

More Effective Regulations within the EU



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SUMMARY

In the present report, the Board of Swedish Industry and Commerce for Better Regulation (NNR) and its members present 26 priority proposals for simplifications and improvements at EU level. These proposals are important for the growth of Swedish business, and concentrate on removing or mitigating obstacles to growth. As such, the proposals will also be highly significant to companies across Europe.

Of the 26 proposals, 14 are Swedish and come from NNR's members, while the remaining 12 come from the European advocacy organisation BUSINESSEUROPE and are supported by NNR and its members. Were the proposals to be implemented, it is assessed that all 14 submitted by members of NNR would lower costs for companies, and ten would save time for companies and reduce their level of uncertainty. It is further assessed that six of the proposals, if implemented, would increase companies' willingness to invest. Most of the proposals are within the areas of value-added tax (VAT), the environment and agriculture.

In the report, NNR also presents a number of recommendations for the continuing work on regulatory improvement in the EU at system level, among other things that regulators should follow the OECD Recommendation of the Council on Regulatory Policy and Governance, and that the EU should introduce a scoreboard so as to be able to follow the legislative process and, by extension, also avoid gold-plating. Moreover, the regulatory burden on companies should be reduced in the areas that companies care about.

NNR and its members consider competitiveness, predictability, transparency, proportionality and effectiveness, i.e. achieving the objective of the legislation at the lowest possible cost, to be key overall principles that regulators should take into account.

In 2014 and for the fifth consecutive time, NNR engaged the polling company SKOP to question Swedish companies regarding regulations and aspects linked to how rules and regulations impact companies, including outlook for growth.

The 2014 survey shows that the EU-level regulations that companies perceive as the biggest single obstacle to growth are those in the area of public procurement, followed by VAT and then industry-specific regulations. Irrespective of business size, it is the regulations on public procurement that are perceived as the biggest single obstacle to growth at EU level. The smallest companies, with one to nine employees, assign VAT regulations significantly higher priority than companies with ten or more employees.

In total, 65 per cent of the companies that have experience of, or an opinion on, how Sweden implements EU regulations consider that Sweden implements such regulations more assiduously than other EU countries. This is an increase of 12 percentage points compared with 2012, when 53 per cent of companies expressed this

view. Irrespective of business size, a large majority considers that Sweden implements regulations more assiduously than other countries. Business owner focus groups involved in the project specifically identified environmental standards as an area where Sweden sets higher requirements.

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1. INTRODUCTION AND BACKGROUND

The EU is of great importance to Swedish companies. For example, Sweden's exportation of goods to countries covered by the EU's single market represents over 20 per cent of the country's GDP. The coming into being of the single market saw national laws and regulations replaced by common European legislation, removing thousands of barriers to trade – both legal and administrative in nature – as a result. For companies, this meant an expansion of the domestic market, which now comprises 500 million consumers¹. In line with EU expansion and increasing harmonisation among the Member States, the extent of the body of European legislation – the *acquis communautaire* – has also become significant. The single market is, for example, subject to around 3,000 directives and regulations².

The issue of amending and improving regulations governing companies at national and European level is now often prioritised on the political agenda in connection with business climate-related discussions. The formulation of various regulations has received increasing attention over time both in Sweden and the EU. There are probably many reasons for this increased focus, but one key explanation is increased globalisation, which has exposed bodies of regulations in various countries to competition from the outside world. Individual business owners and business organisations frequently highlight the fact that various aspects resulting from regulations are considered to be cost drivers or to have a negative impact on conditions for growth. Companies' competitiveness is influenced by certain fundamentals such as regulatory costs, and supply and demand in the market. Another explanation may be the sometimes significant disparities in different countries' application of and additions to the *acquis communautaire* adopted at European level (known as gold-plating), which means that companies have to contend with several different sets of regulations and thus different requirements to be able to sell goods and services in different EU countries.

Regulatory simplification and improvement have attracted increasing attention at European level in recent years, both from the various institutions and from the Member States themselves. A selection of the key aspects of efforts within the EU is presented below.

It is primarily the European Commission that has been the driving force in the regulatory improvement work. Examples of this include the Commission's previous target of reducing administrative costs of EU legislation by 25 per cent by 2012, the appointment of the high-level group (2007) that functioned as an advisory body to the Commission on regulatory simplification issues, and the Regulatory Fitness and Performance Programme (the REFIT programme).

¹ 20 years of the European Single Market, EU Commission, 2012

² EUs inre marknad- Segrar och utmaningar [The EU's internal market – Victories and challenges], the Confederation of Swedish Enterprise, 2014

REFIT entails reviewing the entire *acquis communautaire* with the aim of simplifying existing regulations, but may also involve withdrawing current proposals for regulations. The simplification work concentrates on the 'Top 10 consultation' identified by small and medium-sized enterprises, such as VAT, working environment, the REACH regulation and public procurement. In addition, the European Commission shall subsequently carry out an evaluation of the legislation.

Proposals for new or amended regulations must henceforth be accompanied by an impact analysis, which, among other things, describes the benefit of the proposal, quantitative effects, effects on competition, and gold-plating. The Commission has previously established an internal Impact Assessment Board under the Secretariat-General. This is intended to scrutinise and comment on the impact analyses that the Commission's various directorates are required to carry out when drawing up proposals for new Community legislation.

A scoreboard shall be set up by the EU Commission, showing new or amended requirements added to the regulatory proposals submitted by the Commission. This applies to new or amended requirements from the Council of Ministers, the European Parliament and the individual Member States. The amendments must be reported on an annual basis, starting in 2014.

The European Parliament has also allocated special funding that its committees can use to calculate the (new) effects of a regulatory proposal after the Parliament has proposed additions and amendments to the Commission's proposal.

The simplification and improvement work under way within the EU is important and should continue at full strength, as it is of great significance to Swedish companies and their competitiveness. NNR believes it is important, in this process, to focus on the issues and areas that are of greatest importance to companies, and for the solutions presented to be effective, such that the benefit of the proposal exceeds the cost. This will foster growth. In the present report NNR collates its own and its members' most important proposals for simplification and improvement at EU level, which can be used as tools by EU institutions, the Swedish government and business organisations in the EU in their continuing work for a more effective and more competitive Europe, as well as in implementing the Recommendation of the OECD Council on Regulatory Policy and Governance.

1.1 NNR'S PROJECT 'MORE EFFECTIVE REGULATIONS FOCUSING ON OBSTACLES TO GROWTH'

In December 2013 the governing body of NNR decided that it would, with the help of its members, draw up and prioritise concrete simplification and improvement proposals at national and EU level that can remove or mitigate obstacles to company growth.

Proposals shall be submitted to the relevant decision-makers and representatives in the period 2014–2015 in the form of two reports: one containing proposals at national level and one at EU level (the present report). The reports shall also present the results of a company survey on the obstacles to growth perceived by companies with at least one employee. Also to be included are comments on problems and improvements concerning regulations that have emerged in qualitative discussions with two business owner focus groups linked to the project. Results from the survey and the business owner focus groups are divided into a national and EU component, the latter of which is reported in the present document.

1.2 OUTLINE

Chapter 2 sets out the results of the company survey on obstacles to growth with respect to EU regulations. A few examples of and views on regulatory simplification and problems with regulations from the two business owner focus groups are also included. Chapter 3 sets out key principles for issuing regulations at EU level and carrying out impact analyses. This chapter also contains recommendations and clear-cut proposals to the Commission, the European Parliament and the Council of Ministers for the continuing work on regulatory simplification and improvement (Smart Regulation Programme). Chapter 4 presents priority proposals for regulatory simplification/ improvement in various areas made by members of NNR and the proposals adopted via the European advocacy organisation BUSINESSEUROPE.

2. COMPANY SURVEY 2014 – OBSTACLES TO GROWTH

Over five years, NNR has engaged the polling company SKOP to ask a set of questions that, in a broad sense, attempt to capture a number of aspects concerning how companies view various regulations and whether they have perceived any change over time. NNR conducted a similar survey in 2014, in which certain questions were unchanged from previous years, while others were added or removed compared with earlier surveys. This year's survey had a response rate of around 70 per cent and, in common with previous years, SKOP used a stratified sample so the responses could be broken down by company size and the results could be considered representative of all the businesses in Sweden with at least one employee. Questions in the survey that related to or had a bearing on regulations from the EU are reported in this chapter, together with some comments and conclusions from the discussions concerning the EU in the business owner focus groups.

2.1 IMPLEMENTATION OF THE SURVEY AND METHODOLOGY

Population

Swedish private companies in all branches with at least one employee.

