’s regulatory performance is somewhat at odds with traditional views on what constitutes good practice for how to organize regulatory policymaking processes. Denmark’s flexible approach to policymaking seems to have been an important contributor to the high quality regulation-making in the country.

The Danish institutional arrangements for the administrative burden reduction program has been continuously adapted, with the balance of responsibility for this program shifting over time from the Ministry of Finance towards the DBBR within the Danish Commerce and Companies Agency (Ministry of Economic and Business Affairs).

The set-up has to some extent delivered the expected outcomes. The letterhead from the Ministry of Finance has generated much needed attention to the program in target ministries. On the operational side, the DBBR has been responsible for SCM measurements, as well as screening of new regulation for potential administrative costs for business. The division has developed methods for systematic simplification, produced guidelines for other ministries and initiated development of innovative methodologies for reducing annoyance costs on businesses.

… but reinforcement and clarification are now needed

Nevertheless, with a current 15 percent reduction of administrative costs, reaching the 25 percent target by 2010 seems possible, but very challenging. The institutional set-up has assured technical expertise and dedication within DBBR, but the agency has been lacking the necessary influence or backing within government in order to make line ministries prioritize and properly apply this agenda. As a result, in some ministries there seems to have been an under-institutionalization of the program, which has weakened performance.

Given the increasing importance of the regulatory reform agenda, it should be considered to move the DBBR from its current place in an agency to the department of the Ministry of Economic and Business Affairs. This would provide the unit with the necessary visibility and weight that is required in order for it to carry out its tasks across government. On several occasions, the Minister of Economic and Business Affairs has emphasized that the administrative burden reduction program is a top priority and thus it would seem natural that the responsible unit had a more central position.

Furthermore, the cross-ministerial Committee for Simplification and Administrative Burden Reduction (FAL) should be revitalized and charged with the development, implementation and monitoring of the policy.¹ Although formally still active, the Committee has lost steam and senior level attention. Reporting on progress and performance could follow the current cycles of biannual reports to the Coordination Committee and yearly reports to Parliament.

The work of the working group would be based on a collaborative networked approach and consist of heads of divisions from the most heavily regulating ministries. However, the group should be anchored and provided with secretariat support from the Ministry of Finance and the Ministry of Economic and Business Affairs in order to provide the necessary muscle to attract the attention of regulating line ministries.
The role of the Division for Better Business Regulation should change from steering to facilitation

A networked cross-ministerial forum cannot, however, supply specialized expertise on SCM, new methodologies and various tools of regulatory reform, such as RIAs, e-governance, risk-based regulation and training. This calls for a redefinition of the assignments of the DBBR. So far, the agency has been the main driver of the program. Within a revised institutional set-up, the specialized unit within the department of the Ministry could act as a facilitator and service provider to reforming ministries by providing guidance, training and accreditation for officials, and other information on how to properly implement the Danish Government’s regulatory review and reform program.

…but have a stronger role in vetting the quality of impact assessments for new regulation

A special question relates to monitoring and evaluation of the quality of the business aspects of RIAs. Given the importance of this instrument, systematic review of compliance with RIA procedures seems indispensable.

While the role of a future DBRR primarily should be facilitation of expert knowledge and guidance on regulatory reform tools, the unit should also be empowered to be in charge of a formal signing-off mechanism on the quality of the business aspects of RIAs. Such mechanisms are seen in a number of other RIA systems. While the notion of such a mechanism may sound unfamiliar in a Danish setting, precedence exists for greater whole-of-government coordination, as is the case with extraordinary financial appropriations (Aktstykker), which has to be signed off by the Ministry of Finance. A similar institutional arrangement could be made for the business aspects of RIAs—with the unit signing off on the quality of the assessment. This screening and reporting arrangement should not be confined to administrative burdens, but also encompass the quality of assessments of the broader regulatory impacts and consequences for the private sector—including the costs, benefits and risks of regulatory options and proposals. The following section provides further information how the RIA process in Denmark could be strengthened and made more effective.

Despite progress, impact assessments of new regulation can be significantly improved

In recent years, the Danish RIA system has been strengthened, and responsible ministries are required to assess new regulatory proposals for economic and administrative impacts, including consequences for businesses.

Since 2005, an effective procedure has strongly increased focus on the reduction of administrative burdens on businesses. The annual law program is screened for potential substantial burdens and new regulations with expected administrative costs over 10,000 hours annually (≈ €400,000) are required to be submitted to Government’s Economic Committee for approval. Before submission, the DBBR makes thorough assessments of the expected administrative costs by use of business panels and SCM methodology.

The 10,000-hours-RIA-mechanism on administrative burdens has delivered concrete and documented results and is broadly recognized to be the most well functioning part of the Danish RIA system. In comparison, other aspects of RIA still have a long way to go.

Despite recognition among many officials that RIAs should be prepared, there is a general impression that the RIA process is not taken very seriously. Indeed, it is always a temptation for officials preparing regulatory proposals to write “no significant consequences” and, therefore, not have to prepare a proper RIA. There appears to be general resistance to have someone take the lead in preparing RIA with reference to RIA not being “tradition.” Apart from cases
with substantial administrative burdens, the lack of a strong general RIA-structure entails that assessments of regulatory impacts can easily become unfruitful tick-the-box exercises. There is currently no stand-alone format for RIAs. Instead, conclusions of ministries’ RIA efforts are included in the general comments attached to proposed primary legislation when submitted by Government to Parliament. This praxis is contrary to most other leading regulatory reform countries, where RIA is a stand-alone document and an integral part of the public consultation process.⁴

A recent international comparison of RIA systems supports the view that the Danish RIA system has scope for improvement. The study concludes that RIA in Denmark mostly is an instrument of “symbolic politics” rather than a tool for bringing empirical/economic rationality into policy formulation.⁵

Economic rationality, however, is crucial, as regulatory failures are expensive. Apart from the direct negative consequences of inefficient and hasty regulatory interventions, time and resources must be spent bringing regulation back to Government or Parliament for necessary revisions. By inserting an enhanced, but still relatively inexpensive RIA system, the potentially high societal costs of unfortunate regulations (and their revisions) can be minimized. Furthermore, a strong RIA-system can help curb the tendency of an increasing number of regulatory revisions, and thereby underpin a more stable and predictable regulatory environment, which is valued by investors.

