



Final Report 2009–2014
Annual Report 2014

Regel|rådet



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Final Report **2009–2014**

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Wind in the sails of better regulation



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Preface

This Final Report of the Swedish Better Regulation Council summarises the six years in which the Council has operated in the form of a committee of inquiry. During these years, the Council and its secretariat carried out unique work in their review of proposals for new and amended regulations relating to business, as well as performing other tasks within the area of better regulation.

Concerning work with impact assessments at government agencies, ministries and in committees of inquiry, it can be concluded that the regulators have reached different stages in this work. Work with impact assessments should be seen as a marathon rather than a sprint. Stamina and thorough preparation are required to assess the impacts of a proposed statute. As the Council has already made clear on a number of occasions, senior management's commitment is of the utmost importance, as well as sufficient time and resources being allocated to the important work of regulatory impact assessment.

In its major review of the work of its various member states' with better regulation, the OECD has concluded that political will is crucial for the success of this work. I would like to emphasise that better regulation is not a "quick fix". It is instead work that is long-term, requires perseverance and a methodical approach, which must permeate the entire regulatory process and which requires strong political anchorage. The strong political support at the start of the Council's mandate is a key reason why the work of the Swedish Better Regulation Council has had an impact at all. In recent years, however, we have noted a lower level of interest in these matters, which in all probability is one of the explanations for why the results have not improved.

The importance for companies and the economy as a whole that the impacts of regulation are assessed in detail, including their associated cost estimates and various alternative solutions, cannot be over-emphasised. The Council reaches out to regulators via training courses, exchanges of experience and through our ongoing support activities. In order for the regulators to better understand how deficiencies in a regulatory impact assessment can be remedied, we have clarified our opinions to a large extent. The statistics show that it is clear that the Swedish Better Regulation Council still has an important role to play for us to be able to move towards an everyday life with fewer legislative and administrative burdens for Sweden's companies and the economy as a whole, and that the regulations that are decided are based on a detailed impact assessment.

From 1 January 2015, the activities of the Swedish Better Regulation Council will be narrowed down to review and those tasks that are pursuant to this review. The Council, which from the said date will be made permanent, will also become an autonomous and independent decision-making body under the umbrella of the Swedish Agency for Economic and Regional Growth (*Tillväxtverket*). Finally, I want to stress the importance of taking advantage of the expertise that exists in the Council's secretariat for this work in the future.



Karin Lindell
Chair

Summary

The Swedish Better Regulation Council was set up in 2008 as one element in the Swedish Government's work with better regulation for business. Its work began in 2009, and since then the Council has been active as an independent, state committee of inquiry. The Council has done unique work in the area of better regulation for business. This is the first time that continuous assessment of the impact of statutes on business has been done by a Swedish state body.

The terms of reference of the Swedish Better Regulation Council have specified the focus of its activities. The Council's assessment of proposals for new and amended statutes which may have an impact on businesses' working conditions, their competitiveness or conditions in general has been its main mission since its inception. In August 2011, the Council received supplementary terms of reference which, among other things, more clearly emphasised its supportive activities. The Council has provided government agencies, ministries and committees of inquiry with support in their work with impact assessments. The Council has also conducted general and targeted training for government agencies, ministries and committees of inquiry, both on its own and in conjunction with other stakeholders in the area of better regulation.

Examples of the Council's other tasks are, at the request of Swedish regulators, to review the impact assessment that has been prepared within the EU and to monitor work with better regulation both nationally and internationally. Over the years, the Council has therefore developed its work within the EU, including within the RegWatchEurope network.

During these years, 2,647 submissions have been made to the Council. Of these, 1,053 submissions have led to opinions and 1,594 submissions have led to secretariat responses. Of the 1,053 submissions which have led to opinions, 649 proposals have been approved, which is equivalent to 62 per cent. The number of proposals assessed as having an impact assessment that complies with the requirements in the Ordinance on Regulatory Impact Assessment (SFS 2007:1244) is 409, which is equivalent to 39 per cent.

Distributed per regulator, and seen over the entire period, the statistics in part tell a different story. For government agencies, 68 per cent of proposals have been approved. Forty-five (45) per cent of impact assessments comply with the requirements. For government ministries, 53 per cent of proposals have been approved. Here, thirty (30) per cent of impact assessments comply with the requirements.

The Swedish Better Regulation Council's follow-up shows that in almost half of these cases, the regulator changed its impact assessment based on the Council's comments. Accordingly, this could occur to an even greater extent. Today, the Council does not have a mandate to take enforceable action in respect of the quality of these impact assessments.

