Executive summary

Economic context and drivers of Better Regulation

Finland has been one of the best performers of the OECD, with high levels of income and quality of life. The impact on the Finnish economy of the global slowdown following the 2008 financial crisis has been felt acutely, hitting Finnish exports and production disproportionately hard. Weakening competitiveness, and exposure to the hard-hit ICT and capital goods sectors, has contributed to a faster and deeper drop in GDP than in most comparable countries. At the same time, and in common with many other European countries, Finland faces the need to sustain a high standard of public services when financial resources for the public sector are under strain. The public sector is large by OECD standards. This challenging context implies, among other actions, raising productivity and efficiency, and the government has committed to reducing numbers within the public service.

Against this background, internal demand for Better Regulation has acquired momentum, which can be expected to grow further. The Better Regulation strategy document adopted in 2006, and developed since then, for the first time made an important link between Better Regulation and public policy goals. It states that innovation, productivity, competitiveness and public finances will benefit from a more effective approach to regulatory management. The Government Programme states that the Finnish government will step up its efforts to improve the conditions necessary for entrepreneurship and create a more favourable entrepreneurial environment.

There remains, however, an overall a lack of understanding as to how Better Regulation can make a difference, and until the global financial crisis, the continuing strength of the Finnish economy deflected attention from policies which could contribute to Finnish competitiveness. The mainstreaming of Better Regulation is not complete. The recession induced by the financial crisis may help to "lift" Better Regulation into a more central position, and is an opportunity for buy in. The mid-term review of the Government Strategy Document suggests that this is happening. It sets a promising framework for further mainstreaming of Better Regulation by underlining the need for effective evidence based evaluation to underpin decision making, implementation and follow up processes.

EU initiatives are a motor for Better Regulation in Finland. The EU Services Directive, for example, has encouraged a review of issues such as one-stop shops for small to medium-sized enterprises (SMEs). The recently adopted programme for reducing administrative burdens on business was encouraged by the EU programme. A significant and increasing proportion of Finnish law (perhaps up to 80% in some areas) derives from EU origin legislation.

Post crisis, it may prove easier for Finland to sustain momentum on Better Regulation policy as a key contributor to a sound economic environment and the international competitiveness of Finnish firms. The link between Better Regulation and efforts to reform the public service and sustain high-quality services could also be exploited. More effective regulatory management could bring a significant contribution to these reforms.

The public governance framework for Better Regulation

The Finnish public governance context has a number of distinctive features. There is acceptance of a strong role for the state, which is seen as the main guardian and defender of society. The government owns substantial economic assets, the public expects high standards of social, environmental and consumer protection and is ready to finance an extensive social welfare system. Finnish governance and regulatory practices are characterised by consensus building, informality, collegiality, gradualism and often corporatist attitudes. The rule of law has been an ideal in Finland's history and culture and explains a heavy reliance on laws to this day. The Finnish culture does not make a clear distinction between policy-making and law drafting. The government works through a decentralised executive, where regulatory powers are devolved to ministers, official bodies and municipalities. This has important implications for the design of overarching regulatory policies. It also has implications for policy co-ordination and coherence.

There is a growing acceptance of the fact that changes to longstanding traditions are necessary if Finland is to sustain its quality of life and competitive edge. Some important reforms in recent years underscore this evolution. Constitutional reforms have strengthened the parliamentary features of the public governance system, and have given the courts an enhanced role, to exercise judicial review of primary laws for their conformity with the constitution. Reforms to the public administration have also been taken forward. The government has progressively moved away from its former role as substantial producer and owner of services towards a framework that allows more competition. Public administration reforms have also been a major feature of the last few years. These include, notably, the Action Programme on Public Sector Productivity, to raise productivity across all ministries and their agencies by reducing numbers, led by the Finance ministry.

A "whole-of-government" approach to strategic thinking and management is also being promoted, with an enhanced role for the Prime Minister's Office (PMO) in overseeing the roll out of the policy programmes. Efforts are also being deployed to look ahead. The Government Foresight Network, an inter-ministerial network, aims to take a long term view of policy development, beyond the policies set out for the current legislative term, and in the process, promoting a more horizontal approach to policy development. Parliament's Committee for the Future is engaged in a similar exercise. Last but not least, two major reforms of subnational levels of government are underway – the ALKU project for a more effective regional state administration focused on citizen and customer needs, and the PARAS reform project for streamlining the municipalities.

Developments in Better Regulation and main findings of this review

Strategy and policies for Better Regulation

Finland's policy for Better Regulation has evolved significantly since 1996. Early reform initiatives focusing on deregulation and the technical quality of law drafting started giving way to a broader emphasis on regulatory quality and regulatory management. In 1996, the government issued a formal regulatory policy for the first time. It has since been refined and extended. Finland is one of a growing number of countries to have an explicit Better Regulation Strategy, a significant step forward from the situation recorded in the OECD's 2003 review.