Even though very grave regulatory failures are not common in the Danish context, business organizations and other stakeholders have regularly called for more well-considered and predictable regulation. Examples of problematic cases can be found in areas such as recycling, transportation, food control, work environment and safety.

**Coverage of RIA can be broadened and the economic analysis improved**

As Denmark has already shown with administrative burdens on businesses, it is possible to establish an effective RIA procedure if a proper institutional set-up and acknowledged methodologies are in place. The content of what is covered by RIA is naturally determining the value of the exercise. The crusade against unnecessary administrative burdens is a venerable endeavor, but one should not be led to believe that administrative burdens are the only (or most important) type of economic impacts that deserves scrupulous, systematic, and economic ex ante analysis. It is now time to broaden the systematic coverage of RIAs to include other types of compliance costs for businesses (elaborated below and in Annex 1). An expansion of the cost (and benefit) categories systematically covered by RIAs will allow policymakers to make better and more transparent trade-offs between the distributional effects of regulatory interventions in the private sector.

**One possible solution is to use RIA as an organizing principle for executive policymaking**

The RIA procedure is normally perceived merely as a tool for better regulation. However, application of RIA-thinking can have much broader impacts and relate more directly to organizational and institutional issues. Along these lines RIA can be used as an organizing principle for policymaking within the executive. While this is done or is the ambition in several countries, one of the most clear examples is the European Union (EU), in which the European Commission under the label of impact assessment (IA) has introduced a system that is not only a technocratic policy tool, but also contributes to developments in the governance of the EU legislative process. As has been pointed out by scholars, these developments include the institutionalization of evidence-based policymaking, the operationalization of governance principles in the day-to-day policymaking process and the systematic consideration of alternatives to ‘classical’ forms of regulation.
While a very rigorous RIA-system can seem very appealing to officials and policymakers, experiences with a strong formalization of RIA requirements are mixed, at best. A high degree of formalization is not likely to add much value to the Danish approach, which is far from characterized by the linear decision processes and rational decision-making assumptions underpinning traditional RIA systems.⁷

That said, however, the quality of advice to the Danish Government and Parliament on impacts of proposed regulation could be strengthened considerably through a broadening of the scope of the RIAs, by applying a standard, separate RIA format, and by assigning a vetting mechanism that will ensure that RIA is put more “to the front” among the dozens of other guidelines and requirements policymakers must observe. Furthermore, an obligation of publish full RIAs and allow for public comments before enactment could be a way to involve stakeholders on a more informed basis. These components will be elaborated below.

Start by revising guidance, and bring obligations to perform RIA more to the front

Currently, a general RIA-manual⁸ from 2005 compiles guidelines on all types of regulatory consequences, i.e. impacts on the public sector, citizens, businesses, the environment, regional development, social NGOs and gender equality.⁹ A more thorough business sector RIA manual (2002) has been provided by the Ministry of Economic and Business Affairs. The latter publication is available via the Danish online law process guide.¹⁰

The quality of the guidelines is generally high in terms of defining overall impact categories and the scope of potential impacts. However compliance with the guidelines seems to be limited for three reasons. First, only assessments of administrative burdens are considered high priority. Second, because the guidance—although available online—is well hidden among dozens of other obligations and guidelines, which policymakers have to observe in the process of preparing regulations.¹¹ And third, because more detailed yet simple methodological guidance on assessing impacts other than administrative burdens is not yet available.

This report recommends that mandatory RIA requirements should gradually be expanded to cover other categories than administrative burdens, and guidelines should be developed further to provide guidance according to a broader systematic RIA coverage. The obligation to perform RIAs should become more visible, and compliance with the guidelines should be supported by a more user-friendly interface. A more visible and interactive interface combined with a single standard RIA-template would be helpful to ease the job to regulatory policymakers.

Experience from Canada, United Kingdom, the United States, and the EU suggests that the development of a single standard template is not only possible, but also beneficial. Even though Denmark can be inspired by other countries, a single standard template must be tailored for the Danish context. The ideal format must strike the right balance between being clear and flexible. The questions asked must be clear enough, so that consistent reporting can be expected, but at the same time a certain amount of flexibility should allow for different regulatory situations. The template will also have to be designed to match the scope and coverage of the RIA system in question.¹²

A Danish single standard RIA template for broader business impacts could be developed and piloted by the Ministry of Economic and Business Affairs. This way, Denmark could test the use of a standard format as the basis for the preparation and analysis of regulatory proposals.

In revising guidance, the threshold which obligates the making of a RIA, should also be reconsidered. As it is critical that focus is not only on administrative burdens, the threshold should be different than a specific number of man-hours (at least as long as methodologies for measuring broader regulatory impacts are not properly in place).
... and charge the independent Regulatory Reform Council with reviewing quality

As has been touched upon above, general scrutiny of the quality of RIAs seems to have been a homeless assignment in Denmark. Monitoring the implementation of RIAs remains decentralized within each ministry, and (except on administrative burdens) no systematic efforts have been put into checking ministries’ compliance with RIA requirements.

A central ex ante signing-off mechanism on business impact assessments has been recommended above. However, in addition to this day-to-day vetting by an inside-government DBBR-like unit, the proposed Regulatory Reform Council (see below) could ex post review and report on the quality of the business aspects of RIAs on a yearly basis as part of their annual report to Parliament. These reviews could be carried out on a selection of RIAs from a past year, and would provide additional discipline in preparation of RIAs.

The procedure could serve as a RIA-focused supplement to the existing law surveillance procedure, which scrutinizes ex post (after 3 years) if selected existing laws fulfil the goals they were meant to serve and whether the regulatory preconditions have changed. While the surveillance procedure involves consultation with external stakeholders and relevant authorities, the Council’s ex post RIA-quality control would mainly rely on technical RIA-expertise in the Council secretariat.

Increase transparency by publishing RIAs and further empowering stakeholders

Consultation in Denmark is generally at a very high level. Government could take transparency to the next level by publishing the business sector parts of the RIAs on the internet allowing everyone interested to look into considerations and calculations. In a Danish context this would mean that a time slot should be inserted after publication of RIA on the internet allowing for outside comments before the proposal is sent to Parliament (or the agency puts the proposal on the statute book).13

A Regulatory Reform Council can support policy development and implementation

Experience from countries such as the Netherlands, United Kingdom and Germany suggests clear benefits of establishing independent bodies, which can play important advisory or watchdog roles over regulatory review and reform processes. In Denmark, however, such a body does not exist.