Sampling

A non-proportional stratified sample was taken from Statistics Sweden's Business Register. Samples of equal size were taken in six strata: 1–4, 5–9, 10–19, 20–49, 50–99 and 100 or more employees. The sample consisted of companies in all sectors of industry and commerce except public administration, defence, mandatory social security insurance or sector unknown. It was limited to companies with legal form code 21–49 or 92–93. The manager of each company was interviewed.

Data collection method

The survey was conducted by telephone. All interviews were carried out from SKOP's interview centre in Stockholm.

Data collection period

Telephone interviews were conducted between 25 March and 3 April 2014.

Response rate and dropout

The sampling process used by tele-SKOP involves a named company and a specific employee being selected.

A total of 608 persons from the selected companies responded, giving a response rate of 70.2 per cent. The dropout was 29.8 per cent, comprising companies/managers who did not wish to participate in the survey.

Weighting

The results are representative of Swedish private companies with at least one employee. The various strata in the sample have been given a weighting in the results corresponding to their share of the total number of Swedish private companies.

2.2 RESULTS OF THE COMPANY SURVEY 2014

2.2.1 Regulations amended during the last year

SKOP asked: Do you think it has become simpler or more complicated for you and your company to follow government regulations compared with a year ago?

Five per cent simpler – 15 per cent more complicated

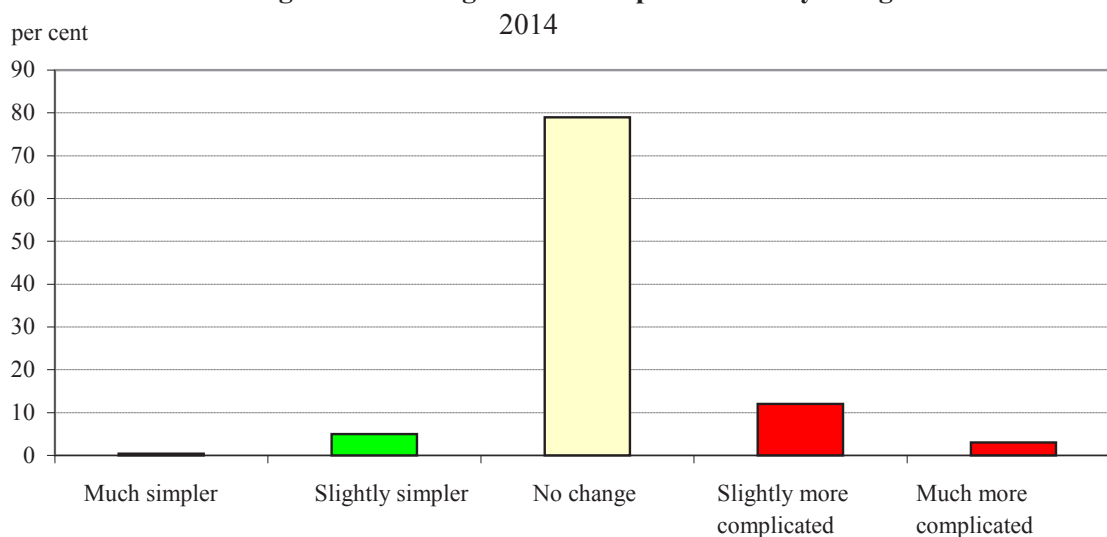
More companies/managers consider it has become more complicated (15 per cent) to follow government regulations compared with a year ago than simpler (five per cent).

SKOP has asked the same question every year since 2009. A comparison with SKOP's previous surveys shows that in recent years there has been a reduction in the share of companies/managers who consider it has become easier to follow government regulations.

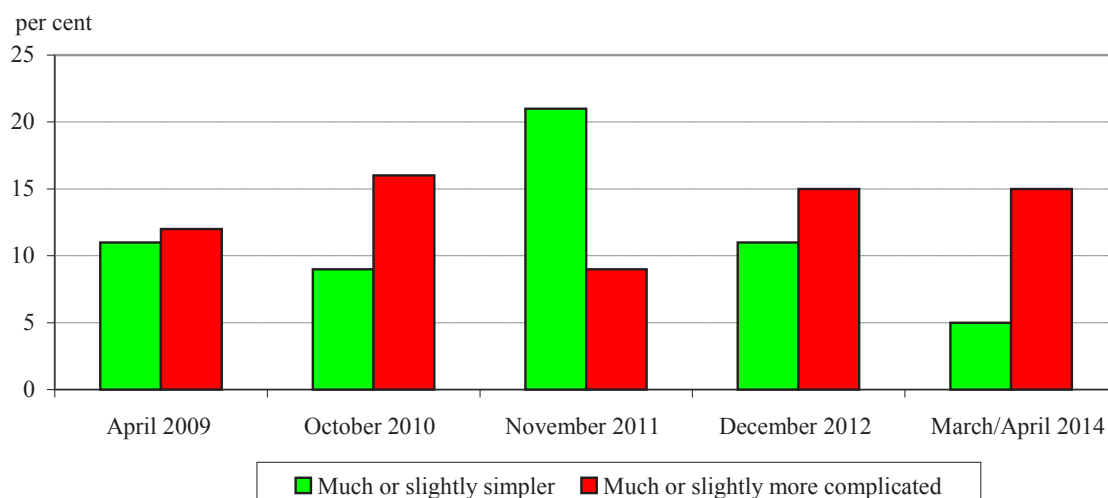
The share who considers it has become simpler has gradually fallen from 21 per cent in November 2011 via 11 per cent in December 2012 to five per cent now.

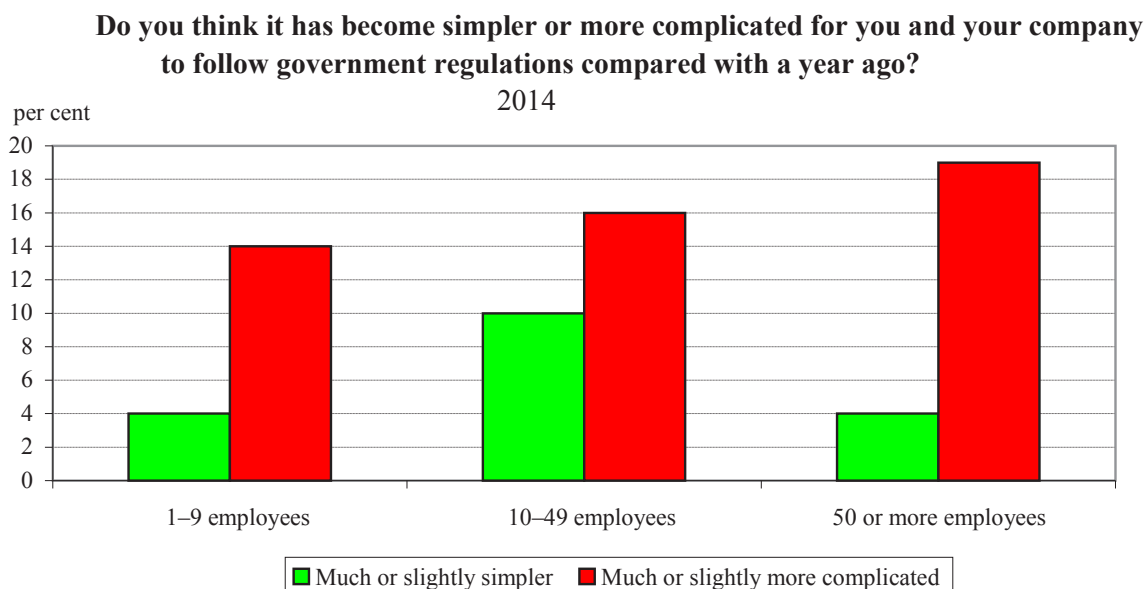
Most companies/managers (79 per cent) do not consider there has been any change over the last year.

Do you think it has become simpler or more complicated for you and your company to follow government regulations compared with a year ago?



Do you think it has become simpler or more complicated for you and your company to follow government regulations compared with a year ago?





When companies were asked whether they thought it had become simpler or more complicated to follow government regulations, no distinction was made as to whether the regulations could be attributed to EU or national legislation. However, since approximately half of all new or amended regulations in Sweden derive from the EU³, it is reasonable to assume that EU legislation has an impact on the responses to this question.

A large majority of companies consider the burden has been unchanged over time and the share of business owners who consider it has become simpler to follow government regulations has fallen. This can be interpreted as meaning that the government has succeeded in putting a stop to regulatory inflation, while at the same time failing to reduce the regulatory burden on companies. There may, in turn, be several explanations for the latter, for example that the simplifications made have been relatively small in the context or that they have not impacted the specific areas within which companies are active.

Companies in the focus groups emphasised that the coming into being of EU-wide requirements in a number of areas, including the environment and customs, has made things simpler. At the same time, they highlight the difficulty of determining whether the regulations as such have become simpler and whether they have been drawn up in the best possible way.