Important tools and processes supporting good regulatory practice are now in place. These include longstanding processes such as the forward looking legislative plan, the *HELO* instructions on effective law drafting, the procedures for defining negotiating

strategy at the EU level, and the well established traditions for consulting and reaching consensus on key issues, as well as more recent developments such as the Government Strategy Document principles and activities for Better Regulation, e-Government initiatives, the government's integrated new Guidelines for Impact Assessment, and a consultation code.

The government's integrated new guidelines for ex ante impact assessment, bring together in one document previous fragmented guidance, and support this with training. However challenges remain. In particular, the nature of policy development/law drafting in Finland which has not yet integrated the importance of early efforts in the process to collect clear evidence and data for a robust analysis of the likely consequences (positive, negative) of a proposal. The mid-term policy review of the Government Strategy Document in February 2009 re-assessed the situation and launched new initiatives for the second part of the government term. One of these is to strengthen the impact assessment of policy measures.

EU aspects of Better Regulation policy are fundamentally strong and help to drive the domestic agenda. This is an aspect of Better Regulation for Finland that needs special emphasis and attention. A more pro-active EU stance is identified as an objective in the Government Strategy Document. Further attention needs to be paid to the way in which Finland seeks to exert influence in EU negotiations, in order to avoid some of the problems which appear in transposition.

Strong traditions of trust and consensus building continue to frame the Finnish approach, to public consultation and communication. These have helped Finland to reach consensus on how to address major policy challenges in the past. This approach does present challenges for developing a more strategic approach to policy making and to identifying what may be the best – as opposed to the least contentious – solution to regulatory or policy challenges. The system may be losing valuable inputs and the innovative views and ideas which outsiders can bring to policy making. Finland has, however, been taking a number of initiatives to broaden the approach. Timing is critical: those who wish to participate must be able to do so before a decision is well advanced.

An important gap was recently filled with the establishment of a programme for the reduction of administrative burdens on business. This new programme, which aims to reduce administrative burdens on business by 25% by 2012, is part of the efforts to address competitiveness issues. The roll out of the programme will need to be carefully monitored. It is not yet clear whether effective supporting processes and institutional structures are in place.

The Better Regulation Strategy covers a lot of ground but there are still gaps. There is no common approach to enforcement policy, with individual ministries and agencies making their own policy. Given the pressures on public spending and the efforts to increase productivity in the public sector, it makes sense for Finland to review whether enforcement and inspection processes could be made more efficient, for example by encouraging the adoption of risk based approaches, at the same time minimising burdens on companies. Municipalities appear relatively untouched by Better Regulation processes.

For now, there are no explicit programmes to address burdens on citizens or inside the administration. Such initiatives could well make sense in the Finnish context. A programme for the reduction of administrative burdens on citizens could be linked with efforts at encouraging citizens into a stronger engagement with the government in policy and regulatory development. In the same way, a programme to address burdens on public sector officials could be a very helpful adjunct to the public sector productivity programme.

Significant efforts are underway to make it easier for citizens to access services, but there does not appear to be a distinct simplification programme for their benefit.

The practical framework for applying Better Regulation processes needs strengthening. The principles set out in the Government Strategy Document are excellent. None of the current processes, however, looks likely to provide a strong enough framework in practice for addressing the regulatory stock, or the flow of new regulations, or for ensuring that all relevant stakeholders have a clear and timely opportunity to make their views heard. Some of what the 2003 OECD report had to say remains relevant: Better Regulation instructions contain few concrete criteria, and implementation of Better Regulation policies is poor.

Although Better Regulation is now part of the Government Strategy Document, it is not yet well integrated into government policy thinking. Many in the government still appear to see it as an expanded (and resource intensive) form of legal quality in law drafting, missing its real potential. Alongside the Better Regulation Strategy, the Finnish government has launched significant programmes for strengthening public governance, notably the productivity programme, and major initiatives to promote a stronger democratic basis for policy making through the engagement of citizens. These are obvious policies for "joining up" with the Better Regulation strategy. Mainstreaming also requires ongoing efforts to link Better Regulation with broader goals of public policy, such as competitiveness, innovation and public finances. There also remains an underlying culture and perception issue. Policy and law drafting are often synonymous, with a presumption that a law is needed. Better Regulation is largely seen as a "legislative" issue – primarily of interest to those involved in drafting legislation. Finland might benefit from marketing the use of the tools of Better Regulation (such as impact assessment, consultation), as policy-making tools.