In order to make a strong government commitment to the regulatory reform agenda, it is recommended that an independent Regulatory Reform Council is established to support and advise the government in development and monitoring regulatory policy initiatives directed towards businesses (For a broader perspective, please see Annex 2 and section VII on Consolidation of Regulatory Reform Efforts).

The most important tasks of the Council should be to provide strategic advice on regulatory policy, to provide a strong defense mechanism if reform momentum becomes threatened, and, on a yearly basis, to review the quality of ministries’ impact assessments.

... and a Business Advisory Body could facilitate dialogue and mutual commitments

In addition, Government should consider establishing a formalized dialogue with businesses on regulatory reform, as seen most recently in the Netherlands (the so-called Wientjes Business Advisory Committee). The business advisory body would be a good forum to exchange views and information, reach agreements about future reform priorities and enhance cooperation.
The body would also allow the different Danish business organizations to air a single—and therefore clearer—voice. This of course requires a coordination of branch and organizational interests, but the Dutch experience shows that with a skilled chairman, unanimity within the body can be the order of the day.

The European perspective

According to the Danish SCM measurement, 42 percent of administrative costs on Danish businesses come from the EU. There is no reason to believe that other types of regulatory costs incurred by businesses to a lesser degree emanate from EU regulations. Therefore, working proactively at the European level is vital. Basically, there are three ways to do that:

1. **Upstream:** Proactively trying to influence policymaking at the EU level in order to generate better regulation.

2. **Downstream:** Systematically assessing the implementation of EU regulation in order to identify and choose the least burdensome option.

3. **Systemic:** Promoting new and improved approaches to regulatory reform at the EU level.

**Denmark is proactive and has a well-established regulatory EU set-up**

With regards to the *upstream* perspective, Denmark is generally doing well. Although somewhat complicated, the Danish decision-making process related to European affairs can be said to be well-established, effective and tightly managed. The highly institutionalized internal coordination system is championed by the Ministry of Foreign Affairs and involves different levels of committees. Much effort is put into building a consensual position within Denmark, as well as with other EU countries, at a very early stage of development of EU policy.

All EU proposals must be assessed with regard to impacts on administrative burdens, and line ministries send these assessments to the DBBR for checking. As is the case with national regulation, EU proposals with estimated burdens exceeding 10,000 hours annually must be presented to Government’s Economic Committee. Results from ex ante measurements of the administrative burdens can be available for negotiations in the EU, and thus, Denmark potentially can be very well prepared to influence the final result.

An online guide on the processes related to EU regulation (before, during and after negotiations) has been developed as a check list on the various process steps and a tool for ensuring safeguarding of Danish interests very early in the process. The online guide also seeks to ensure a smooth implementation after enactment, i.e. the *downstream* perspective of the flow of EU regulation. As is evident from the guidelines, the government stresses the importance of selecting an implementation option that fulfills the purpose of the law and at the same time is the least administrative burdensome to the business community. Therefore, the phase of implementation preparation is divided into steps such as identification of implementation options, establishing (and comparison of) implementation plans, and ex ante measurements.

In the European *systemic* perspective, Denmark is a very proactive player and a frontrunner in networking and community building on matters related to Better Regulation. Denmark is a founding member of the *SCM Network* (from 2003), which is an informal international methodological network, and the network of *Directors of Better Regulation*, which includes senior officials working with Better Regulation in their respective countries. Also, Denmark (along with other frontrunner countries) has played a very successful role in persuading the EU that the SCM methodology is the most promising way to estimate administrative burdens. More recently, Denmark has urged the EU to look into the Danish *Burden Hunter Technique* (see above) in order to inspire the Union to conduct a systematic project to identify and reduce
experienced annoyance costs among small and medium-sized enterprises (SMEs). In 2008, the Government of Denmark signed The Prague declaration on further international cooperation in better regulation and better business environment.

Summing up, Denmark generally has a well-functioning apparatus in dealing with the regulatory flow at the European level (both up- and downstream), and especially on the systemic level, the small nation has succeeded in having a relatively great amount of influence on the European agenda. Going forward, however, it is recommended that all three ways are explored even more intensely as a part of a redefined regulatory reform policy.

…but further investments seem promising

The importance of the performance of the European regulatory system is not likely to decrease. On the contrary, the European perspective is widely recognized to be a key issue on the future Danish regulatory reform agenda. Also, a number of challenges in the current set-up calls for action.

That EU regulation can serve as a convenient scapegoat for national politicians and ministries is not breaking news—and it is not likely to change anytime soon. However, a national regulatory reform program must be designed to do its utmost to minimize the opportunities for doing it. Line ministries should not be allowed to excuse themselves by referring to a small country’s inability to do anything about the “massive” legislation from the EU. Empirical evidence proving the contrary should be showcased to promote a more proactive and determined approach to improving the stock and flow of EU regulation.

The existing guidelines seem adequate under the current administrative burden reduction program. Instead, current challenges relate to actually following the intentions of the guidelines. For instance, early involvement of all relevant stakeholders in the upstream process appears not always to take place. The problem seems related to the issue of ownership of the process, and it calls for a clearer division of work between regulating ministries and the DBBR. While the latter has expert knowledge on the measurement of regulatory impacts and other regulatory reform tools, ministries must be made clearly responsible for involving the DBBR as soon as possible, when they discover forthcoming proposals with potentially heavy burdens. As it is extremely difficult to influence a proposal much later than the early draft and negotiation phase, a strengthened early warning mechanism should be considered. Not only communication between ministries and DBBR could be improved. Also within ministries, staff working with European affairs and staff working with Better Regulation should be encouraged to engage in closer collaboration in order to strengthen the focus on Better Regulation at the European level.