Over the years, the Council has identified certain factors as particularly important in the preparation of regulatory impact assessments of good quality. Work with impact assessments must be given sufficient priority, so that time and resources are allocated to the same, which is strongly linked to senior management showing interest and engagement in impact assessments, and to the individual officials who are to prepare the impact assessments having the expertise for this and beginning the work in good time. Starting work on an impact assessment only after the work of drafting a proposed statute is completed rarely results in a good impact assessment and the purpose of the impact assessment is not achieved.

Over the years, a number of interview-based surveys have been carried out in order to find out how the Swedish Better Regulation Council is perceived. The Council's work is perceived as important, but the question of its mandate is an issue that has been raised – the mandate of the Swedish Better Regulation Council is perceived as toothless. Furthermore, interviewees expressed the view that the Council has a good picture of the day-to-day operations of businesses.

On 31 December 2014, the activities of the Swedish Better Regulation Council in the form of a committee of inquiry ceased. In September 2013, the previous government decided that the Swedish Better Regulation Council's activities should be made permanent from 1 January 2015. Furthermore, it was decided in March 2014 that the Swedish Better Regulation Council should be an independent decision-making body under the umbrella of the Swedish Agency for Economic and Regional Growth. The Council's activities should consist of the review of the quality of impact assessments and tasks that are pursuant to this review. From 1 January 2015, the Council's training and support activities are part of the activities of the Swedish Agency for Economic and Regional Growth.



Regel|rådet

Final Report **2009–2014**

Introduction

The Council's remit

The Council's main task has been to review new and amended proposals for statutes that impact business.

During the period 2009–2014, the Council has taken a position on whether new and amended statutes have been drafted in a simple way and at a relatively low administrative cost. The Council has also evaluated whether the impact assessment complies with the requirements in Sections 6 and 7 of SFS 2007:1244.

The Council's remit has also included participating in training courses and providing advice and support to regulators, participating in better regulation work at the EU level, on request reviewing impact assessments prepared at the EU level, and otherwise monitoring developments within the area of better regulation. The Council has also had a number of other tasks and projects, such as monitoring administrative costs and the provision of a collection of examples of good impact assessments on its website.

Organisation 2009–2014

During the period 2009–2012, Stig von Bahr was Chair of the Council. During the period 2013–2014, Karin Lindell was Chair.

Lennart Palm is Deputy Chair and Leif Melin and Eleonor Kristoffersson are members of the Council. Substitute members the end of 2014 were Christina Ramberg, Claes Norberg, Sten Nyberg and Jeanette Bohman.

Previous substitute members of the Council were Carl Gustav Fernlund, Kristina Ståhl, Maud Spencer, Annika Andebark and Britt Danielsson.

During the period 2009–2014, the Council had just on 20 meetings per year.

For the composition of the Board of Directors from 1 January 2015, see www.regelradet.se

Tasks of the Secretariat

The secretariat has reviewed the submissions that have been received and prepared the cases for presentation to the Council.

Participation in projects, and the preparation of letters and statements of opinion have also largely been carried out by the secretariat.

Furthermore, the secretariat has conducted general and targeted training courses for government agencies, ministries and committees of inquiry. The secretariat has also provided support to the said regulators in their work on impact assessments.

The secretariat has also participated in better regulation work at the EU level, together with the independent advisory bodies of other EU countries. On specific request from the responsible ministry, the secretariat has reviewed impact assessments prepared at the EU level. In addition, the secretariat has responded to international inquiries and received study visits.

The secretariat has registered and compiled the statistics for the Swedish Better Regulation Council. The secretariat has taken care of the Council's communications, including a regular newsletter, the website and social media, and has also participated in ongoing exchanges of experience with regulators and other actors within the area of better regulation. The secretariat has also had contact with regulators and the business community.

At the end of 2014, the secretariat was comprised of Administrative Director Christina Fors as well as case officers Christian Pousette, Gustaf Molander, Annika LeBlanc, Nils Edvall, Per Högström, Beatrice Tander Gellerbrant, Katarina Garinder, Linda Bodén (on leave of absence), Elin Törnqvist (on leave of absence) and administrative officers Anne Lindström and Ingrid Sundin.