³ The Swedish Agency for Economic and Regional Growth, Fakta om enklare regler 2013 [Facts on simpler regulations 2013], www.enklareregler.se

2.2.2 EU regulations that prevent companies growing

Interviewers read out nine regulatory areas⁴ at EU level and asked:

- In your opinion, which of the following regulatory areas at EU level represents the biggest obstacle to growth for your company?
- In your opinion, which of the following regulatory areas at EU level represents the second-biggest obstacle to growth for your company?
- In your opinion, which of the following regulatory areas at EU level represents the third-biggest obstacle to growth for your company?

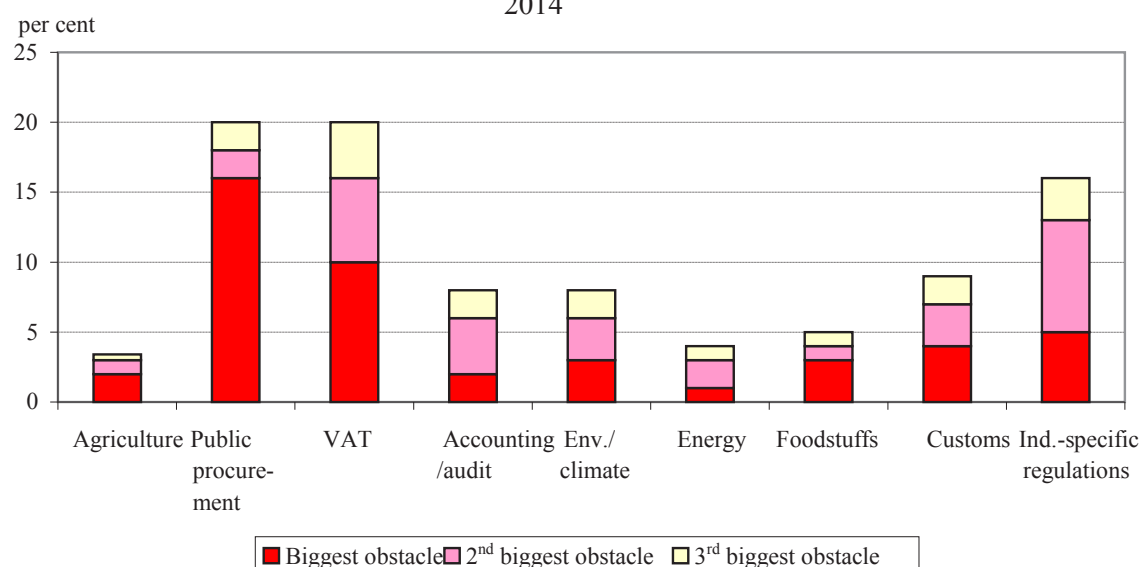
53 per cent lack experience or have no opinion

A majority of the business owners/managers interviewed (53 per cent) lack experience of the regulatory areas listed or have no opinion on them.

Biggest obstacles to growth in regulatory areas at EU level for interviewed companies

Respondents could name 3

2014



In first place: regulations governing public procurement

Among the regulatory areas at EU level, regulations governing public procurement are considered to be the biggest single obstacle to growth for the company. One in six companies (16 per cent) answered that procurement regulations are the biggest obstacle, while one in five (20 per cent) say that these regulations are the biggest, second-biggest or third-biggest obstacle.

⁴The degree of harmonisation within EU legislation can vary for the different regulatory areas, which can have a certain impact on how companies respond. This has not been taken into account in the survey.

In second place: VAT legislation

One in five companies (20 per cent) also responded that VAT legislation is the regulatory area that represents the biggest, second-biggest or third-biggest obstacle to growth. However, fewer consider VAT legislation to be the biggest single obstacle (10 per cent) than those on procurement.

In third place: Industry-specific regulations

Industry-specific regulations come in third place at EU level as obstacles to growth, with 16 per cent answering that they are the biggest, second-biggest or third-biggest obstacle, and five per cent saying they are the biggest single obstacle.

Customs regulations

One in ten companies (nine per cent) say that customs regulations are one of the three biggest obstacles to growth, with four per cent saying they are the biggest single obstacle.

Environmental and climate-related regulations

eight per cent of companies say that regulations on the environment and climate are among the three EU areas that represent the biggest obstacles to growth, with three per cent saying they are the biggest single obstacle.

Accounting and auditing

Eight per cent of companies say that regulations on accounting and auditing are among the three EU areas that represent the biggest obstacles to growth, with two per cent saying they are the biggest single obstacle.

Foodstuffs regulations

The EU's foodstuffs regulations are specified by five per cent as one of the three biggest obstacles to growth, with three per cent saying they are the biggest single obstacle.

Regulations on energy

The EU's energy regulations are named by four per cent as being one of the three biggest obstacles to growth, with one per cent saying they are the biggest single obstacle.

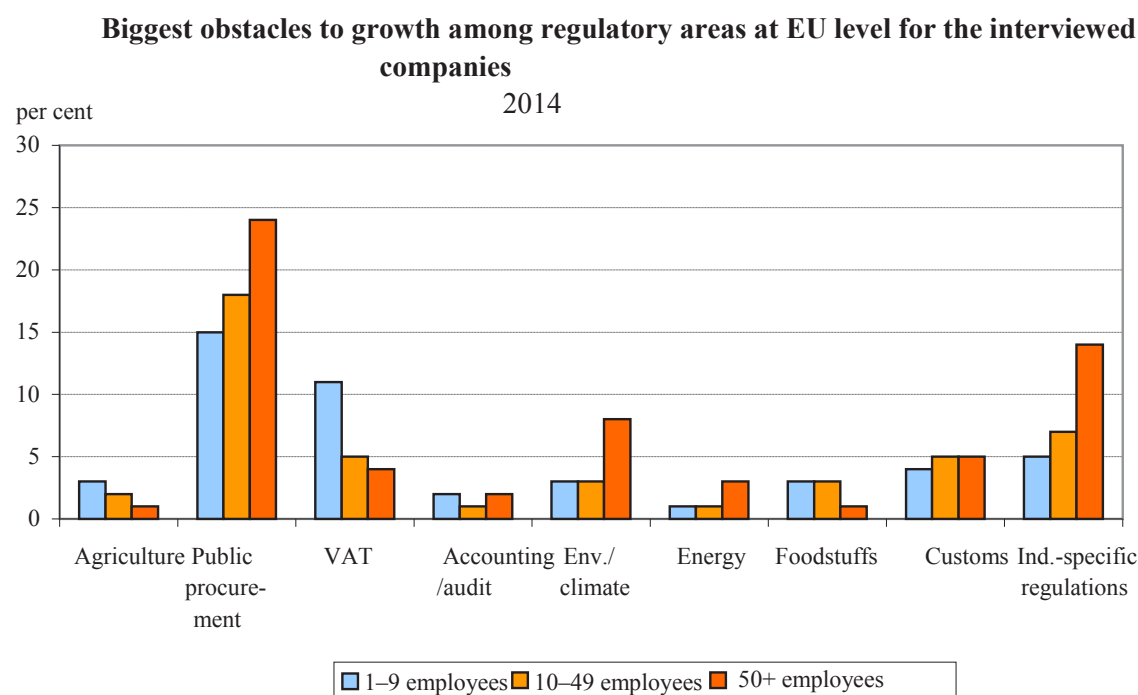
Regulations on agriculture

Finally, three per cent of the companies interviewed say that the EU's agricultural regulations are one of the three biggest obstacles to growth; with two per cent saying they are the biggest single obstacle.

Differences between large and small companies

Irrespective of business size, it is the regulations on public procurement that are perceived as the biggest single obstacle to growth at EU level.

Among the smallest companies with 1–9 employees, the VAT regulations are perceived as the most onerous. VAT regulations are assigned significantly lower priority by companies with ten or more employees.



The question of how and to what extent the application of regulations by central- and local-government authorities impacts on companies' business activity, and thus the perceived complications, has been the subject of discussions and studies in Sweden in recent years⁵. NNR's own investigations have shown that application of the same regulations varies significantly among different local governments, for example with regard to building permits, liquor licences and environmentally hazardous operations⁶. Public procurement is an example of regulations where application varies and is perceived by companies as complicated, since several different central-government authorities and all of Sweden's local governments have autonomy in applying the regulations. The company survey 2014 has not, however, highlighted this aspect.