Communication on the Better Regulation Strategy appears to be somewhat ad hoc and undeveloped. A notable exception is communication by the MEE of the measures to reduce administrative burdens on business. This misses the opportunity to better sell the advantages of Better Regulation to improving policy-making and service delivery process, and the contribution it can make in achieving greater efficiencies.

Ad hoc evaluations of policies need to be deployed more vigorously and systematically. As in many other countries, the approach to evaluating policies and programmes tends to be ad hoc. It also relies too much on the decisions of external bodies such as the National Audit Office to carry them out. The recent mid-term review of the GSD was a positive step in checking progress on Better Regulation tools and processes. Examples of where evaluation could be beneficial at this stage are public consultation, *ex ante* impact assessment, and the programme to reduce administrative burdens on business.

Making more explicit the linkages between e-Government and Better Regulation could help to increase awareness of Better Regulation as an important policy. Finland started on e-Government initiatives early and successfully, compared with most other European countries. It recognises the need now to address the fragmentation of approaches and develop a more joined up central strategy.

Institutional capacities for Better Regulation

Institutional capacities for Better Regulation have improved since the last OECD report, but remain quite weak. The Justice ministry, in particular, has made considerable efforts to co-ordinate, encourage and spread best practice. Still, there is some way to go. The backdrop of autonomous ministries, no clear political leadership and a dominant legal culture in the civil service has not fundamentally changed. It has proved impossible, for

now at least, to establish a central monitoring and challenge unit, and a networked approach has emerged instead.

At the same time, there is a growing awareness of weakness combined with a desire on the part of many officials for a stronger, more coherent and horizontal approach. The gap in interest appears to be mainly at the top, politicians certainly, some permanent secretaries also. Concern about the resource implications of deploying Better Regulation policies more strongly is balanced by a growing perception that more effective co-operation and sharing of best practice could achieve much, without more staff. Advancing Better Regulation is probably less an issue of inadequate resources, and more an issue of the more efficient use of available resources through shared effort.

Will the current networked approach be adequate? A cross ministry expert group, the Better Regulation Consultative Committee, set up in November 2007, represents an effort at developing a networked approach to Better Regulation management. It is too soon to say to what extent the current arrangements will be effective, but it is already clear that some further changes will be needed.

The Justice ministry cannot, in the long run, be left alone to spearhead Better Regulation. For now the Better Regulation ministerial group and official level consultation committee are both chaired by the Justice ministry. Other key institutional actors at the centre of government are the Prime Minister's Office (which as in other countries, has a strategic view of policy making and co-ordinates the Government Strategy Document), the Finance ministry (which is responsible for the public administration and performance measures, budget allocations, and co-ordination of local government), and the Economy and Employment ministry (which runs the recently established administrative burden reduction programme and promotes competitiveness). The Ministry of Economy and Employment (MEE) is promising as another option if the underlying focus is competitiveness, but may lack the leverage and influence of the first two. Finland is more effectively organised, via a strong PMO presence, for EU regulatory affairs than it is for domestic issues. Could the well-functioning co-ordination process for the EU be adapted for the national Better Regulation policy?

Effective monitoring and some "teeth" are also essential, to ensure that policies such as public consultation and ex ante impact assessment are properly applied. It is difficult to do without an officials unit to flank the ministerial and networking activity. As well as the (very small) Justice ministry resources for Better Regulation, the MEE has recently established a (slightly larger) Better Regulation unit whose functions include taking forward the administrative burden reduction programme for business. In order to make the most of limited resources and to share ownership, it makes sense to bring these two centres of activity closer together.

An external advisory board would add further weight to the institutional set up and help to challenge ministries to perform better. For now, Finland relies on external think tanks and the National Audit Office to provide a challenge function. But challenge is not their primary role, effective though they have been in helping to put Better Regulation on the map.

The Finnish parliament is quite engaged, compared with some other European countries, and this is an asset. Four committees: the Audit Committee, the Constitutional Law Committee and more broadly the Future Committee, as well as the Grand Committee for EU matters, are regularly involved in issues related to Better Regulation. The parliamentary committees in general pay careful attention to the drafting of bills and take an interest in impact assessments. This relationship needs to be nurtured.

Transparency through public consultation and communication

Finland's longstanding and broad commitment to an open democracy has traditionally been given expression by extensive consultation with established groups. Finland has a well anchored tradition of participative decision-making which includes a wide range of groups, including NGOs. Strong traditions of trust and consensus building continue to frame the Finnish approach, and have helped Finland to reach consensus on how to address major policy challenges in the past. The approach does present challenges for developing a more strategic approach to policy making and to identifying what may be the best – as opposed to the least contentious – solution to regulatory or policy challenges. Post financial crisis, the need to ensure that effective consultation is in place to identify the best way forward is all the more important.