Karin Lindell

Chair | LL.B, former Swedish Auditor-General



Lennart Palm

Deputy Chair | LL.B, former Managing Director of the Board of Swedish Industry and Commerce for Better Regulation



Eleonor Kristoffersson

Member | LL.D. and Professor



Leif Melin

Member | Doctor of Economics and Professor



Christina Fors

Administrative Director | Bachelor of Economics

The Swedish Better Regulation Council's Activities 2009–2014

Development of its Activities

The Council's remit

Introduction

The Council has operated as an independent state committee of inquiry since it began work in 2009. The Council has done unique work in the area of better regulation for business because it is the first time that a continuous assessment of the impact of statutes on companies has been done by a Swedish state body. The Council thus has built up expertise through its review of the impact assessments of proposed statutes, administrative costs and other economic impacts. Within the framework of its remit, the Council has encouraged regulators to always carry out detailed assessments of the impacts for business of proposed statutes. If the impacts of proposed statutes are assessed in detail, costs and other negative consequences can be identified in good time and in the best case thus be avoided or lessened, in order to stimulate growth and as favourable an environment as possible for businesses in Sweden.

Terms of reference and the policy idea

The activities of the Swedish Better Regulation Council have been guided by the terms of reference 2008:57, 2008:142, 2010:96 and 2011:71 (see Annexes).

The Swedish Better Regulation Council was set up as one element in the Swedish Government's work with better regulation for businesses. This is described in the Council's first terms of reference (2008:57), concerning the statutes that affect companies' administrative costs and which can often be drafted in a simpler way while still achieving their purpose as effectively. Reduced administrative costs was seen as creating the conditions for companies to devote more time and resources to operating and developing their activities and thereby contributing to greater growth and employment.

In the terms of reference 2008:57, it was also stated that the Swedish Better Regulation Council was part of the Swedish Government's objective set in 2006: that administrative costs would be reduced by 25 per cent in four years and result in a tangible change in the daily operations of businesses. The objective was later extended to the end of 2012, but has not yet been achieved.

When the first terms of reference for the Council were formulated, it was with an international outlook. At the time when the Swedish Better Regulation Council was being set up, in other countries there were already independent

advisory bodies. In 2000 in the Netherlands, an independent advisory body, Actal, was established, which gives advice to the Dutch government in matters concerning the reduction of bureaucracy and administrative obstacles. In 2006, an independent advisory body, Nationaler Normenkontrollrat (NKR), was set up Germany. Both Actal and NKR advise the regulators in conjunction with the drafting process, and insofar as these agencies deliver formal opinions, these are first made public in connection with the publication of the regulator's proposed statute.

Ever since the Swedish Better Regulation Council was established, its main task has been to review the drafting of proposed statutes with new or amended regulations that may have impacts on businesses' working conditions, competitiveness or conditions in general. In its terms of reference 2008:57, it was stated that this review should be based on the Swedish Government objective to reduce the administrative costs for businesses that are attributable to State regulatory frameworks. In its reviews, the Council has taken into account the requirements concerning impact assessments in the Committees Ordinance (SFS 1998:1474), SFS 2007:1244, and the guidelines for working with impact assessments in the Government Offices of Sweden. On that basis, the Council has expressed an opinion on whether the regulators have conducted the kind of impact assessment that is required to be able to assess the impacts of the proposed regulations on businesses' administrative costs. The Council has adopted a position on whether new or amended statutes have been formulated in such a way that they achieve their purpose in a simple way, and at a relatively low administrative cost to businesses. The Council has also evaluated the quality of impact assessments based on the specified requirements.

The Council's supplementary terms of reference (2011:71) stressed the Council's support and training functions, in particular as regards support to the committees of inquiry in their work in preparing impact assessments. Since then, therefore more focus has been placed on training courses and support to regulators. The Council has participated in general and targeted training conducted for regulators and has pursued the development of targeted training for regulators. The Council has also dedicated a lot of time to supporting committees of inquiry (committee support).

Another task that was added in the supplementary terms of reference (2011:71) was, on request from the regulator, to review impact assessments prepared at the EU level if the proposal was assessed to have a great impact on Swedish



companies. Under this mandate, the Council has submitted proposals on the extent to which a Swedish supplementary impact assessment should be done and which aspects in particular needed to be highlighted in this.

The supplementary terms of reference (2011:71) clarified that the Council's review was to focus on substantial amendments. Previously, the point of departure for the Council was that the whole of the new statute should be subject to an impact assessment in the case of a provision being transferred from one statute to another new statute.

The Council's Review Task

The Council's review task has been the same throughout its history - from a business perspective, to assess the administrative costs and impacts of proposed statutes under Sections 6 and 7 of SFS 2007:1244.

Through the Council's review of submissions, an established practice has arisen and been developed further. During the initial period of its activities, the Council's opinions were relatively brief, which led to criticism from the regulators. The content of this criticism was that regulators wanted to be able to understand from the opinion what the deficiencies were and how the regulator could remedy these. In the light of these comments from the regulators, the Council's opinions have become increasingly detailed and clearly stated as time has passed. The Council sees this as an ongoing process - to prepare opinions where any deficiencies in the impact assessments are clearly stated so that the regulator understands how and why their impact assessments need supplementation to achieve a better result, which in turn becomes part of a general improvement in the regulators' impact assessments in the long term.