On the downstream side, Denmark is often said to have a history of over-implementation. The high Danish transposition rates of EU directives, confirm that Denmark appears to put relatively much effort into implementing EU regulation compared to other member states. It is recommended that Denmark is very conscious to avoid gold-plating (extending the scope of EU regulation), double-banking (overlapping EU and national legislation) and regulatory creep (regulatory uncertainty, e.g. leading to over-zealous enforcement). While the implementation options of the flow of new regulation seem to be assessed adequately by the above-mentioned guidelines, the stock of already implemented EU regulation could benefit from a check-up. A comparative study by the Danish Commerce and Companies Agency on differences and similarities of the implementation of selected EU directives in a number of member states focuses on the entailing administrative consequences for businesses, but does not provide a clear picture of Denmark’s relative level of over-implementation. Even though other studies suggest that over-implementation may not be as widespread as is often alleged, it is fair to say that the actual level of Danish over-implementation is not fully uncovered. Carrying out a broader review (e.g. inspired by British experience) could be helpful in this respect. Both the up- and
downstream perspective could be strengthened by inserting a vetting or sign-off mechanism related to the quality of impact assessments (as recommended above).

Under a broader regulatory policy, focus should not only be on administrative burdens and the recommendations for national regulation should also be considered in the EU context. Being a global top performer, Denmark is extremely well positioned to take an international lead in developing and credibly showcasing a new approach to regulatory policy with a potential to have systemic impact on regulatory reform at the EU level.

V. Incentives for Reform

Many officials feel that notions and considerations of better regulation are not sufficiently embedded in the day-to-day policy processes within government. Although the latest update of the “burden barometer” (up to July 2008) seems to point to the contrary, a look at the past performance charts on administrative burden reduction supports the impression that a degree of fatigue or indifference is not unheard of in some ministries. A change of culture is often called for.

The first necessary condition is to define what is meant by “notions and considerations of better regulation.” In this respect, it seems very prudent that Government has prepared a codex on good business regulation, including 10 key aspects of successful reform. However, a codex is not sufficient. It must be backed by an effective incentives structure to ensure that regulators abide by the codex. Learning points can be taken from the different levels of SCM-performance between ministries (see boxes below).

In the current system, not many strong positive or negative incentives are in place. Currently, the only related institutional motivation is that some top officials and agencies (e.g. in the Ministry of Taxation and Ministry of Economic and Business Affairs) have administrative burden reduction as part of their performance contracts. An obvious choice would be greater use of this tool for senior staff throughout relevant ministries and agencies. Such performance contracts could clarify expectations, such as the contribution of senior officials to achieving Government’s burden reductions policies and targets (e.g. including Government statements of policy intent and processes designed to reduce burdens and related requirements etc.). Where burden reduction policies and targets have not been met, senior officials could be required to explain why. Performance contracts should also stipulate the benefits and sanctions associated with compliance or non-compliance (respectively).

BOX 2

Why are Ministries Performing Differently?

Six Danish ministries are responsible for 97 percent of the total administrative burdens on businesses. Among these, performance differs greatly. The Ministry of Taxation is a top performer, while among others the Ministry of Economic and Business Affairs is behind schedule. The Ministry of Justice has even increased its administrative burdens on Danish businesses, but this ministry is the smallest of the “heavy six,” and a major project on the digitalization of property rights registration is expected to cash in the ministry’s 25 percent reduction.

Some of the differences in performance can be explained by the share of ministry regulation coming from EU. Naturally, other things being equal, it is more difficult to carry out burden reductions, when all of EU has to agree.

However, the shares of EU regulation are not expected to account for all of the differences. There are other differences related to the specific ministerial fields. Other explanations may be more related to motivation, prioritization and willpower of ministers and bureaucrats.
There are also other ways effective incentives can be created. For example, a common practice in the private sector—and increasingly in public sectors internationally—is to provide explicit recognition to officials who achieve or exceed burden reductions targets through periodic or annual awards and explicit recognition of innovation and success.

There is a host of unexploited options for establishing clearer and more effective incentives. To some extent, the DBBR has “monopolized” the regulatory reform initiative, and simply does not have the necessary muscles to pull ministries along. Shifting responsibilities from the DBBR individual regulators seems essential for reform success.

Experience from other countries such as United Kingdom also suggests that obligating civil servants to visit companies can be a tool to incentivize officials to work harder and more targeted for the cause. This has already been piloted in the burden hunter project, and businesses have welcomed the initiative. Making “bureaucrat field trips” obligatory should be seriously considered in the next round of reform.

More obligations for ministerial officials to carry out the annual SCM reviews as well as RIAs would increase knowledge and commitment. A revised version of the DBBR could advise on processes and measurement, and then sign off on the quality of assessments. This shift of responsibilities would be a better fit to the decentralized and autonomous tradition of the Danish civil service.

Having the proposed Regulatory Reform Council review and report annually on the operation of the RIA process and the quality of RIAs, could also provide strong incentives to prioritize full implementation of strengthened RIA guidelines.

International experience points to the benefits of making public reports on compliance to RIA standards. In Australia, for instance, the Office of Best Practice Regulation publishes an annual report, which details compliance with the best practice regulation requirements of the Australian Government and the Council of Australian Governments (see Annex 2). Following these lines, it seems especially powerful, if the compliance levels of the various Danish departments and agencies were published on an annual basis.

It is important to have a cross ministerial forum take the leadership role in preparing the biannual report to the government coordination committee and also the yearly reports on progress. Publication of RIA as part of supporting material for legislation and related reforms would also increase transparency, generate change and stronger incentives.

The Ministry of Taxation is a special best practice case from which important lessons can be drawn (see Box 3). The most important of these lessons is that ministries’ internal strategies must be aligned with the regulatory reform agenda. This can effectively be done by rewarding performance over the budget, and—as in the case of the Ministry of Taxation—incentivize through “preemptive” budget cuts (which however was conducted for other reasons). In the Danish context, however, clear links between performance and budgets are not considered appropriate even though the approach has proven effective in the Netherlands.

**Box 3**

**Best Practice: Ministry of Taxation**

The Danish Ministry of Taxation has been the best performer in cutting red tape for business. The success builds upon extensive digitalization and can in part be explained a considerable scope to cut administrative burdens on business generated by taxation requirements.