⁵The Swedish Association of Local Authorities and Regions (SKL), Företagsklimat 2013 [Business climate 2013]; NNR's project Regeltillämpning på kommunal nivå 2013 [Regulatory application at local level 2013]; the Confederation of Swedish Enterprise's business climate ranking

⁶ NNR's interim reports 2, 3 and 4 – Regeltillämpning på kommunal nivå 2013 [Regulatory application at local level 2013]

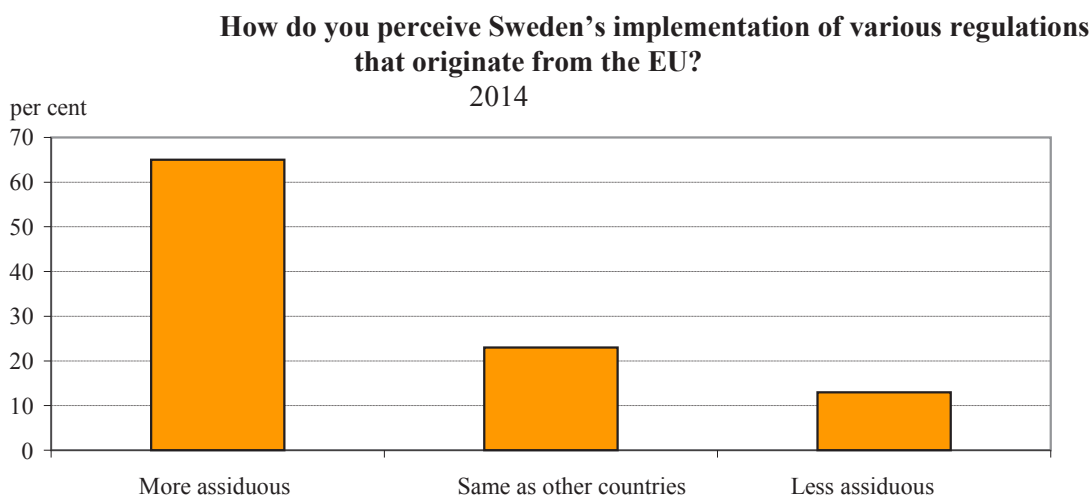
2.2.3 How Sweden implements EU regulations

The interviewer asked: How do you perceive Sweden's implementation of various regulations that originate from the EU?

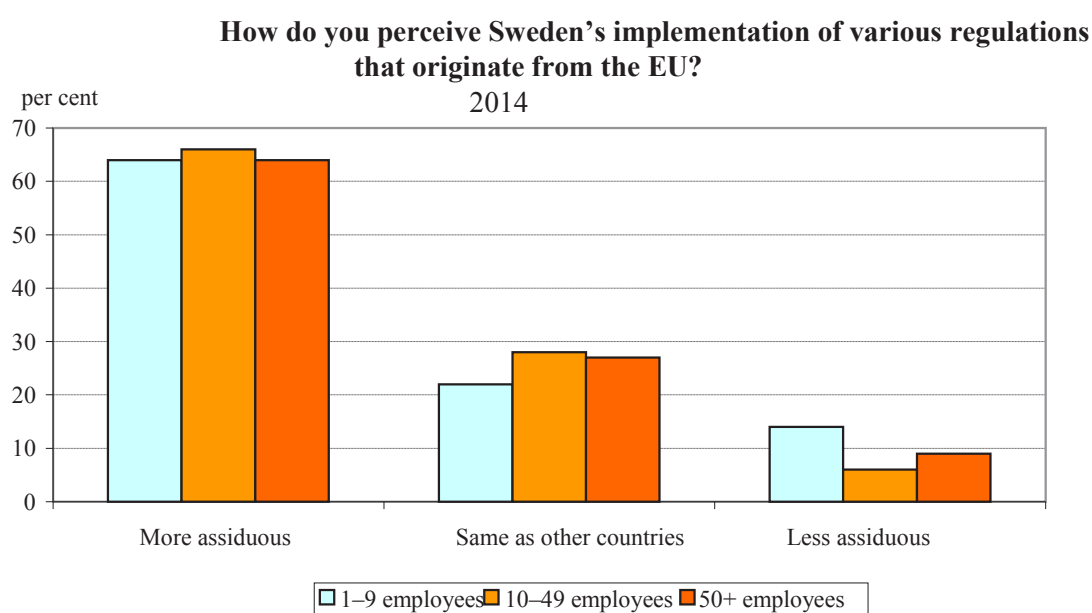
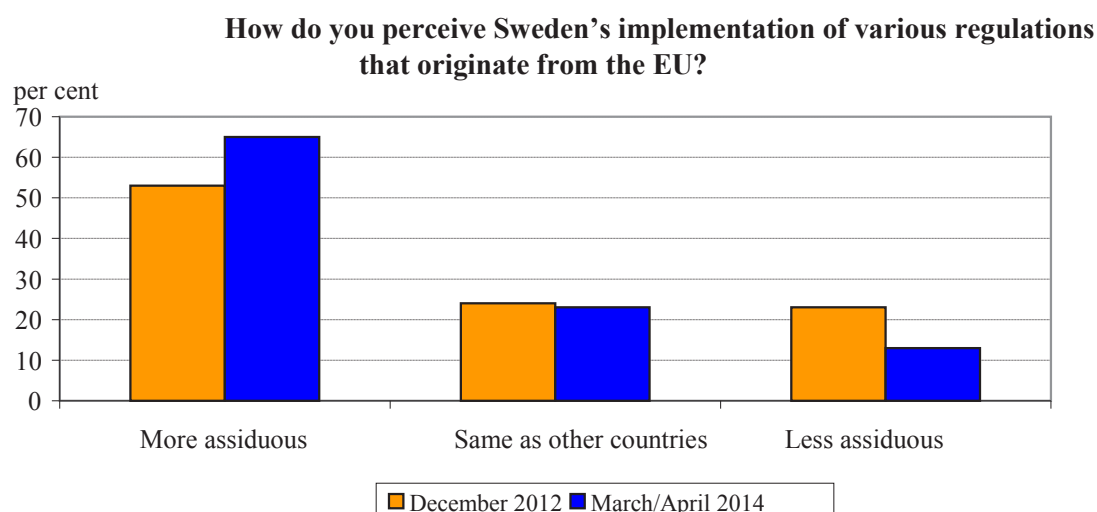
A majority of the persons interviewed (51 per cent) have no experience of or opinion on the question. However, considerably fewer have no experience or opinion this year than in December 2012 (71 per cent).

Of those who expressed an opinion, 65 per cent consider that Sweden implements the regulations more assiduously than other countries. This is an increase of 12 percentage points compared with 2012, when 53 per cent expressed this view.

13 per cent of respondents consider that Sweden applies EU regulations less assiduously than other countries, which is almost half the figure for 2012 (23 per cent).



Irrespective of business size, there is a large majority that considers that Sweden implements regulations more assiduously than other countries.



Business owners in the two business owner focus groups confirm the picture given by the company survey. Business owners consider that there is a tendency for Sweden, when implementing EU directives in national regulations, to add additional requirements with which companies must comply.

Another problem they mention is that in some contexts Sweden sets higher requirements than the rest of Europe. This impacts competitiveness and means that Swedish companies face higher costs and are thus less profitable. If Swedish

regulations go significantly further than the EU ones, for example environmental requirements, and the competitive advantages associated with moving operations to another country are compelling, this will ultimately be a problem for Sweden. Companies will then either have to move operations abroad or close down. The focus groups identify companies with an interest in 'green' business as examples.

NNR has also received comments from members who want conventions, regulations and guidelines drawn up at international level to be translated into Swedish and implemented word-for-word in the Swedish body of regulations so as to reduce the lack of clarity and risk of gold-plating. Another view has been that EU regulations must be made clearer and leave less scope for the Member States to make their own interpretations, e.g. parts of REACH⁷.

Until recently there has not been a uniform definition of what the term 'gold-plating' should include or how it should be regarded and accounted for when EU legislation is to be implemented in the various Member States. NNR examined this in detail together with the Swedish Better Regulation Council, generating a report⁸ and a number of recommendations for avoiding gold-plating and what the regulator should take a position on and account for when implementing EU legislation. Examples of recommendations include that the Government should decide on a generally applicable principle for gold-plating; that the minimum level in EU legislation should serve as guidance for regulators in the implementation process, and that a number of criteria for the implementation should be reported in the impact analysis. This, in turn, requires that national impact analyses must always be carried out and accounted for/published in some form. The work of NNR (and the Swedish Better Regulation Council) on the issue of gold-plating has also been taken further at European level within the European advocacy organisation BUSINESSEUROPE, resulting in a number of recommendations (see chapter 3 for more information).

⁷ Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

⁸ Att tydliggöra gold-plating- ett bättre genomförande av EU-lagstiftning [Clarifying gold-plating – better implementation of EU legislation], NNR 2012

3. PRINCIPLES AND RECOMMENDATIONS FOR A MORE COMPETITIVE EU

This chapter contains proposals for principles and recommendations from NNR and its members concerning the EU's overall work on regulatory simplification and improvement.