Based on internal discussions on principles, the Council has gradually developed and clarified its established practice. On these occasions, horizontal issues of a more fundamental nature have been discussed, as well as questions concerning the formulation of the Council's opinions and secretariat responses. Estimates of administrative costs have also been discussed. There are often deficiencies in accounting for how a certain cost has been arrived at, or alternatively that the description of the cost is far too sweeping and generalised, regardless of whether it refers to increased or decreased administrative costs. As regards administrative costs, the Council's established practice since its establishment has been that these must be quantitatively calculated or estimated, while the same requirements do not apply for quantitative calculations or estimates of what the regulator has denoted as cost reductions. However, the Council's established practice has been tightened and from 2013 it is a requirement that cost reductions must also be calculated or estimated quantitatively.

In the discussions on principle, the formulations that have been used in the positions adopted by the Council with regard to administrative costs have also been discussed. This has led to more detailed and precise wordings concerning why the Council approves or objects to a proposal, or the quality of an impact assessment. Similarly, the wordings that have been used in secretariat responses have been discussed and made more precise.

In its review work, the Council has expanded its contacts with government agencies, ministries and industry and trade organisations. The purpose of these contacts has been for case officers at the Council's secretariat to gain a broader perspective on the point at issue, as well as a greater understanding of how businesses in a particular industry or trade are affected by a proposed statute.

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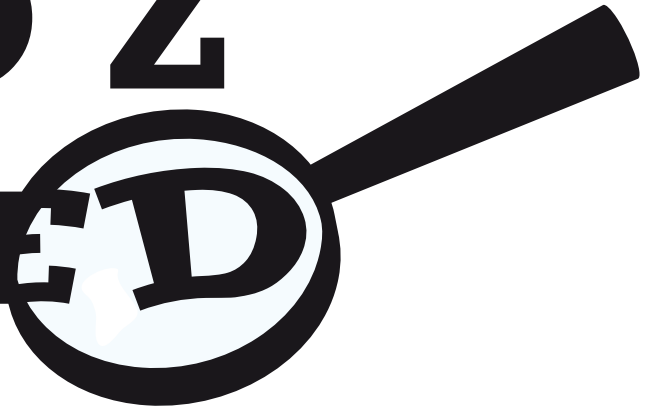
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Worth noting

- Through its work, the Swedish Better Regulation Council has developed unique expertise in better regulation and the impacts of regulations on business.
- The Council's practice is under constant development.
- Over the years, the Council has developed and clarified its opinions and intends to continue this work in the coming years.



Introduction

An important part of the mission of the Swedish Better Regulation Council has been to conduct training for regulators. The Council has therefore conducted general and targeted training for regulators, both on its own and in conjunction with other stakeholders in the area of better regulation. The number of training courses held has grown over the years. During 2014, the Council also participated in the development of extension courses for government agencies. The case officers at the Council's secretariat have conducted these courses. Through this work, the case officers at the Council's secretariat have built up unique expertise and experience in the area of training.

Training for Committees of Inquiry

Since its establishment, the Council has been tasked with supporting committees of inquiry in their work with impact assessments. This is a task that has been performed by the secretariat through providing support to individual committees' work on impact assessments, and participating in Committee Service¹ training sessions on impact assessments for committees of inquiry. The number of training sessions has varied from 4–7 per year, where the Council's lecture has taken approximately 1.5 hours. In 2009, the Council also independently arranged a training day for committees of inquiry. The Swedish Agency for Economic and Regional Growth was also invited to this event, with the purpose of explaining how measurements and the "Malin" database could be used in work with impact assessments.

At these training sessions for the committees of inquiry, the participants have been informed about the remit of the Swedish Better Regulation Council and its review process, common deficiencies found in impact assessments, and suggestions and advice on how these can be avoided. The participants have also been informed about the Council's support function with the option of ongoing contact with the case officers from the Council's secretariat during work on their impact assessments. Over the years, evaluations have shown that these training efforts have been appreciated and the information provided by the Council has been considered concrete and useful. The content of the training has been revised on some occasions – most recently during autumn 2014. Those parts for which the Council was

responsible were not significantly changed but all in all, with changes in the structure and content of the other participants' material, a new approach was taken in the training for the committees of inquiry. The follow-up of the autumn training sessions showed that the development efforts had yielded results and the rating rose for the training day in which the Council participated.