However, the crucial factor seems to be that there was a strong alignment between the administrative burden reduction program and intra-ministerial strategic interests. Reasons for this alignment include:

- a strong personal commitment by the minister;
- intense budgetary pressure following a drastic structural reform of national tax administration; and
- the decision to establish a new risk-based enforcement strategy.

Therefore, the externally imposed burden reduction program has fitted with internal interests and reform momentum. This success illustrates the importance of aligning internal and external incentives for reform within all ministries.
VI. Communicating Results

There is general consensus that communication between government and the private sector has not been effective. Timely communication does not appear to be routinely integrated with regulatory reforms. As a result, while businesses support the regulatory reform agenda, they are not aware of specific reforms and do not consider that existing reforms have reduced administrative burdens on regulations. Furthermore, business and other stakeholders do not have a strong sense of ownership of the regulatory reform process, which is seen as being a ‘top down’ rather than ‘bottom up’ process.

It is often an ineffective communication strategy to have ministers work as the main spokespeople for successful regulatory reforms. Ministers, regardless of how well-respected they may be, do not relate to businesses as much as other business people do. If the main audience for the regulatory reform includes businesses, entrepreneurs should be selected and used in information campaigns. This can be combined with new data from business surveys—such as 10 regulatory business transactions—to give a “personal” view of the reforms. “You gain from reforms” messages are easier to deliver if the spokesperson is also a beneficiary.

People have access to so much information that using specialized “passive” information channels are unlikely to reach them. Yet, this is what is currently being done in Danish communication on reform progress, presumably to save money. Sharing information about the benefits of the reforms, as well as publicizing the results of business surveys (Burden Hunter and 10 regulatory business transactions) on what remaining obstacles exist, would best be done through the mass media. News stories could feature entrepreneurs, present new statistics, and describe what current reforms are taking place.

There are precedents for such communication campaigns in Denmark. For instance, mass media have been in employed in promoting the citizens-portal (borger.dk). Also, the tax authorities have made use of new communication channels including sms-service and TV spots. Such initiatives should be considered in communicating regulatory reform to the business sector.

In order to do this effectively, investments must be made and more professional communications staff is needed. As part of a new communication strategy, it is recommended to feature public events where entrepreneurs are invited to talk about existing problems, as well as what improvements they see. Results from the SCM-exercise and the business surveys could be presented at these events, as soon as they become available. The media should be invited and there should always be left ample time for questions. Events should not only be organized with the business associations, but entrepreneurs should also be invited directly. Communication works both ways in such events, as they also allow busi-
nesses to explain their priorities to government. The recent launch of the Debureacratization Plan (March 2009) for reaching the 25 percent target is a good example of this. The event took place at a bus company, which has participated in the Burden Hunter project. Speeches were made by both the minister and the company, and time allowed for questions from the audience (press, organizations and businesses).

In communication, comparisons with other countries are useful. Comparisons with the regulatory burdens in other countries, especially in areas where Denmark is reforming, would catch the attention of entrepreneurs and media. They are especially good for newspaper (print) stories, where figures can be shown. Marketing studies show that people more easily remember numbers if these are associated with something in their everyday life. For example, an easy way to explain that Denmark has a better business environment than the United Kingdom is with a football score: Denmark 1:0 United Kingdom. Then the communication can continue with specifics on what has been reformed.

In some instances a communication campaign can benefit from the use of government figures with business credentials. However, it is considered a good strategy to distinguish between targeted service information to businesses and political communication of reform. While the latter can easily be interpreted as mere political campaigning, the former can provide objective information that makes life easier for the business community. For example, if a minister has run a business or is familiar with running a business through family or friends, she can more immediately relay the benefits of a reform by saying: “when I was in business, this was a big nuisance,” or “business people would often complain to me—why are we doing this? Now it is simplified.” People believe people who have dealt with similar circumstances.

The current Danish communication campaign aims at delivering service information to businesses that is targeted, segmented, sufficient and timed correctly. These objectives seems very prudent and some related tools seem especially promising, e.g. a recently launched logo/stamp (called “easy administration”), which will help improve branding of the reform program and its positive results. The logo is used for action-oriented communication to businesses that directly benefit from concrete reform initiatives. That way, businesses are expected to pay attention and have positive connotations, when seeing the logo. However, the logo initiative needs frequent reviews at the early stages of its rollout. Similar programs in other countries have been discredited by giving too many “awards” quickly and thus depreciating the value of the new brand. That said, there seems to be a great potential in careful targeting (and timing) of “easy administration”-messages.

One noteworthy aspect of the Regulatory Reform Agenda as it has developed in Europe over the last 5-10 years is the increasing focus on “negative” campaigning in which efforts are focused on “reducing burdens,” cutting costs, red tape, etc. While initially providing good leverage and headlines, the focus on “bads” may be politically less attractive over the medium and long term. A de facto deregulatory agenda also seems out-of-sync with recent global events pointing to the need for re-regulation and regulatory quality. A well-governed and regulated country, Denmark is in an excellent position to take the lead on this agenda. Defining a “positive” platform for regulatory reform focusing on benefits and values may be politically more appealing as well as consistent with the gradual shift of the global regulatory agenda. Going forward, it is recommended that communication efforts are gradually shifted from negative campaigning on reducing burdens and bureaucracy to a more positive phraseology focusing on benefits of high quality regulation.

The economic crisis that is unfolding in Europe gives unique opportunity to communicate business environment reforms as crisis response. In a recent World Bank review of anti-crisis packages, about a third of the 70 countries studied included in their packages some sort of red tape reduction measures. This is particularly relevant for the migration of services to the internet (e-government). As many of the reform initiatives in Denmark are interlinked with the e-government agenda, this can be done easily.
VII. Further Consolidation of Regulatory Reform Efforts

The above sections all deal with ways to improve the regulatory reform program for the business sector and the proposed measures can be implemented within the current administrative and organizational set-up. This section, however, takes a broader perspective and highlights the benefits of consolidating and integrating ongoing regulatory reform efforts further.

New initiatives are creating the basis for a policy shift

The burden reduction program championed by the Ministry of Economic and Business Affairs constitute the core and the most long-standing and visible component of Denmark’s regulatory policy.

However, new regulatory initiatives—imbedded in other broader reform programs—call for a coherent reconsideration of the policy area of regulatory reform in Denmark.