3.1 IMPORTANT PRINCIPLES IN CONNECTION WITH ISSUING REGULATIONS AND DRAWING UP IMPACT ANALYSES

Competitiveness

When analysing existing and new proposals, regulators need to focus on removing unnecessarily burdensome regulations. Regulators also need to test how the proposal affects the competitiveness of European companies.

Consistency

Consistency of regulation is important for establishing appropriate expectations on the part of stakeholders, and reducing uncertainty and compliance costs, all of which improve the investment and business environment.

Transparency and open government

For business as well as for other stakeholders, the concepts of transparency, accountability and certainty are essential elements in effective regulatory frameworks. These factors also contribute to increased stakeholder trust in national governments.

Proportionality

When developing new proposals, regulators should take a proportionate approach and use objective scientific evidence. Regulators should also define the objectives of new legislation clearly and choose the solutions that meet these objectives, neither more nor less.

Efficiency

The benefits of a regulation have to justify the costs. The alternative that costs the least for the businesses affected and fulfils the aim and purpose of the regulation should be the one selected.

3.2 RECOMMENDATIONS FOR THE EU'S WORK ON THE SMART REGULATION PROGRAMME

The EU must improve its competitiveness in order to hold its own against both developed and emerging economies around the world. Taking a new approach to regulation will enhance growth, investment and jobs. This not only requires a sharp focus on smart regulation but also requires European leaders to take the lead in implementing this policy and undertaking concrete measures. Cutting red tape and devising proportionate legislation should be a mind-set for decision-makers.

1. Apply the OECD Recommendation of the Council on Regulatory Policy and Governance

When deciding on new actions, we encourage regulators to take account of and adhere to the OECD Recommendation of the Council on Regulatory Policy and Governance, endorsed by the Council on 22 March 2012. We believe this takes into account all areas important to business in terms of a business-friendly regulatory environment⁹.

2. Reduce the burden of existing regulations and directives on business

The changes made to existing regulatory schemes must be those requested by the business sector for better growth. Working methods must be results-oriented to enable faster solutions to regulatory problems. Many actors, including the European Council and Member States, are demanding a reduction in the 'overall burden' of regulation on business. This is to be welcomed. It means clear targets and indicators are needed in each relevant area to reduce all unnecessary compliance costs.

3. Prevent an increase in the total regulatory cost for business

When selecting the least burdensome solution for the businesses affected in connection with new rules, regulators need to consider alternative solutions and high-quality impact analyses including concrete calculations of all costs and benefits.

4. Always consult the affected stakeholders throughout the process

Regulators must always involve and consult small and large businesses in a transparent way, throughout the process of issuing regulations. This means consulting on all relevant material and aspects of the proposal, including the draft impact assessment.

⁹ <http://www.oecd.org/regreform/regulatory-policy/49990817.pdf>

5. Systematic evaluations of the results of substantive measures and regulations

Conduct a follow-up assessment of the actual effects various regulations have had. This means continuing to work with the REFIT programme to obtain a systematic review of various legislative instruments. This is also extremely important when regulators want to see the combined effects, efficiency, proportionality and cost-effectiveness of regulations and policies.

6. Establish a transparent scoreboard for all EU legislation

It is very important to track how legislative proposals change through the co-decision process, as well as when EU legislation is transposed at national level.

7. Avoid gold-plating when Member States implement a given directive

In order for the Single Market to function as intended, similar rules for the market are required in EU Member States and the EEA countries. Even if the rules are decided jointly at EU level, governments at national level choose to implement them so differently that barriers to free movement and trade arise, often called gold-plating¹⁰.

8. Apply proportionate impact assessments

Proper impact assessments must be carried out both on draft legislation and on amendments introduced during the legislative process in the Council of Ministers and European Parliament. Account should also be taken of the cumulative effects of different rules. Impact assessments should ultimately be reviewed by a wholly independent external body.

9. Ensure global competitiveness

Ensure that legislative proposals are compared with similar requirements in important trading partner countries and always assess whether international standards can be used for mutual recognition.

10. Safeguard the role of the High-Level Group of independent stakeholders

Safeguard the role of the High-Level Group of independent stakeholders on administrative burdens, which plays an important role in the delivery of cost-cutting reforms.

¹⁰ To avoid and clarify gold-plating, NNR and BUSINESSEUROPE have drawn up a recommendation on how to implement EU legislation more effectively.
<http://www.buinesseurope.eu/content/default.asp?PageID=568&DocID=31770>

4. PROPOSALS FOR REGULATORY IMPROVEMENTS FROM NNR'S MEMBERS AND BUSINESSEUROPE

This chapter contains proposals for regulatory improvements from NNR's individual members (4.1) and proposals for regulatory improvements that have been adopted by the European advocacy organisation BUSINESSEUROPE (4.2). In connection with the proposals for improvements from NNR's members, an overview is included of the effects that implementation would have on companies' operations in the form of time savings, cost reductions, propensity to invest and a reduced level of uncertainty.

4.1 PROPOSALS FOR REGULATORY IMPROVEMENTS FROM NNR'S MEMBERS

Taxation/VAT

1. Reduced burden of proof- intra-community trade.
2. Modernized VAT-rules for public bodies and transactions.

Health and Safety

3. Less detailed rules on the protection of young people at work.
4. Flexible implementation of the directive on the organization of working time.

Agriculture

5. Declaration of area expressed in hectares with two decimals.
6. Notification of revisions on farms.
7. Proportional penalties through differentiated deductions.
8. Management of certain residues within food production.

Transport

9. Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.
10. Reduced administrative burden for verification, monitoring and reporting of greenhouse gas emissions.

Internal market for services

11. Ensure the full implementation of the Services Directive.
12. Include health and elderly care in the provisions of the Services Directive.

Consumer legislation

13. Reduced information duties regarding dispute resolutions.

Trade

14. Address regulatory barriers that business says inhibit trade.

Taxation/VAT

1. Reduced burden of proof- intra-community trade

Legislation

EU VAT Directive Council 2006/112

Burden on business

As a general rule, intra-community supplies of goods are exempt from VAT if the purchaser is registered for VAT in another Member State. Instead, it is the purchase in such transaction that is subject to VAT. For the purpose of qualifying for this exemption, the supplier is required to document and prove that the goods in question have been transported within the EU and that the purchaser is registered for VAT in any other Member State. Lately, business has experienced stricter requirements from a number of Member States in terms of documenting and proving that the supply is a cross border intra-community supply. An unreasonable level of proof for purpose of VAT may make businesses elect less efficient transport logistics, for the purpose of qualifying for the VAT exemption.

The increased burden of proof in certain Member States is a serious obstacle for intra-community trade that requires urgent measures. Today, the logistics flows are set up with the focus of environmental care, cost and time savings and should not be hindered by the VAT rules. Problematic requirements have been identified in the UK, Germany, Denmark, Italy, Czech Republic, Austria, and Slovak Republic. Other Member States, such as Poland, Spain and the Netherlands, have also been identified as "problematic".

Simplification proposal

Simplified burden of proof regarding intra- community trade.

The EU must support legitimate business against unreasonable administrative burden in respect of VAT. Member States must use effective tools against VAT fraud that will support and not hinder business transactions within the EU.

Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

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2. Modernized VAT-rules for public bodies and transactions

Legislation

EU VAT Directive Council 2006/112

Burden on business

The current VAT rules in the public sector are not neutral and distortion of competition is becoming a serious problem.

An increasing number of companies have highlighted the negative impact on business created by the combination of exemptions, higher VAT-rates within EU and no input-VAT deduction. The current VAT rules leads to cascade effects, self-supplies and a disincentive to invest or to outsource even where services could be provided more efficiently by another entity if the VAT aspect was irrelevant.

Simplification proposal

The VAT rules for public bodies and for transactions in the public interest need to be modernized. Redraft article 13 in order to establish a level playing field between the public and private sector.

Introduce measures which lead to deductibility of input VAT with regard to activities in the public interest.

Effects of the simplification proposal

Time-saving

Reduced costs

Increased investments

Reduced uncertainty

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Health and Safety

3. Less detailed rules on the protection of young people at work

Legislation

Council Directive 94/33/EC

Burden on business

The directive contains regulations on child labour, protection of children, youth work and working time. However, the directive is far too complex and detailed and should leave more to the member states to decide.

Simplification proposal

Make the regulations less detailed. It is, for example, better to regulate the working time per week instead of per day.

Effects of the simplification proposal

Time-saving

Reduced costs

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4. Flexible implementation of the directive on the organization of working time

Legislation

Directive 2003/88/EC

Burden on business

The directive demands that all the regulations in detail are implemented in the member states, without prejudice to the level of protection that already exists at national level. A detailed implementation, together with existing national regulations, makes it difficult for the enterprise to fulfil all of the obligations. In a Swedish context regulations about night work and compensatory rest are burdensome to comply with.