Government Agency Training

Since 2010, the Council has participated in basic training courses in regulatory impact assessments for government agencies conducted by the Swedish Agency for Economic and Regional Growth, which have been held four times per year. At these, the Council has provided more detailed information about Sections 6 and 7 of SFS 2007:1244 and the review that the Council performs within the framework of its remit. Furthermore, the Council has provided information about the most common deficiencies in impact assessments and how these can be remedied. Since the Council's collection of examples of good impact assessments was launched in 2012, impact assessments from this collection have been highlighted and discussed, together with the suggestions and advice that accompany the 2013 collection of examples. Course evaluations have shown that the participants are of the opinion that the training is relevant and useful.

Over the years, the Council has visited a number of government agencies where the visits have included training elements, as well as targeted training specifically requested by government agencies, which was more in demand subsequent to the Council's supplementary terms of reference (2011:71). Since the Swedish Agency for Economic and Regional Growth is responsible for training and support to government agencies regarding impact assessments, the Council has tried to coordinate joint efforts and training with the Agency. Together with the Agency, the Council has also developed more specialised extension courses.

At three targeted training sessions in 2012 however, the Council conducted the training on its own. In 2013, the Council conducted targeted training for a government agency and also organised an exchange of experience session for government agencies.

¹ Committee Service provides committees of inquiry with various types of support and services that may be needed during the inquiry period. Committee Service is also responsible for the training offered to all committees of inquiry.

In 2014, the Council's training efforts targeting government agencies intensified, with the highest number of completed courses yet for government agencies since the Council's establishment. In addition to the basic training mentioned above, the Council and the Swedish Agency for Economic and Regional Growth held a total of five targeted courses for government agencies. In addition, two new extension courses for government agencies were introduced. One was an estimates course that the Council, the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority conducted on three occasions for government agencies. The other new course was an EU course arranged by the Swedish Agency for Economic and Regional Growth for government agencies. The Council contributed the lecturer and presented how the Council reviews descriptions of a statute proposal's compliance with EU law and any gold-plating of EU directives, and also the special review of EU impact assessments that the Council carries out at the request of regulators. Besides the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth, the Swedish National Board of Trade, the Cabinet Office and the Swedish National Food Agency participated in the course.

Ministry Courses

There was no specified task in the Council's terms of reference (2008:57) to provide government ministries with advice and support in their work of preparing impact assessments. Nor was there any explicit mandate in these terms of reference to hold training courses targeting government ministries. On several occasions and even in previous annual reports, the Council has pointed out the lack of clarity concerning which body actually has the support and training task in relation to government ministries. For this reason, during the Council's first years, no training activities at all were directed at government ministries and no support was given either to the ministries in their preparations of specific impact assessments. However, the Council had ongoing contact with the government ministries, the Directors-General for Legal Affairs and several of the legal secretariats in order to inform them about the Council and the purpose of its activities.

On 25 August 2011, the Council's supplementary terms of reference (2011:71) were issued, in which the Council's supportive role was highlighted, which then developed to also include the ministries. Despite continued uncertainty in its task regarding training targeting the ministries, the Council began holding training courses for government ministries in 2012. This was because there was both a need and demand in the ministries. The starting point for the government ministries' training has been the Council's experience from its review of the impact of proposed statutes on companies based on the guidelines governing the work of the ministries

with impact assessments. In addition, ministry-specific issues have been dealt with such as Ministerial memoranda in the Ministry publications series (DS), requests for reports containing impact assessments from government agencies, and instructions in the terms of reference regarding what impacts should be specifically highlighted in a committee report. In the sessions, examples from the Council's collection of examples have been discussed and the Council has also gone through concrete suggestions on how to describe the financial impacts on business. Completed course evaluations have shown that their structure and content have been considered valuable and instructive. However, the participants have expressed a desire to be given even more concrete examples of impact assessments that are judged to comply with the requirements in Sections 6 and 7 of SFS 2007:1244.

In 2012, the Council conducted one government ministry training course and in 2013 two government ministry training courses were held and one course for a specific Division at a ministry. In 2013, the Council also conducted an exchange of experience session for ministries. In 2014, the Council conducted two basic government ministry courses in conjunction with the Swedish Agency for Economic and Regional Growth, the Swedish National Financial Management Authority and the Ministry of Enterprise, Energy and Communications, open to participants from all ministries. During the autumn of 2014, the Council also conducted a targeted course for a specific Division at a ministry.



Support Activities

Introduction

The Council has provided support to committees of inquiry, government agencies and government ministries in their work with impact assessments. This has been provided in different ways, depending on the regulator's needs and how far the regulator has come in their work with an impact assessment. Support has been provided by telephone, e-mail or at meetings. Thus, it has been possible to provide support on one or several occasions. When the regulator has had a draft impact assessment, a case officer at the Council's secretariat has reviewed this and submitted suggestions for amendments and highlighted any areas not described in the regulator's impact assessment.