Alongside the traditional approaches, Finland has for some time also been making use of the Internet for the dissemination of information, and to engage the general public. There is, for example, a widespread practice of posting draft legislation on the Internet. Renewed efforts are being made to expand the use of the Internet through new portals aimed at encouraging a wider participation by citizens in policy issues.

Despite these developments, some of the issues raised in the 2003 OECD report are not yet fully resolved. That report noted that consultation still favoured organised groups, that consultation requirements were not monitored and there were no sanctions, and that the consultation-impact assessment relationship remained weak.

There is now a code of consultation, but consultation requirements are not monitored and there are no sanctions. Since the 2003 OECD report, there has been significant progress with the establishment of a code of consultation in 2005. This is now being renewed and strengthened. But there continues to be a lack of monitoring or sanctions for non- compliance. For example, there are no sanctions if a consultation is poorly organised. There is a tendency to disregard – or lack awareness of- the consultation code. Also, the tradition of ministerial autonomy stands in the way of sharing best practices. Autonomous policy development work means that opportunities are lost to share good practice.

The participative system of consultation may be blocking efforts at a more inclusive approach. The system is based on a strong network of relationships between ministries and key stakeholders, works very effectively at one level, delivering agreement on policies and protecting policies from unravelling when adopted and implemented. But it may be blocking efforts at a more inclusive approach to rule making, and it loses valuable inputs and the innovative views and ideas which outsiders can bring to policy making.

Those who wish to participate must be able to do so before a decision is well advanced. It may be necessary to change from a reactive gear to a more pro-active one for citizens. It is not enough to make information available: they must be encouraged to use it. This does require culture change on a large scale. Consultation with citizens and other broad stakeholder groups will need to become a more embedded part of the daily life of public servants. Traditional approaches to consultation (such as organised hearings and written statements with established groups) will need to be complemented with alternative and broader approaches such as workshops, public meetings, and the use of web 2.0 technologies.

The relationship between public consultation and ex ante impact assessment remains weak. Consultation is carried out more with the aim of building consensus than to gather evidence and assess potential impacts of proposed new regulations. This explains in part why it is difficult to make headway with a strong *ex ante* impact assessment policy: it is not in the culture to think of regulatory development in this way.

Access by the public to regulations is transparent and clear, aided by longstanding efforts to promote e-Government. Finland stands up well in this regard compared with many other OECD countries. The principle of free access to information prevails, backed up by a number of provisions, including several primary laws, publication of laws and secondary regulations by the Ministry of Justice, and online information services.

The development of new regulations

Procedures for the development of new regulations appear to be generally well established and work smoothly, with the possible exception of forward planning. The process for forward planning of primary legislation is well structured compared with some other European countries. Forward planning of secondary regulations may need attention.

Sustaining the quality of legal drafting is an issue that appears to need continued attention. There appears to be variability in the performance of ministries and the Justice ministry has difficulty keeping up with the demands made on it as "guarantor" and checker of legal quality. An important part of the objectives for Better Regulation contained in the Government Strategy Document seeks to reinforce the processes for ensuring legal quality. This is clearly necessary.

Efforts have been made since the 2003 OECD report to strengthen the approach to ex ante impact assessment, and there is now an awareness of the need for action. Significant efforts have been engaged by the Justice ministry to raise consciousness of the importance of this process. With its integrated guidelines issued in 2007, and enhanced training, prepared and organised in co-operation with other ministries, the ministry has succeeded in generating some momentum for a change in attitudes among ministries. There is widespread awareness of the new guidelines, and a generally positive attitude to their use. The training offered has been taken up enthusiastically. This is a good start for building stronger performance.

But there remains room for considerable improvement, and the main recommendations of the 2003 OECD report continue to be relevant. The last OECD report highlighted a range of issues that needed attention including weak institutional capacities for quality assurance and support, undeveloped used of the benefit-cost principle and lack of analytical rigour, and a failure to use public consultation in support of the process. The issue remains of how to give *ex ante* impact assessment greater rigour, substance and teeth in the Finnish decision making system. Policy making and law drafting tend to be synonymous in the Finnish system, with decisions taken on a legislative text which is well advanced, rather than on a policy proposal where the options are still open (such as no action, or alternatives to regulation). At the same time, however, there is evidence of some change in attitudes.

Changing habits and promoting a new culture calls for new organisational arrangements. Will the new expert network chaired by the Justice ministry be enough? The Justice ministry can only go so far, given its limited resources and legal orientation. It also lacks authority to act as a gatekeeper. It reviews the legal and procedural aspects but not the policy substance. Effective and "joined up" impact analysis- not just collections of different assessments -demands a real co-operation between ministries and sharing of skills and competences, making best use of scarce resources, together with a system that can weigh up the substantive aspects of what is presented.