Simplification proposal

Allow for implementation of the directive to be done in a way that complies with the demands at national level without the need to implement every detail. The Commission should reconsider the so called "non-step back clause" in favour of appropriate protection of health and safety, but at the same time compatible with better regulation.

Effects of the simplification proposal

Reduced costs

Reduced uncertainty

Contact information

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Agriculture

5. Declaration of area expressed in hectares with two decimals

Legislation

COMMISSION REGULATION (EC) No 1122/2009

Burden on business

The declaration of areas in hectares with two decimals takes for granted farmers' skills in spatial analysis of aerial photos, in which most farmers lack education. It creates an uncertainty and forces the applicant to follow the changes of areas throughout the year.

Simplification proposal

Changing the declaration of areas to one decimal instead of two decimals is a more reasonable demand. The use of several decimals is not a guarantee for more accurate declarations, especially not when it demands the use of special equipment combined with expert knowledge in spatial analysis.

Effects of the simplification proposal

Time-saving
Reduced costs
Reduced uncertainty

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6. Notification of revisions on farms

Legislation

COMMISSION REGULATION (EC) No 882/2004 and 1122/2009. Notify all revisions on farms.

Burden on business

Today only few revisions can be notified in advance. Most farms are small enterprises with no or few employees and therefore have no extra administration capacity. A revision has large impact on the farmers' daily schedule and must therefore be planned.

Simplification proposal

All revisions should be notified in advance. At least 48 hours. Although revisions in cases with severe circumstances (e.g. animal suffering) can be un-notified.

Effects of the simplification proposal

Reduced costs

Reduced uncertainty

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7. Proportional penalties through differentiated deductions

Legislation

COMMISSION REGULATION (EC) No 1122/2009 and 65/2011

Burden on business

Applied penalties in the cross compliance system are neither proportional nor predictable. Since the penalty is based on the total amount of support the loss of a few ear tags can cost one farmer 100 euro and another farmer 1000. It creates uncertainty for the farmers because the impact on the enterprises' financials cannot be predicted.

Simplification proposal

Proportional penalties through differentiated and predictable deductions.

Effects of the simplification proposal

Reduced costs

Reduced uncertainty

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8. Management of certain residues within food production

Legislation

COMMISSION REGULATION (EC) No 1069/2009 and 142/2011

Burden on business

In the production of certain dairy products, some residues from food production are handled according to the animal-by-products Regulations, requiring time-consuming administration in the form of handling of commercial documents and special transport containers. The reason is different law requirements for food and feed.

Some products, like whey, is used as an ingredient both in foods and animal feed, causing it to be classified as animal-by-product when used as feed, but as food when used in food production.

Simplification proposal

Revision of the classification of residues from food production. Introduce a "risk-based classification" instead of a general classification

Effects of the simplification proposal

Reduced costs

Time-saving

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Transport

9. Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights

Legislation

Regulation (EC) No 261/2004

Burden on business

Regulation of airlines compared to other modes of transportation is disproportionately strict. The costs for the airlines are often massive relative to the harm travellers have suffered. Interpretation of the regulation differs in EU member states, causing great uncertainty about the airlines' obligations towards passengers. A big problem is the lack of a uniform interpretation of "extraordinary circumstances" among consumer organizations and airlines. Rulings in several high profile cases have significantly increased the levels of compensation to be paid by airlines.

Air safety is a given in all airlines and the high flight safety has evolved through persistent work in industry to minimize damage to people and the environment while minimizing the cost of operations. Delays, cancellation or rescheduling of flights take place only when the flight safety may be at risk and solely to avoid jeopardizing the safety of passengers or the aircraft's crew. It should be noted that any changes to scheduled flights disrupts airline planned activities and highest priorities given to avoid changes in the flight schedule. Legislators need to acquire a better understanding of how regulation works and what impact future revisions will get both for passengers and for airlines. Airlines are currently punished for their aspirations to maintain a high level of flight safety.

Suggestions for future (up-coming) revision risk impairing the passenger's opportunities to seamlessly travel while increasing costs for airlines. So called interlining between airlines enabling passengers to transfer from one airline to another in an airport in a smooth way, with current proposals comes to an end.

Simplification proposal

The next revision of the regulation must take into account the airline's ambition to deliver its services with the highest level of aviation safety. The airlines should not be punished for delivering a safe and secure service to their customers in a disproportionate manner. Obligation to provide care should be done in a cost-reasonable manner and on the same level as required for other modes of transport. Harmonization and compliance with application across the Member States have to ensure that competition between airlines or other transport modes is not distorted.

Effects of the simplification proposal

- Time-saving
- Reduced costs
- Reduced uncertainty

Contact information

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10. Reduced administrative burden for verification, monitoring and reporting of greenhouse gas emissions

Legislation

Commission Regulation EU No 600/2012 and Commission Regulation EU No 601/2012

Burden on business

The system for monitoring, reporting and verification (MRV) is unjustifiably complex. Already at information meetings and referral process the airline industry stated the unnecessarily complexity of the system. Fuel costs are the largest cost for an airline and the companies do their best to reduce fuel consumption by switching to aircraft with improved fuel economy and shifting to shorter flight paths and fuel-saving approach procedures.

A system that requires monitoring, reporting and verification of tonne-kilometres flown level for each sector is unjustified and overly burdensome. Reporting in itself does not mean that greenhouse gas emissions are reduced. It entails higher costs for airlines, reducing their economic ability to switch to more efficient aircraft. Airports and airlines have had a well-developed reporting system for a long time, monitoring and reporting all air traffic to the Transport Agency. Fuel Companies and carriers have full control over how much fuel each airline purchases annually, which should be quite sufficient as a basis for purchasing and accounting of allowances.

The current systems for MRV may be a disadvantage for a speedy agreement on a global system to reduce aviation greenhouse gas emissions that are discussed within the framework of ICAO.

Simplification proposal

A significant shift in the entire MRV system should be undertaken promptly to reduce completely unnecessary bureaucracy and simplify the airlines. The reporting of airline emissions should be done by checking the kerosene fuel purchases (invoices), easily done by auditors and can be, if necessary, verified by fuel companies. Verification can also be done by comparing to the Authority on reported traffic towards purchased jet fuel.

Effects of the simplification proposal

Time-saving
Reduced costs

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Internal market for services

11. Ensure the full implementation of the Services Directive

Legislation

Services Directive 2006/123/EC

Burden on business

The Service Directive has not been fully implemented across the EU. And it still allows European states the ability to maintain far too many restrictions in their services markets. The European Commission has predicted a potential gain of 1.8 per cent of EU GDP if EU states were to remove all outstanding EU barriers to trade in services. It is also clear that more ought to be done to raise performance on services integration.

This becomes even more important at a time when Europe needs to boost competitiveness and realize untapped potential for growth: also through free trade agreements with third countries, either within the framework of the WTO (which is currently negotiating a plurilateral services agreement – TiSA) or bilaterally with the US through the Transatlantic Trade and Investment Partnership, TTIP

Simplification proposal

The European Commission should ensure the full implementation of the Services Directive across the EU by putting more pressure on Member States failing to comply with agreed provisions.

Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

Contact information

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12. Include health and elderly care in the provisions of the Services Directive

Legislation

Services Directive 2006/123/EC.

Burden on business

As people increasingly move between EU Member States the demand for well-functioning transnational health and elderly care increases. Companies active in health-and elderly care do not have access to an open European market. This sector was left outside of the provisions of the Services Directive.

New health care methods are often seen with suspicion by traditional medicine and officials. Where there are thorough research behind, there should be better possibilities to try new, effective methods for saving pain and hustle for patients and saving resources for governments.

Slow authorization administration delays and hampers the movement of nurses cross-border, causes extra costs for the company and its clients – in this case the private and public hospitals, extending the waiting time for the patients and thereby causes extra costs for society.

Simplification proposal

Removal of remaining barriers to establishment, by including health-and elderly care in the provisions of the Services Directive and thereby giving companies working in this sector access to the full European Market. Additionally, simplify administrative requirements.

Effects of the simplification proposal

Reduced costs

Reduced uncertainty

Increase investments

Contact information

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Consumer legislation

13. Reduced information duties regarding dispute resolutions

Legislation

Consumer Rights Directive; 2011/83/EU, Directive 1999/44/EC, Directive 2013/11/EU amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

Burden on business

The various consumer Directives set forth a number of information duties on products that can become disinformation if the consumers fails to consider all the given information. According to the Directive, a seller has the duty to inform the consumer prior to concluding a contract on how a dispute can be resolved outside of court. This information is redundant since it is not prerequisite to conclude a contract or not. The information could instead confuse a consumer and distract him or her from other necessary information. The burden of the informational duty is heavy, since the type of information that shall be given differs from country to country and needs to be extensive to be understood.