It has always been important in this work that the case officer at the Council's secretariat who has provided support to a specific regulator is not the same case officer who receives the case for review when it is later submitted by the regulator. Similarly, the fact that a regulator has received support from the Council's secretariat has not automatically meant that the regulator's impact assessment has been assessed as meeting the requirements according to the Council when it subsequently made its decision in the case. The case officers at the Council's secretariat have always been careful to convey this to the regulator when providing support in order to avoid any confusion between the Council's supportive role and its review task. The members of the Council have not either been made aware that a certain amount of support has been provided from the secretariat in a particular case.

Support to committees of inquiry, government agencies and ministries

From 2009–2014, the Council was tasked with supporting committees of inquiry in their work with impact assessments. This has developed from support that the Council was to provide as far as possible, to something that was to be prioritised by the Council.

The Council's secretariat has provided general information about what an impact assessment is to include based on the Council's task, suggestions and advice in work with impact assessments, and also reviewed draft impact assessments in order to point out areas with potential for development. The Council's secretariat has contacted committees of inquiry as soon as they have been set up in order to inform them about the support that the secretariat can provide. Since the end of 2013, the committees of inquiry have also received a welcome letter from the Chair of the Council. Over the years, the Council's secretariat has also organised various types of get-togethers and gatherings over tea and coffee for the committees in order to make contact with the committees in less formal circumstances. Many meetings have also taken place spontaneously in the corridors where both the committees and the Council's secretariat had their premises.

The committees of inquiry have always been welcome to contact the Council's secretariat for comments and support in the process of preparing their impact assessments. In order to provide as good support to the committees as possible however, the importance of establishing a dialogue at an early stage with the Council's secretariat has been emphasised, so that the case officers were able to provide guidance on what information needed to be presented in impact assessments. Requests for support in preparing impact assessments have often been received too late in the assessment process. Although this might seem natural from the inquiry's point of view, because it is only then that the results of the impact assessment have started to become clear, a late request gives limited or no scope for the inquiry to supplement the impact assessment with the relevant information, meaning that the benefits of support are limited. For this reason, the Council has recommended that support is given on an ongoing basis throughout the inquiry period. An initial meeting provides the committee of inquiry with general information about the requirements on the impact assessment. Subsequently, there is a discussion after the inquiry's proposal has begun to take shape, so that the case officer from the Council's secretariat is able to point out what information needs to be reported, and finally, review the draft impact assessment. The number of man-hours spent has varied over time and has depended on the inquiry, but has increased in the later years of the Council's activities.

As described in the annual report for 2014, a survey of committee support by the Council was conducted in 2014. Those who responded to the questionnaire were generally positive to the support provided by the Council to the committees of inquiry, but a request also emerged for more concrete suggestions for contacts from whom external support could be obtained to get help with basic data for the assessments. The quality of the impact assessments has improved slightly for the committees that have received support from the Council's secretariat compared with those committees that did not avail themselves of any support. However, unfortunately some committees that have availed themselves of the Council's support still had major deficiencies in quality in their impact assessments. One cannot rule out the possibility that the support provided has resulted in some positive effects on the quality of the impact assessments, even if it was not always sufficient to lead to approval from the Council.

In some instances of committee support, the Council's secretariat has noted that the secretaries of the committees were not prepared for the demands that the Council would make on the content of an impact assessment. It was not unusual either that the secretaries of the committees had never previously carried out an impact assessment. Some of the secretaries of the committees believed that the Council's secretariat could assist in preparing impact assessments. The backgrounds and skills of the secretaries of the committees have varied. It is not unusual that they do not consider

themselves in possession of the skills required to perform complex calculations for example, which may be necessary in order to demonstrate the potential economic impacts of the proposed regulations. In some cases, the inquiry has hired external expertise to help with these calculations. However, it has been more common that the committees of inquiry themselves have tried to report the financial impacts, in some instances with the support of the experts hired for the inquiry. The situation has also arisen where the secretaries of the committees have believed that they do not have the resources, in terms of money or time, to be able to obtain sufficient data to quantify the economic impacts on companies of a proposed statute, for example. As the Council has pointed out in previous annual reports, the responsible ministry needs to ensure that sufficient time and resources are allocated to the committees of inquiry for work on impact assessments. The ministries also need to work on the wording of the terms of reference concerning the impacts to be investigated and who should be contacted for support and consultation in this work. In previous annual reports, the Council has also frequently stated the importance of emphasising in the wording of the terms of reference that the Swedish Better Regulation Council must be consulted in the preparation of the impact assessment and that contact with the Council must be established in good time.