The methodological approach to developing effective impact assessments needs considerable strengthening. There is a particular need to strengthen the support for more quantitative and economic assessments. Most Finnish officials engaged in impact assessment have a legal background. Guidance and methodology remain too vague. Some

of what is required is relatively simple to put in place, for example "model" impact assessments, best practice examples and a clear template. Some aspects will need a more substantial approach, aimed at providing officials with no real experience of handling numbers a means by which they can be supported in the quantitative aspects of the work. Many other countries face a similar problem.

Public consultation is not yet an automatic part of the process. Finland has a strong tradition of consensus building, but this is not the same as active consultation on a specific proposal aimed at ascertaining likely impacts and collecting data to this end. A different mindset needs to be vigorously promoted. This is not yet evident. The guidelines define consultation as an essential part of the process but do not go much further than this. The importance of consulting early, before it is too late to alter the course of a decision, is not sufficiently emphasised. Going out to public consultation would also help to reinforce the process – external stakeholders acting as an alternative form of watchdog to encourage quality work and raise the political profile of the process. Use of the SCM for assessing administrative burdens automatically requires interactive consultation with stakeholders to gather data so this too can be a lever for change.

There are only weak links in the Finnish system between law drafting and downstream compliance and enforcement. Could systematic feedback on issues with the latter help to strengthen the system and even develop demand for more effective impact assessments? It seems that Finland could benefit from a closer relationship between drafters and those who will need to enforce regulations (as well as those who will have to comply).

So as not to overwhelm the system, and given increasing resource constraints on the Finnish public administration, Finland could benefit from introducing a threshold test. This would allow officials to prioritise efforts on proposals which are likely to have most impacts. Some countries, for example, have introduced a financial threshold to capture the more significant proposals for full analysis.

Continued efforts appear to be needed in order for alternatives to regulation to be taken seriously. There does not appear to be much change on the ground since the 2003 OECD report, which recommended that requirements to consider alternatives should be effectively enforced. It is not automatic to consider alternatives in a culture which carries the presumption that laws are the automatic solution to fixing a policy issue. This is frustrating for some external stakeholders who would like to see greater use made of alternatives. There is a need to move beyond statements of principle and to take practical actions to embed the idea of considering alternatives.

The management and rationalisation of existing regulations

Finland has strengthened its approach to simplification of the legislative stock since the 2003 OECD report. Legislative maintenance is highlighted as part of the Better Regulation Strategy. This is in contrast to some other European countries which have tended to neglect this important part of regulatory policy.

Since the 2003 OECD report, Finland has also adopted a promising national programme to reduce administrative burdens on business. The programme, which builds on previous initiatives, was launched in 2009 with a target to reduce burdens by 25% over the 2006 level by 2012, and is an important contribution to the Better Regulation Strategy. This initiative means that Finland has now caught up with other European countries and most importantly, now has a coherent and cross government approach to burden reduction which did not exist previously. Given that the cost of burdens on business has been estimated at some EUR 3.6 billion, a well run programme can be expected to make a

significant contribution to the competitiveness of Finnish enterprises. There is a serious level of drive and commitment to make it work from the Employment and Economy ministry.

It is too soon to judge a programme which has only been in place for a few months, and certain issues will need careful management. These are: the need for effective carrots and sticks on ministries; the need for an effective challenge and support function; the need for robust methodologies for identifying and tracking burdens; the need for effective communication; and the need to extend the work to subnational levels of government. Effective communication is also critical. As the early starters around Europe have found, communication on progress and results is essential if the support of key-actors such as the parliament and the business community is to be sustained. In order to be fully successful, the programme, which is currently only a national plan, also needs at some point to cover burdens arising out of other levels of government.

There is no specific programme for the reduction of burdens on citizens. A growing number of European countries have established programmes to address burdens on citizens as well as businesses. This could make particular sense in the Finnish context at this stage. It could help to give substance and focus to the efforts to encourage citizens into greater participation in the development of policies and regulations, and support for Better Regulation, if they feel that they have their "own "programme, which addresses their specific concerns. As with the business programme, setting it up would require a structure for citizens to make proposals for what should go into the programme. A strong link with the local level of government would help to capture issues around the delivery of public services and social welfare support.

Also, there is no specific programme to address administrative burdens inside government itself. This could be a useful adjunct to the public sector productivity programme. It might help with buy in to a contentious policy if the government is also seen to be engaging in efforts to streamline requirements on officials which take them away from the "front line" of public service delivery.