Simplification proposal

Minimized or reduced information duties would make it simpler for the businesses. A study on a European level on the effects of and consumers understanding and use of existing information should be carried out. The burden of information regarding dispute resolution should be laid on the dispute resolution body instead of the seller.

Effects of the simplification proposal

Time-saving
Reduced costs
Increased investments

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Trade

14. Address regulatory barriers that business say inhibit trade

Legislation

Remove barriers to international trade. Completing ambitious EU Free Trade Agreements (FTAs) and the Transatlantic Trade and Investment Partnership (TTIP)

Burden on business

Greater regulatory coherence would boost innovation and competition. Different product standards between the EU and US hinder trade. Continue to pursue an ambitious free trade agenda. TTIP is an important opportunity to boost the transatlantic economy by aligning standards with our biggest trading partner.

FTAs make it easier and cheaper for companies to trade outside the EU. They address the traditional obstacles that inhibit trade such as tariffs and export subsidies. But they also address non-tariff barriers such as labelling or product testing standards.

The European Commission is negotiating FTAs with the US, Japan, and India – among others.

Simplification proposal

The Commission must address the regulatory barriers that inhibit trade, and pursue an ambitious free trade agenda – notably in the TTIP, given the potential value of the deal.

Effects of the simplification proposal

- Time-saving
- Reduced costs
- Increased investments
- Reduced uncertainty

Contact information

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4.2 PROPOSALS FOR REGULATORY IMPROVEMENTS FROM BUSINESSEUROPE

Taxation/VAT

- 15. Streamline VAT legislation.
- 16. Clarify and simplify import VAT legislation.
- 17. Improve the Community Customs Code.

Environment

- 18. Amend REACH candidate list organization to better accommodate business needs.
- 19. Avoid overlaps and inconsistencies between REACH and other EU chemicals legislation, especially product legislation.
- 20. Uniform implementation of the waste shipment regulation with more focus on hazardous waste and less on unproblematic waste.
- 21. Revise the 2011 directive on the use of certain hazardous substances in electrical and electronic equipment (RoHS).
- 22. Revise the waste electrical and electronic equipment directive (WEEE).

Internal market for services

- 23. Bring temporary employment agencies within the scope of the Service Directive.

Health and Safety

- 24. More flexible rules for the assessment of the risks to safety and health at work.

Construction products

- 25. Solve the contradiction between the construction products regulation (CPR) and standard EN 1090 concerning non-series production.

Statistics

- 26. Eliminate burdens in the collection of statistics relating to the trading of goods between Member States.

Taxation/VAT

15. Streamline VAT legislation

EU legislative act

EU VAT legislation in general

Problem

(need for simplification)

SMEs experience the following problems in particular (non-exhaustive list):

- a. The obligation for SME's supplying goods and services subject to VAT in several Member States to register for VAT in those Member States;
- b. Different VAT rules in Member States (as a result of discretionary powers in EU legislation);
- c. Different interpretations of VAT rules by Member States.

The resulting complexity may obstruct SMEs in their attempts to engage in intra-EU trade and leads to unnecessary extra administrative burdens and costs (such as consultancy costs). Examples of problem areas include:

- Differences in interpretation regarding warehousing/storage of goods and work on movable property;
- VAT registration in other Member States – a problem in itself – is complicated by differences in requirements by Member States;
- Differences in requirements that Member States lay down for application of the 0 per cent rate for intra-EU supplies;
- Differences in the content of VAT declarations in the Member States (a simple uniform declaration is needed);
- Differences in the possibilities to submit VAT declarations electronically;

Big problems concerning Single Authorisation for Simplified Procedures (SASP) and Centralised Clearance based on national requirements, especially in the area of VAT.

16. Clarify and simplify import VAT legislation

EU legislative act

Import VAT legislation

Problem

(need for simplification)

There are different interpretations and handling by the Member States concerning VAT rules

One example is the different understanding in case of “deduction of input tax” concerning import VAT.

Especially in Germany, the interpretation is that companies must have something like ownership of the goods to secure the right to a “deduction of input tax”. In other EU countries, it is only necessary to be responsible for the customs clearance and to pay the import VAT. This is only one example of the different handling of VAT rules in the different EU Member States. There is a need for more simplified and common regulations which are in line with customs regulations and customs processes.

17. Improve the Community Customs Code

EU legislative act

Community Customs Code – Regulation (EC) No 450/2008

Problem

(need for simplification)

The current revision of the Community Customs Code (CCC) will update the existing customs legislation and bring some facilitation for companies. However, there are also a number of proposals which should not be implemented as this would increase the administrative burden for companies. Moreover, there are number of innovative models which should be realised. Both these aspects should be taken into account when adopting the new Union Customs Code (UCC).

Proposals which should not be implemented, because they are creating burdens, are the following:

- a) List rules in the area of non-preferential origin are not necessary and would be a huge burden;
- b) Cancellation of “First Sale Rule”
- c) Cancellation of the possibility to make oral declarations or declarations made by “another act” for a lot of processes, especially in case of shipments with a value lower than € 1,000.

Innovative proposals which are useful and should be implemented:

- d) Entry in the records without notification should also be possible in cases of prohibitions and existing global licenses or if no special controls of the goods are necessary.

More simplifications and especially simplifications with an impact like a waiver of prior declarations in the import but also in the export area are necessary for an Authorised Economic Operator (AEO). Otherwise the burden to get an AEO status on the one hand and the advantages on the other hand are not in balance.

Environment

18. Amend REACH candidate list organisation to better accommodate business needs

EU legislative act

REACH Regulation (1907/2006 of 18 December 2006)

Problem

(need for simplification)

When substances are placed on the candidate list there is an immediate information requirement for any supplier of articles containing candidate list substances in a concentration of more than 0.1 per cent w/w (according to Article 33). Twice a year new substances are put on the candidate list. Since supply chains are often long and complex it is an administrative burden for companies to keep track of the content of the relevant substances. It is also a problem that 6 EU countries have another definition of an article than the Commission and the rest of the Member States, and thus another basis for calculating the 0.1 w/w per cent parameter.

Proposal for simplification

A transition period (at least three months) for the information requirement in Article 33 of REACH should be granted. And new substances should only be put on the candidate list at a fixed date once a year. The Commission must secure a common implementation of the definition of an article throughout the EU.

The problem can only be solved by a full legislative process (involving the Council and European Parliament). Since there is a general business wish not to open REACH for amendments before the next registration deadline (1st June 2013), the timing for introducing this amendment should be planned on a more long term basis.

19. Avoid overlaps and inconsistencies between REACH and other EU chemicals legislation, especially product legislation

EU legislative act

REACH Regulation (1907/2006 of 18 December 2006) in relation to the RoHS Directive (2011/65/EU of 8 June 2011) and the toys Directive (2009/48/EC of 18 June 2009).

Problem

(need for simplification)

It is a burden for industry that for many products you have to comply with double regulation, for instance REACH and RoHS, REACH and the toys Directive etc. It is further troublesome when the legislative acts in question have differing definitions, methods, etc. Since REACH should be the cornerstone of the chemicals legislation in the EU, there is a need for amending of conflicting or differing legislation.

Proposal for simplification

According to Article 138(6) of REACH (Regulation 1907/2006 of 18 December 2006) a review had to be undertaken to evaluate the scope of REACH in relation to other EU legislation before 1 June 2012. All relevant sectoral EU legislation or draft EU legislation was to be analysed with a focus on the following elements: aim and scope of each piece of legislation and if relevant the different steps or parts of the legislation; definitions; regulatory mechanisms, assessment methods and scopes, including exemptions.

The report contracted by the Commission to a consultant (MILIEU) with a view to providing information for the Article 138(6) review can be found here:

http://ec.europa.eu/enterprise/sectors/chemicals/files/reach/review2012/scope-final-report_en.pdf

The definitions and methods in RoHS (Directive 2011/65/EU of 8 June 2011) should be fully aligned with REACH. Possibly RoHS should be incorporated in REACH. The toys Directive (2009/48/EC of 18 June 2009) should be fully aligned with REACH. Possibly the toys Directive should be incorporated in REACH.

The EU acts mentioned above should be amended in a way that reduces administrative burden and enhances legal security for companies.

Remarks

CEFIC has published a Manifesto towards smart regulation for chemicals. Its conclusion nr. 3 stresses that:

“Where double legislations occur, these should be abolished and, if, for good reasons, double legislation cannot be avoided, the administrative burdens should be diminished for example by setting up searchable databases of restrictions (e.g. RoHS, Toys), or guidance documents should be issued. However, REACH should be used in a non-ambiguous manner as the reference and systematic basis for sectoral legislations”.