The Council's experience when reviewing Official Government Reports (SOU), providing committee support, and the responses to the survey sent to the committees of inquiry has been consistent in many respects. The secretaries of the committees and investigators who write the official government reports are in need of more support in the drafting of impact assessments. The impact assessment process within the committees of inquiry system is important, and therefore needs to get the requisite support to be able to deliver reports with impact assessments of high quality. Better impact assessments also facilitate subsequent work within the Government Offices of Sweden and within the relevant government agencies.

In its report *Vad gör Regelrådet? Arbetsprocesser, roller och organisation för enklare regler* [What does the Swedish Better Regulation Council do? Work processes, roles and organisation for better regulation], the Swedish Agency for Public Management argued for a special review process for official government reports. An argument put forward was that the staff from the Council's secretariat should become more deeply involved in providing support and help the committees of inquiry to make estimates, for example. Such a procedure would, however, result in an even greater need for segregation between the staff providing support to the committees of inquiry and the staff reviewing their submissions.

Government agencies and ministries have also been able to get support from the Council's secretariat. Government agencies in particular have taken advantage of this opportunity.

The support provided to government agencies and ministries to a large extent has resembled the support provided to the committees of inquiry in that a case officer at the Council's secretariat has reviewed the regulator's draft impact assessment and proposed corrections and amendments for the purposes of improvement. However, it has been more common that the administrators at the government agencies and ministries have contacted the case officers at the Council's secretariat by phone on various matters concerning impact assessments, which has also been a part of the Council's support activities.

Follow-ups over the years have shown that the regulators that have followed the suggestions and advice provided by the case officers at the Council's secretariat more frequently had their impact assessments approved. On the other hand, if the corrections proposed by the case officer were not made and the impact assessment is subsequently not judged by the Council to comply with the requirements, the grounds for this objection have been the same as already put forward in the support provided.

From 1 January 2015, the Swedish Better Regulation Council's training and supportive activities are included in the activities of the Swedish Agency for Economic and Regional Growth.

The Council's collection of examples with suggestions and advice

In the supplementary terms of reference (2011:71), the Council was given the task of compiling a collection of examples of particularly well-executed impact assessments and publishing this on the Council's website. The collection of examples was launched in 2012 and is appreciated by the regulators.

In 2013, the collection of examples was supplemented with suggestions and advice concerning each point in Sections 6 and 7 of SFS 2007:1244f. The purpose of this was to give the regulators further support and guidance in the process of preparing impact assessments.

In the light of the low quality of impact assessments, unfortunately the collection of examples has not been updated with new impact assessments to the extent that the Council would have liked. The Council hopes that the data for the collection of examples, that is the regulators' impact assessments, will improve, which would make it possible to update the collection of examples to a greater extent.

Worth noting

- The Swedish Better Regulation Council's training efforts for government agencies are continuously developed, with both basic training and more specialised courses.
- Training activities targeting government ministries need to be expanded in the form of basic training with theory and extension courses with practical elements.
- The committees of inquiry that have received support from the Council have recommended this support to other committees.
- The Council's support activities targeting regulators are important and need constant marketing and evaluation in order to meet the regulators' needs.
- More training efforts and more support will lead to greater competence among the regulators and hence greater skills.
- Impact assessments from committees of inquiry that received support from the Council were more often approved.
- The provision of training and support to regulators has led to the building of qualified expertise within the Council and its secretariat.



General information on better regulation and independent advisory bodies within the EU

The Council participates actively in the work of better regulation outside Sweden, primarily within the EU. This is particularly important since a large part of the administrative and other costs incurred by trade and industry derive from EU law. Similarly, the ambition to reduce regulatory burdens and arrive at appropriate regulations is an international phenomenon, both inside and outside the EU. As has already been mentioned, inspiration was taken from Germany's *Nationaler Normenkontrollrat* (NKR) and the Dutch board *Adviescollege Toetsing Administratieve lasten* (Actal) when the Swedish Better Regulation Council was established. Since then, more countries in Europe have established their own better regulation councils or are in the process of doing so. Currently, beside the Swedish Better Regulation Council and the German and Dutch councils there is also the United Kingdom's Regulatory Policy Committee (RPC) and the Czech Regulatory Impact Assessment Board (RIAB). Next in line, during 2015 according to information received, independent advisory bodies will be established in France and Norway. In the majority of other European countries, work on better regulation is in progress in a variety of forms and the trend is moving towards more and more independent bodies like the Swedish Better Regulation Council. This is a development that the Council naturally welcomes, since it is proof that the number of countries interested in working for better regulation is increasing. Since 2009, the Council has been working in a network with its German, Dutch, British and Czech counterparts. In 2014, this network adopted the name RegWatchEurope. The organisations in this network have different mandates, but with the common denominator that they are independent and have a significant role to play in that, within the framework of their remits, they are to challenge, monitor and provide advice to their respective governments with regard to better regulation and the regulatory burden on business. All of these organisations also review the costs of statutes for business. Some of these organisations also review other impacts such as the impacts for the public sector and have a broader task in respect of reviewing costs.