Compliance, enforcement, appeals

A missing link in Finland's Better Regulation Strategy is a policy addressing compliance and enforcement issues. As might be expected in a system with autonomous actors, there is no common approach to enforcement policy, with individual ministries and agencies making their own policy. Some risk-based enforcement approaches have been adopted, for example in the area of food safety. Given the pressures on public spending and the efforts to increase productivity in the public sector, it makes sense for Finland to review whether enforcement and inspection processes could be made more efficient, for example by encouraging the adoption of risk based approaches, at the same time minimising burdens on companies. Some other European countries such as the UK, Denmark and the Netherlands have made this an important part of their Better Regulation strategy.

The interface between member states and the European Union

The EU is important for Finland both in terms of stimulating efforts to improve regulatory management, and the need to cope with EU origin legislation which has to be absorbed into the system. It is an aspect of Better Regulation for Finland that needs special emphasis and attention. This is recognised by the government: a more pro active EU stance is identified as an objective in the Government Strategy Document.

Against the background of an executive consisting of highly autonomous ministries, Finland has a remarkably inclusive and co-ordinated approach to the development and agreement of its negotiating positions on EU proposals. Ministries, the parliament and other stakeholders are consulted in a process which is carefully orchestrated from the Prime Minister's Office. The 2003 OECD report had already noted that the institutional structures and processes established to co-ordinate relations with the EU on regulatory matters appear to be consistent, coherent and functioning at a high level. This review confirms the previous analysis. Why does it work effectively? The institutional framework would appear to be a key ingredient: the strong role of the PMO; a strong Cabinet Committee on EU affairs that meets weekly (and other institutional support such as the Justice ministry's EU unit); and the pro-active engagement and support of the parliament in formulating negotiating positions, which helps to identify important impacts and issues to take into account in negotiation.

There are, however, some weaknesses in Finland's approach to the development of EU legislation which compromise the effective and straightforward transposition of adopted directives later on. Influencing the development of EU directives needs to start early, before formal negotiations begin. Finland may need to strengthen its presence at the early and informal stages of policy making in Brussels, as well as later when effective negotiation can help to prune back an over detailed draft or ensure that needed flexibilities are built into the text. Finland may also need to put more effort into building alliances with like-minded member states. As negotiations within the Council evolve and amendments are proposed by the European Parliament, it is not clear whether the co-ordinated and inclusive approach to establish a negotiating position is re-engaged, or whether the responsible ministry is left to carry on alone.

The effective application and updating of impact assessment on draft EU proposals would help to secure a strong Finnish position as negotiations unfold. Responsible ministries already carry out a summary form of impact assessment on EU proposals. Improvements to this process could help to secure a more effective and durable negotiating position. If the initial impact assessment is well done, updates to take account of drafting developments would be relatively straight forward and less time consuming. The information could be used systematically to identify potential allies among other member states in negotiation. The European Commission's own impact assessments and the views of the EU Impact Assessment Board should be taken into account.

EU training and guidance for officials may not be adequate to cover all the (policy as well as legal) issues that it would be helpful to address. Finnish training on EU matters is offered to officials and appears especially strong for the judiciary. The Justice ministry has an EU unit which provides legal guidance and it has produced a legal drafter's guide to the EU. Training and guidance in some other EU countries is broad and significant (for example, a full policy as well as legal guidance document in the UK, and training in negotiating techniques in Ireland). The Justice ministry's initiative to integrate all the guidance for domestic impact assessments has been a hit. Could this approach be extended to the EU dimension?

The Finnish parliament plays a substantial role in the establishment of the Finnish position on EU matters. This is one of the strengths of the Finnish system. The considerable efforts that are put into the process by the government as well as the parliament to establish a shared position for negotiation needs to be carried through as negotiations unfold, taking account of the parliament's heavy legislative work load.

The transposition of EU directives needs attention. Transposition is left to ministries without any central guidance. The default option for transposition appears to be to

transplant an adopted directive word for word into Finnish law, which complicates the latter. Improving Finland's capacities to influence and negotiate effectively for clearer and shorter texts would help to prevent at least some of the problems. Negotiators need to focus on implementation from the outset. Finland might also review how other countries with similar cultures and legal systems approach transposition as this could reveal flexibilities that have not previously been exploited, and reduce the costs and burdens associated with transposition. Impact assessment carried out at the transposition stage could also help to identify more effective approaches.

The interface between subnational and national levels of government

There appears to be little evidence of the application of Better Regulation to this important part of the institutional landscape. Subnational levels of government play a core role in planning, and in the interface with business through other responsibilities such as building regulations, environmental regulation and waste management. This is a key missing link in Finland's Better Regulation strategy.