The most important other regulatory policy initiative is the newly established De-bureaucratization program directed towards the public sector. The program is part of the broader “Quality Reform” (launched 2007), which aims at strengthening quality of public services and ensuring an efficient use of resources. Although still maturing, the program seems promising in developing systematic ways to improve regulatory multi-level governance. Important vehicles include the creation of an independent evaluation body (KREVI) to promote cooperation between central state and local government, and the introduction of specific procedures for assessing the impact on local governments when making new regulations (VAKKS).18 The development and coordination of the program has been strongly anchored within the Ministry of Finance.

The citizen perspective of regulatory reform has also developed considerably in recent years. It has been closely associated with e-government strategies and most significantly been brought to life through a common citizens’ portal (borger.dk) launched in 2007. Other initiatives related to regulatory reform include improvement of regulatory quality through strengthening of RIA procedures and through Danish efforts to promote better regulation at the EU level.

A broader and consolidated regulatory reform policy is likely to generate synergies

So far, regulatory reform in Denmark has been fragmented into different policies according to target groups and/or embedded in other broader reform programs. Reviewed separately, the reform programs all have promising components. However, a broader and single regulatory reform policy platform is likely to create synergies and efficiency gains across the pillars.

The current regulatory reform programs all share similar principles of regulatory quality and are built on a firm creed that an improved regulatory environment will unleash significant benefits to society at large. This vision, however, is likely to drown if only voiced in different silos, instead of being articulated clearly in a single unequivocal government message.

Consolidating the area of regulatory reform by drawing up one single policy, would not only strengthen coordination among sectors, but also be likely to generate synergies from gathering expertise on various approaches and tools of regulatory reform. A single explicit policy framework would also reduce the risk connected to fragmented policies that reform champions are not prompted to investigate how initiatives in one sector affect other sectors. For instance, the quality of business regulation has impacts on citizens and the regulation inside government affects businesses etc.
As in other countries, “Better Regulation” is in competition with other policy areas for political commitment, visibility and resources. Compared to the regulatory performance, potentials and capacities in other countries, Better Regulation in Denmark is currently punching significantly below its weight, and seems on the surface to have the potential and appeal of a broader and higher ranking policy than is currently the case.

Several countries are increasingly developing more comprehensive regulatory policies emphasizing broader impacts and benefits of regulation in addition to administrative burden reduction. Interesting international experiences with a gradual shift from narrow to broader impacts and scope of the regulatory policy can be found in countries such as Germany, Sweden, and the Netherlands. At the same time, a number of other countries, e.g. Canada and Australia, which have traditionally have focused on broader impacts have complemented this perspective with additional measures focusing on administrative burdens.

The notion of a stand-alone regulatory reform policy may not sit well with the Danish political tradition in which governments traditionally package a host of cross-cutting initiatives under a broad government program such as the recent “Quality” and “Welfare” reforms. The deregulatory program “it shall be easier to be a Dane” from the 1980s demonstrates, however, that even regulatory reform initiatives can be “sexy” enough to carry big government initiatives forward. Whether future regulatory reform initiatives will be hosted within larger initiatives or as a separate government programs will obviously define the leverage and ambitions of such initiatives.

One way forward would be for the Government’s Coordination Committee to revitalize and charge the cross-ministerial working group on regulatory simplification with preparing a White Paper. The Committee’s mandate could include obligations to look at if and how existing but separate regulatory reform initiatives focusing on businesses, citizens and the public administration can be consolidated and better integrated.

Institutional consolidation should be considered

Going forward under a renewed and broadened regulatory reform policy, institutional adaptation will be required. International experiences point to the benefits of one leading driver of reform (e.g. the Ministry of Finance in the Netherlands). On the face of it, this notion does not seem sustainable in the Danish tradition of semi-autonomous and decentralized regulatory agencies.

However, under an ambitious post 2010 regulatory reform policy championed by the Government’s Coordination Committee, some degree of consolidation of coordination efforts in a single ministry seems prudent. At the same time, the most relevant regulatory ministries should remain closely involved and accountable for regulatory reform results under their portfolio, among others through clear targets and transparent reporting of achievements.

... as should the scope of a Regulatory Reform Council

In an above section, this report recommends the establishment of an independent Regulatory Reform Council to support and advise the government in developing and monitoring regulatory policy initiatives directed towards businesses. However, if Denmark were to shift more clearly towards coherent regulatory governance, the Council should be assigned with advising, supporting and monitoring regulatory reform in all sectors. The Council could be modeled on recent Swedish, German and British experiences (see Annex 2), and council board members should be appointed in accordance with their proven knowledge in the regulatory field. The independence
(sometimes of a statutory nature) of similar councils in other countries have allowed for a significant improvement in the quality and level of the debate of the regulatory reform agenda.

The work of the Council should be supported by analytically strong secretariat. Under a renewed broader regulatory policy including public sector and citizens perspectives, it should be considered if the Regulatory Reform Council (or its secretariat) could be connected to an independent body already in existence, e.g. KREVI, which already performs a number of tasks related to regulatory issues within the public sector.

Proactive involvement of Parliament would complete the (national) picture

So far the administrative burden reduction program has been a government program without much involvement of Parliament. Longer term sustainability and support for the broader regulatory reform agenda could be pursued through a more proactive involvement of the Parliament. One option was for Parliament to table an annual session with a regulatory agenda. Here, Government would present the major regulatory plans and address the trade-offs between regulatory benefits (e.g. protection of citizens or the environment) and costs (e.g. compliance costs, administrative burdens). Such a session similar to a budgetary session would increase the political attention on regulatory policy and reform. Also, it would be beneficial for reform momentum if the National Audit Office would involve itself more regularly in monitoring the performance of the regulatory reform program.
ANNEX 1:
Measuring Broader Impacts of Existing Regulation

For decades efforts have been put into developing ways to measure the impacts of the stock of existing regulation. Methodologies for measuring such impacts range from relatively simple multiplier approaches to more sophisticated methodologies assessing various types of costs (and benefits) of regulation. Selected examples are listed below, including some which have been developed to measure the flow of new regulation, but can also be consulted in developing ways to measure the impacts of existing regulation beyond administrative burdens.