20. Uniform implementation of the waste shipment regulation with more focus on hazardous waste and less on unproblematic waste

EU legislative act

Regulation No. 1013/2006 14. June 2006 on shipment of waste.

Problem

(need for simplification)

The regulation on waste shipment should create a common market for waste utilisation and recycling, but in real life the individual member countries use the Regulation differently and interpret the relevant documents differently.

This hampers the best utilisation of the materials in the waste and jeopardises a common market for secondary raw materials.

Proposal for simplification

The waste shipment regulation must be revised to simplify the procedures for moving waste between member countries, leaving the inspection and evaluation of waste treatment facilities to the authorities in the receiving country.

A simplified regulation implemented in a uniform way will increase the utilisation of waste as secondary raw materials.

21. Revise the 2011 Directive on the use of certain hazardous substances in electrical and electronic equipment (RoHS)

EU legislative act

Directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC

Problem

(need for simplification)

The recast of the RoHS Directive resulted in scope provisions that rather decrease than improve legal certainty and regulatory stability, while the Commission's impact assessment prior to the recast proposal did not justify any scope changes of the existing RoHS Directive.

22. Revise the waste electrical and electronic equipment (WEEE) Directive

EU legislative act

Waste electrical and electronic equipment (WEEE) Directive 2012/19/EU

Problem

(need for simplification)

The recast of WEEE Directive resulted in scope provisions that rather decrease than improve legal certainty and regulatory stability, while the Commission's impact assessment prior to the recast proposal did not justify any scope changes of the existing WEEE Directive.

Internal market for services

23. Bring temporary employment agencies within the scope of the Services Directive

EU legislative act

Services Directive - Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

Problem

(need for simplification)

Currently the services of temporary employment agencies are excluded from the Services Directive. This exception has an inhibiting effect on the European single market for temporary agencies.

This impediment is especially reflected in the diversity of schemes and permits, which many EU countries have for the temporary work market.

In practice, when an agency in the Netherlands wants to send a temp to work in Belgium, it has to apply for a permit in Belgium. This results in a lot administrative handling (burden) and paying a large deposit.

Another example for Dutch temp agencies concerns placing temporary workers in Germany. For each placement, the agency has to file for a permit.

Filing for such a permit takes two to three months. This does not contribute to a flexible market, especially when an agency wants to respond to a request/procurement from a foreign company for temporary workers within a week (by placing a temporary worker). In addition, Germany has a minimum wage for temporary workers and there is the obligation for both the hiring company and the temporary work agency to have a payroll in the German language.

The example above concerned placing temporary workers directly. When a Dutch company arranges for one of its temporary workers do work for a foreign client, there are administrative problems as well. In Germany it is only permitted for a Dutch (temporary) employee to work on the installation of a device/machine (just installation, not maintenance) and when a 'werkvertrag' (a contract for work and services) has been granted for both the worker and the job. In Belgium it is simply forbidden for a Dutch company to send one of its temporary workers to work in Belgium.

The diversity of national regulations does not contribute to a flexible labour market and can in some cases cause a loss of employment.

Reason for the exception from the Services Directive was, at that time, the diversity of the European temporary work market. This diversity was caused by a lack of uniform view on temporary work in different countries. As an alternative, a special directive on temporary agency work (2008/104) has been adopted.

Health and Safety

24. More flexible rules for the assessment of the risks to safety and health at work

EU legislative act

Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.

Problem

(need for simplification)

The conditions for the assessment of the risks to safety and health at work are not adequately flexible. Because of this the regulation inflicts an unnecessary degree of administrative burdens on the enterprises.

The obligation to work out a written assessment of risks does not take the size of the enterprise into consideration, nor the duration of the employment. This means that the employer in principle has to make a written assessment of risks for an employment of two days' duration.

At the same time the obligations causes double regulation of several areas. These are areas where the enterprises already have special duties to make an assessment of the risks. This is true for ATEX and chemical and biological agents among others.

Proposal for simplification

General

We suggest that the requirements for the assessment of the risks to safety and health at work are made more flexible. The demands should take the size of the enterprise and the duration of the employment into consideration. Further the demand for written assessments should be made optional in certain situations to avoid double regulation.

Potential gains for companies

The demand for a written assessment is particularly burdensome in relation to temporary workstations and very small enterprises. A more flexible procedure would be a substantial relief in these situations. The elimination of double regulation would save the companies time; and would at the same time eliminate a source of frustration.

Construction products

25. Safety legislation: solve the contradiction between the construction products regulation (CPR) and standard EN 1090 concerning non-series production

EU legislative act

The Construction Products Regulation (305/2011/EU - CPR) - replacing the Construction Products Directive (89/106/EEC - CPD) - is laying down harmonised conditions for the marketing of construction products.

The Construction Products Regulation (the CPR) is to ensure reliable information on construction products in relation to their performances. This is achieved by providing a "common technical language", offering uniform assessment methods of the performance of construction products.

Lighter regime for non-series process:

Article 5:

Derogations from drawing up a declaration of performance

By way of derogation from Article 4(1) and in the absence of Union or national provisions requiring the declaration of essential characteristics where the construction products are intended to be used, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonised standard on the market where:

(a) the construction product is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work, by a manufacturer who is responsible for the safe incorporation of the product into the construction works, in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules;

Article 38:

Other simplified procedures

1. In relation to construction products covered by a harmonised standard and which are individually manufactured or custom-made in a non-series process in response to a specific order, and which are installed in a single identified construction work, the performance assessment part of the applicable system, as set out in Annex V, may be replaced by the manufacturer by Specific Technical Documentation demonstrating compliance of that product with the applicable requirements and equivalence of the procedures used to the procedures laid down in the harmonised standards.

EN 1090-1:2009-Execution of steel structures and aluminium structures Part 1:

Requirements for conformity assessment of structural components.

Part 1 of this standard (EN 1090-1) requires, through its Annex ZA, that steel builder provides every part of steel structure with a CE marking. Part 1 of this standard (CE marking) will be mandatory from 1 July 2014 for steel constructions (series and non-series).

CE Marking is not allowed unless the Factory Production Control (FPC) system under which they are produced has been assessed by a suitable certification body that has been approved to the European Commission.

Problem

(need for simplification)

An example where EU-legislation leads to disproportionate legislation instead of the 'think small first' principle.

The CPD (construction products directive) offers the possibility of a lighter regime for non-series production. The CPR, however, is linked to the standard EN 1090 and this standard comprises both series and non-series production. So the opportunity that was given in the CPR - to reach more proportionate legislation (mostly for the small and micro companies) by making an exception for non-series production - is undone by EN 1090. Companies which make building products such as non-series stairs (especially made for one (unique) building only) are therefore unnecessarily faced with extra administrative burdens: CE marking and FPC certificate.

Companies which benefit from an exception for non-series production were most likely not represented by the members of the relevant standardisation committee.

In connection with this example the following question can be raised: is it possible to correct the wrong approach followed and change the standard itself, or the reference to EN 1090, so that non-series production becomes an exception again as intended by CPR?

Proposal for simplification

Solve the contradiction between CPR and EN 1090 concerning non-series production. The standard should be amended in line with the CPR. The Commission must raise this issue with CEN.

Statistics

26. Eliminate burdens in the collection of statistics relating to the trading of goods between Member States

EU legislative act

Statistics relating to the trading of goods between Member States - Regulation (EC) No 638/2004

Problem

(need for simplification)

When an enterprise in one country exports to an enterprise in another EU country, the export is reported to Intrastat Export; and the import is reported to Intrastat Import. Thus the same transaction is reported to the statistical bureaus twice - so-called "mirror statistics".

For each individual European company the reporting of sales/exports of the company's own product(s) self-evidently is much easier than reporting the wide range of raw materials, intermediary products and other inputs the company acquires/imports. The main part of the problem stems from information gathering when the invoice does not contain or is unclear about the required information. Therefore the reporting of imports is especially burdensome for companies.

Proposal for simplification

General

The import reports should be abolished and substituted by reports from the exporting country's statistical bureau. Export statistics are superior to import statistics with respect to reliability, and the administrative burden it imposes on businesses. Thus, the best way to proceed would be to drop statistics based on imports and 'recycle' export statistics among Member States.

Potential gains for companies

Danish studies have revealed that Intrastat statistics account for 3/4 of the total statistical burden on companies (AMVAB, Sep. 2004). The total burden on Danish companies caused by Intrastat has been estimated to 17 million Euro per year (this corresponds to approximately 1 p.c. of the total administrative burdens, which stem from EU-legislation, in Denmark). Especially Intrastat Import is burdensome, accounting for totally 2/3 of the total statistical burden in Denmark.

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