The reforms underway to strengthen and rationalise regional and local government management and structures are probably a necessary pre-condition for addressing Better Regulation issues at this level. Significant reforms, not yet completed, will change the Finnish local government landscape, enabling it to function more effectively and efficiently. Regional state administration is to be strengthened and given a more strategic focus, and municipalities are being encouraged to merge or join up for key services. These developments, when complete, look like providing a much sounder basis for implanting Better Regulation, as a second stage.

The reforms need to be complemented by addressing other important issues, such as the fragmentation and autonomy of ministry responsibilities for local government. Municipal affairs are overseen by a range of ministries: the Finance ministry (overall co-ordination); as well as the Environment; Transport and Communications; Employment and Economy ministries; the Education and Social Affairs ministries; and even the Justice ministry for some matters. This is not an issue so long as there is some co-ordination and exchange on the way in which each ministry goes about imposing requirements on municipalities, so as to avoid unnecessary burdens on municipal administrations and to promote a coherent approach. Two initiatives look promising in this regard and show that there is awareness of the issues. The Basic Public Services Programme, set up in 2008, aims to improve the horizontal co-operation and co-ordination between ministries, and between municipalities and ministries. It seeks to facilitate the management of local government services and their financing. Another important initiative seeks to address the issue of how central state legislation affects the municipal level. A joint task force for revising legal norms hampering the efficiency of municipal services was established by the government in June 2009.

The strong autonomy of municipalities and the decentralisation of responsibilities to this level also raise issues of co-ordination across local government itself. The review could not go into this in any depth, but this is likely to raise issues of variable treatment of the same issue across the country. In this context, the work of the Association of Finnish Local and Regional Authorities (for example, drawing up model ordinances) is important.

Key recommendations

Better Regulation strategy and policies	
1.1.	Ensure that the Justice ministry gets full support for its ongoing efforts to raise awareness of impact assessment. Take steps to address weaknesses in the current system.
1.2.	Continue the efforts at a more pro-active EU stance and consider a review of the issues related to transposition of EU legislation.
1.3.	Initiatives to broaden the scope of public consultation need to be encouraged. There is a need give real teeth to the code of consultation.
1.4.	Ensure that the business burden reduction programme is effectively monitored and evaluated.
1.5.	Consider expanding the Better Regulation strategy to cover enforcement policy. Take steps, in discussion with the subnational levels of government, to bring them into the Better Regulation programme.
1.6.	Consider the establishment of programmes for the reduction of administrative burdens on citizens and public sector officials.
1.7.	Take steps, systematically, to review the weaknesses of current processes and how they can be strengthened and enforced.
1.8.	Monitor the efforts to give Better Regulation a sharper profile in government policy making.
1.9.	Consider how Better Regulation can be more effectively promoted, so that it does not come across as a legalistic activity.
1.10.	Establish a clear communication strategy using different tools and aimed at both internal and external stakeholders (newsletters, annual report, presentations etc) taking inspiration from countries such as the Netherlands which have done this. Ensure that communications on broader government strategy and related programmes such as the productivity programme are used to convey the Better Regulation messages.
1.11.	Establish a clear policy to evaluate progress, strengths and weaknesses of key Better Regulation policies as they unfold.

Institutional capacities for Better Regulation	
2.1.	An early evaluation of the effectiveness of the current networked approach in strengthening Better Regulation in key dimensions such as public consultation and *ex ante* impact assessment is essential. Use the evaluation results to take the institutional structure a step further forward.
2.2.	Consider whether the Prime Minister's Office could play a stronger role by chairing the Better Regulation ministerial committee. If this is difficult, a rotation of the chairmanship over time across the core ministries could help to spread ownership and exert greater leverage than is currently possible via the Justice ministry. A minister to act as political champion is essential at this stage in Finland, and this task would automatically devolve to the chair.
2.3.	Take action to develop a closer relationship between the Justice and MEE Better Regulation units. If a merger is not appropriate, consider (as some other countries have done) whether there could be shared staff or activities, collocated offices, a rotating leadership, or a combination of these. In any event, take steps to connect individual Better Regulation units and other relevant units such as those attached to Permanent Secretaries, to the central structure.
2.4.	Consider establishing an advisory board independent of the government and of political cycles, to monitor, advise and challenge on Better Regulation progress, with particular reference to key issues such as *ex ante* impact assessment and the administrative burden reduction programme.

Transparency through public consultation and communication	
3.1.	Continue the efforts to encourage a wider range of stakeholders into the consultative process, including pro-active (not just reactive) processes to engage citizens. Ensure that the opportunities made available to do so are timely, so that comments can have a real influence on outcomes.
3.2.	Back up the code of consultation with a system that will put real pressure on ministries to comply.
3.3.	Identify and implement a process whereby best consultation practices among ministries can be identified and publicised within the government.