- In the Netherlands, the Advisory Board on Administrative Burdens (ACTAL) has been a strong advocate of broadening measurements from administrative burdens to other types of compliance costs of existing legislation. In 2006-2007, ACTAL was responsible for carrying out a survey on the measurement of these “other compliance costs” to show the feasibility of a baseline measurement. Concluding from these pilot measurements, ACTAL wrote in a letter to the Dutch Minister of Economic Affairs that “a baseline measurement of the other costs of compliance is both possible and feasible.” In December 2008, ACTAL finalized a report on another pilot measurement on the other compliance costs of the law on building construction. This law was chosen due to its high level of complexity. Apart from a number of methodological points, the report concludes that the measuring of other compliance costs is also possible on a very complex piece of legislation.

- In the United States, the Office of Information and Regulatory Affairs (OIRA) is responsible for preparing The Report to Congress on the Costs and Benefits of Federal Regulations. This annual report provides an estimate of the total benefits and costs (including quantifiable and non quantifiable effects) of regulation and recommendations for regulatory reforms. Available at: http://www.whitehouse.gov/omb/inforeg/regpol-reports_congress.html

- The so-called regulatory multiplier approach developed by Weidenbaum and DeFina (1978) has been used in North America to estimate the total cost to the private sector of complying with government regulations. The approach suggests that for every dollar that the public sector spends to administer regulatory activity, the private sector spends $20 to comply with government regulation. During the years, the approach has been criticized, but recent research supports the notion that there is a significant relationship between government regulatory expenditures and the regulatory compliance costs imposed on business and the rest of the economy. The multiplier ratio is likely to depend on the specific national regulatory regime and does not take into account the benefits of regulations.

- With an aim of creating a coherent, systematic, and integrated information system about the impacts of regulations, Canada has in recent years put effort into establishing a project, which focuses on taking incremental steps toward building a regulatory knowledge base. In 2006, the Policy Research Initiative published working papers which propose a framework and parameters for assessing regulatory impact on innovation, productivity and businesses and recently (October 2008) a methodological overview of regulatory costing has been drawn up. The Centre of Regulatory Expertise (CORE) (established 2007) in the of the Regulatory Affairs Sector of the Treasury Board Secretariat has a mandate to provide expert advice and services to help departments build their internal capacity to develop sound, evidence based regulation, particularly in the areas of cost-benefit analysis, risk assessment and performance measurement and evaluation.

- In Australia, a range of government bodies are involved in measuring the impacts of regulations. These include the Productivity Commission, which is currently undertaking a three year regulatory performance benchmarking study across all levels of government to assist the Council of Australian Governments to implement its decision to adopt a common frame-
work for benchmarking, measuring and reporting on the regulatory burden on business. The study has been divided into two stages. The first stage (completed) has developed a range of feasible quantitative and qualitative performance indicators and reporting framework options. The current second stage will apply the preferred indicators, review their operation and assess the results. In December 2008, the first two reports of stage 2 were released. Under the heading “Performance Benchmarking of Australian Business Regulation,” these two research reports deal with quantity and quality of regulation and the cost of business registrations. Available at: http://www.pc.gov.au/projects/study/regulationbenchmarking/stage2.

• The Australian Government has also developed a Business Cost Calculator (BCC), which is an IT-based tool that uses an activity-based costing methodology to provide estimates of certain compliance cost on businesses arising from proposed new regulations. The BCC has been developed to calculate the compliance costs of regulatory proposals, but can also be used for estimating costs of existing regulations. Web-based application available at https://bcc.obpr.gov.au

• In the United Kingdom, The Better Regulation Task Force recommended in 2005 that the government should start developing a methodology for assessing the total cumulative costs of regulatory proposals. Government committed to exploring the issue, but a study published by DTI in 2007, found that accurate aggregation of all regulatory impacts is only possible if all impacts are monetized and if all interactions between different regulations are taken into account. Government accepted the conclusion, that it would not be possible to estimate the total cost of the stock of regulation. However, the better regulation agenda has gained momentum. A new Impact Assessment was introduced in 2007, and from these assessments the Better Regulation Executive can provide an indicator of the total benefit/cost ratio of new regulations. This data has been an important pillar in the British considerations regarding a move towards a new system of regulatory budgeting, which could be introduced as a means to control the total costs of regulation that is imposed in a given period and to improve the prioritization of regulatory action across Government. The considered regulatory budget focuses on the costs from new regulations, not the costs from existing regulations. However, the budget could allow for simplification of existing regulations to be off-set against the budget for new regulations.

In December 2008, the British Department for Business Enterprise and Regulatory Reform issued an invitation to tender for research that provides guidance on the different methodological approaches available for use in impact evaluations designed to assess the impact of a government intervention on the business community. The final report of the project is scheduled to be presented February 2010.

• The British HM Treasury Green Book, Appraisal and Evaluation in Central Government defines criteria for assessing and quantifying regulatory impacts of policies. Analyses of existing legislation could also be inspired by these criteria. Available at: http://www.hm-treasury.gov.uk/greenbook.
ANNEX 2: Regulatory Advisory Bodies

Experiences from a number of countries have shown advantages of establishing an independent regulatory advisory body acting as a reform facilitator and/or watchdog. As can be seen in the below selected examples, the precise institutional set-up and roles of these bodies vary from country to country.

- In the Netherlands, the Advisory Board on Administrative Burdens (ACTAL) was established as an independent advisory body in May 2000 to advise the Dutch government on red tape reduction issues. As both a watchdog and facilitator, ACTAL has been supporting the Dutch government’s own objectives to bring about reductions in the level of administrative burden on businesses and citizens. The Board has also supported a broadening of the regulatory reform agenda by developing ways to measure other types of compliance costs (see above). ACTAL has three board members, who are private citizens chosen for their proven knowledge in the field. The Board is supported by a Secretariat of thirteen people. The Secretariat consists of civil servants with backgrounds in government and the private sector.

- Recently in the Netherlands, the so-called Wientjes Business Advisory Committee has been appointed. It consists of private sector representatives and offers feedback on the Government’s regulatory reform initiatives.