Development of new regulations	
4.1.	Arrange an external evaluation of the network approach to *ex ante* impact assessment within the coming year. If it fails, a more effective approach should be developed, drawing inspiration from the institutional framework that supports the management of EU affairs, or returning to the proposal of a central co-ordinating unit. A further idea that has proved effective in some other European countries is to establish an external watchdog, to add pressure for change (the UK provides a good example).
4.2.	Review thoroughly the current support structure for officials carrying out impact assessments, with a view to strengthening it through a range of actions aimed at facilitating the task and raising standards. Consider whether economic research institutes could be used to help fill the gap between the legally dominated civil service culture and the need for a more economic approach.
4.3.	Take steps to strengthen the requirement for early and timely public consultation as part of the *ex ante* imp act assessment process, and ensure that effective guidance and best practice examples are in place on how to do this.
4.4.	Require an *ex post* evaluation of regulations after they have adopted, to check real outcomes.
4.5.	Introduce a threshold test aimed at capturing the more important policy and regulatory proposals for a full impact analysis.
4.6.	Establish and implement an action plan to promote the use of alternatives. Some of the recommendations of the 2003 OECD report remain valid in this context, such as documentation of examples, special training and progress reports. Reinforce the requirement to consider alternatives (including no action) at an early stage in the impact assessment process.

The management and rationalisation of existing regulations	
5.1.	Arrange for an early evaluation of the administrative burden reduction programme to ensure that it is on track and that supporting structures are functioning adequately to secure success. Make sure that each participating ministry has a net target to meet as its contribution to the overall target. Consider whether other carrots and sticks for good performance should be put in place. Make sure that the business community has a full opportunity to contribute, and consider the establishment of sector or ministry specific structures for this. Develop and implement a reporting and communication strategy. Finally, make plans for the programme to be extended to the local levels of government.

5.2.	Consider setting up a programme for the reduction of administrative burdens on citizens, drawing on the experiences of other European countries. Link this to efforts aimed at encouraging citizens into a stronger engagement with the government in policy and regulatory development.
5.3.	Consider whether it would be useful to make focused efforts, as part of the public sector productivity programme, at reducing administrative burdens on officials.

Compliance, enforcement, appeals	
6.1.	Consider carrying out a review of the approach to inspections and enforcement, to identify and share best practices across ministries and agencies, and to highlight the scope for adopting the most efficient approaches.

The interface between member states and the European Union	
7.1.	Consider whether it is possible to transplant the successful ingredients of EU management in order to strengthen domestic Better Regulation management (for example, strong central co-ordination by the PMO).
7.2.	Improve capacities to influence the development of EU legislation: with the European Commission (at all levels) before proposals are published; and with like-minded member states (at all levels) to build alliances on key issues. Take the initiative in developing alliances. Ensure that back home the negotiating position is collectively reviewed and refreshed regularly to take account of developments. Do not leave the lead ministry alone in the process. Check that the officials carrying out key negotiations have the capacities (and if necessary seniority) to negotiate effectively.
7.3.	The Prime Minister's Office should review the current process for carrying out impact assessments on EU drafts with a view to strengthening it, particularly as regards the early consultation of the widest range of stakeholders, strengthening the analysis of potential impacts, and ensuring that updates are carried out when there are significant changes in the development of the draft in Brussels. Target priority legislation, where Finnish interests are most exposed, for full treatment of this kind. Ensure that the results are used in the development and update of the briefs used by Finnish negotiators.
7.4.	Review the current training and guidance offered to officials on EU matters with a view to broadening and strengthening this. Ensure that policy issues and negotiating techniques are covered as well as legal aspects.

7.5.	Review the arrangements for ensuring that the parliament is kept in touch with negotiating developments, based on priority dossiers, so as to avoid overload of the system.
7.6.	Ensure that negotiation briefs include issues that will be important for implementation later on, and if possible that negotiators are in direct touch with colleagues who will be involved in implementation. Review the approaches taken to transposition by like-minded member states. Ensure that impact assessment and as part of this, consultation of key stakeholders is carried out to inform transposition of significant directives. Monitor progress.

The interface between subnational and national levels of government	
8.1.	Review the scope for developing a Better Regulation strategy for the subnational levels of government. Review the co-ordination mechanisms to support dialogue between responsible ministries, and between the latter and municipalities. Encourage the municipalities to review what they can do to promote Better Regulation practices in their own activities. Consider whether the initiatives of other countries facing similar issues could be adapted to the Finnish context. For example, the UK's Local Better Regulation Office which provides a bridge between the central and local governments.

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