- In May 2008, the Swedish Government decided to establish an external Better Regulation Council (Regelrådet). The Council issues statements on draft laws and other regulations affecting businesses and on the quality of impact assessments submitted by ministries and agencies. Regelrådet follows the better regulation agenda and provides advice and support for a cost-conscious and effective regulatory framework. The Council is established as an independent committee under the Ministry of Enterprise, Energy and Communications. It has four board members (plus four alternate members), which are assisted by a secretariat of five people. The Council must give a yearly written account of its work to the Swedish Government, which so far has granted the Council existence until the end of 2010.

- In 2005, the German Grand Coalition agreed on the establishment of a National Regulatory Control Council (Nationaler Normenkontrollrat), and by autumn 2006, the appointed Council commenced work. As an independent advisory and monitoring organ, the Council has the task of supporting the Federal Government in reducing the costs of bureaucracy caused by statutes by means of the application, monitoring and further development of a standardised measurement of the costs of bureaucracy on the basis of the SCM. The scope of the task is to help avoid both new bureaucracy (flow) and existing bureaucracy (stock) put on businesses, citizens and public administration. The Council comprises eight members, who are appointed on an honorary basis for a term of office of five years. The Council is supported by a Secretariat of seven staff.

- The United Kingdom has had a number of consecutive regulatory advisory bodies. In 1997, the Better Regulation Task Force (BRTF) was set up as an independent advisory body with a mandate “to advise government on action to ensure that regulation and its enforcement are transparent, accountable, proportionate, consistent and targeted.” The BRTF became a very influential body in relation to the British Government’s regulatory policy. In January 2006, the task force was replaced by a body called the Better Regulation Commission, which received an expanded terms of reference including the task “to advise the Government on action to reduce unnecessary regulatory and administrative burdens.” The Commission consisted of about 15 independent and voluntary members, who came from a variety of backgrounds and were recruited for their expertise in a particular area. The BRTF became the Commission to reflect that the organization had been put onto a permanent footing.
However, as of 16 January 2008, the Better Regulation Commission was disbanded and replaced by the Risk and Regulation Advisory Council (RRAC), which was constituted as a time-limited body. The aims of the RRAC were to develop a better understanding of public risk and to help foster a more considered approach to public risk and policy-making. In May 2009, the RRAC published its final report. Currently, the United Kingdom is working on establishing a new independent body, probably more similar to the Dutch ACTAL and Swedish Regelrådet.

- In Australia, the Office of Best Practice Regulation (OBPR) promotes the Australian Government’s objective of improving the effectiveness and efficiency of regulation. The OBPR is a division within the Department of Finance and Deregulation, but has independence from the Department and portfolio ministers in assessing and reporting on compliance with the best practice regulation requirements.

- In the Australian state of Victoria, the Victorian Competition and Efficiency Commission (VCEC) is the Government’s independent body advising on business regulation reform and identifying opportunities for improving Victoria’s competitive position. One of the Commission’s three core functions is to review regulatory impact statements, measurements of the administrative burden of regulation and business impact assessments of significant new legislation. It also undertakes inquiries referred to it by the Treasurer, and operates Victoria’s Competitive Neutrality Unit. The VCEC produce a comprehensive annual publication called “The Victorian Regulatory System,” which is intended to be a guide to the government entities that have substantial regulatory roles relating to business or the not-for-profit sector. The volume can help identify potential regulatory overlap and duplication as well regulatory best practice.
Notes

1. Available at www.amvab.dk
2. While the Ministry of Finance officially has a coordinating responsibility in the FAL-project organization (and the Better Regulation agenda in general), the Commerce and Companies Agency has played a crucial role in securing actual progress on better regulation for businesses.
3. The Committee for Simplification and Administrative Burden Reduction (Styregruppen for Førenkling og Administrative Lettelser (FAL)) was originally established in 2001. The mandate and composition was slightly revised in December 2006. The Committee is co-chaired by the Ministry of Finance and the Commerce and Companies Agency under the Ministry of Economic and Businesses Affairs. Other members include key regulatory ministries such as Justice; Employment; Tax; and Food Agriculture and Fisheries. The Committee meets 1-2 times per year with representation at Deputy Permanent Secretary level from some ministries, and considerably more junior representation from others. The Committee’s mandate was to collect and consolidate ministerial burden reduction action plans and to support ministries’ simplification efforts. The day-to-day work of the Committee is carried out primarily by the Commerce and Companies Agency’s Division for Better Business Regulation with some support from the Ministry of Finance.
7. Claudio Radaelli points out that there is no clear separation between “politics” and “technical preparation” in the policymaking process in Denmark (and other countries).
8. An unofficial English translation by Oliver Füg, Centre for Regulatory Governance, University of Exeter, is available at http://centres.exeter.ac.uk/crg/research/riac/documents/DanishIAGuidelines_en.pdf
9. The assessment of the relationship to EU law is considered a legal matter and not a proper part of the RIA
10. www.lovprocesguide.dk
11. A web-using official entering the Danish online laws process guide would find a website organized according to a legalistic/procedural approach to law-making. The guide is principally focusing on legal quality, to a lesser extent on economic impacts. The logic of the web-site lends itself badly to guiding visitors toward RIA requirements. The direct route to a RIA guideline takes 5 “clicks” and ends in a 35 pages PDF document. The accessibility and user-friendliness of RIA guidelines might be easily improved through a better on-line guide.
12. Several recent examples may offer inspiration. The New Zealand’s RIA template is exemplary for its brevity and precision, see http://www.treasury.govt.nz/publications/guidance/regulatory/impactanalysis (Appendix 1). The impact assessment in the European Union follows a standard format, is a self-standing document of no more than 30 pages, is written in a clear and simple language and has an executive summary no longer than 10 pages. More information at: http://ec.europa.eu/governance/impact/docs/key_docs/iag_2009_annex_en.pdf. Also the British template has gained international recognition. Can be found at http://www.berr.gov.uk/files/file44545.doc
13. Notice-and-comment procedures known from the USA and Canada could be used as inspiration.
14. Likewise, biannual lists of potentially burdensome proposals from the COREPER-agendas are presented to the Committee.
15. Available at www.euguiden.dk
16. The study (2003) is available at www.eogs.dk (In Danish)
18. These initiatives are particularly important and noteworthy because of the size of the Danish public sector and its high degree of decentralization.
19. “Other compliance costs” refer to compliance costs not being administrative burdens or financial costs like taxes and fees.