The Swedish Better Regulation Council meets regularly with its counterparts in RegWatchEurope to exchange experience and to discuss cooperation around ideas and recommendations in the area of better regulation, and how these can be communicated in an effective way in relation to the institutions of the European Union.

Members of RegWatchEurope

Actal

Actal is an independent board in the Netherlands working to reduce the administrative burden for companies and citizens but also employees in healthcare, education, safety and welfare. Actal was established in 2000 with a time-limited mandate and since then its task has been expanded and its time extended. Currently, Actal's mandate extends to June 2017. By pursuing its task to provide advice to the Dutch government and the Dutch parliament, Actal can contribute to the Netherlands achieving its goals without unnecessary regulatory burdens.

The Netherlands has long experience of working with time-limited goals that mean reductions of administrative burdens. Since 2000, four such goals have been set. The first concerned only administrative costs that burden companies pursuant to statutes. Subsequently, the goals have been broadened to also apply to citizens.

Actal is now working towards one of the Dutch government's objectives to reduce costs resulting from regulation by EUR 2.5 billion for the period 2012–2017. The reduction concerns all of the costs resulting from regulation that burden companies, certain professions in the public sector, and citizens. For measurements of administrative costs and compliance costs, the Standard Cost Model (SCM) is used.

Compliance costs arising from EU directives and compliance and administrative costs arising from EU regulations (financial costs, fees, and legal costs) are excluded from the objective.

A change in the regulatory burden can be measured and recorded only after the ordinance has come into force. As a matter of principle, the objective includes every form of regulation provided that the regulation impacts business, citizens and certain professions within the public sector. Twice per year, the government provides a report to the parliament on how work towards the objective is progressing.

Actal also provides the government with advice on existing regulations and advice at the local level.

Actal's Chairman is Jan ten Hoopen.²

² <http://www.actal.nl/english/about-actal/>



NKR

NKR is an independent council in Germany set up in September 2006 with the task of monitoring and giving advice to the German government on issues that concern better regulation and the reduction of the administrative burden. When NKR was established in 2006, the federal government also set an objective to reduce administrative costs for companies by 25 per cent by 2011. This objective was achieved in 2013, when the net reduction amounted to EUR 12 billion. SCM was also the method used in Germany. Both the Action Programme and NKR's mandate have been further developed since 2006 and now also include reviewing compliance costs and evaluating applicable legislation.

Since the objective of reducing administrative costs by 25 per cent was achieved, no new objectives concerning better regulation and reduced costs have been set in Germany. However, in its annual report for 2014, NKR recommends that the federal government set new objectives where, for example, the British system of one regulation in, one regulation out, could provide inspiration concerning how a German variant might be implemented. NKR is of the opinion that the current lack of clear objectives is likely to lead to a fall in interest and ambition within the State, and consequently the loss of the necessary pressure on the regulators, which is needed to achieve regulation that keep costs to a minimum.

NKR is headed by its Chairman Johannes Ludewig.³

³ http://www.normenkontrollrat.bund.de/Webs/NKR/EN/About_US/ZumHintergrund/_node.html

RPC

During the autumn of 2009, an independent committee was established in the United Kingdom called RPC. RPC has a consultative role in relation to the British government and its task includes reviewing impact assessments. RPC expresses an opinion on whether the proposed regulation is cost-effective and if the benefits of the proposal outweigh its costs in order to ensure that decisions on new legislation are taken on well-documented grounds. RPC also has a kind of stop function.

It is worth mentioning that the United Kingdom has a system whereby for each regulation introduced, a corresponding regulation in the same area must be repealed. With some exceptions, this applies only to regulations with a national background and also to regulations deriving from the transposition of directives in those parts where gold-plating arises. In July 2013, a "one-in/two-out" system was introduced, which means that for each regulation introduced, two regulations must be repealed.

RPC is headed by its Chairman Michael Gibbons.⁴

RIAB

In November 2011, the Czech organisation RIAB was set up in order to improve the quality of legislation and the evidence base thereof through regulatory impact assessments, by increasing transparency in public administration and to limit new, unnecessary regulatory burdens on companies and citizens. As part of achieving its objectives,

⁴ <https://www.gov.uk/government/organisations/regulatory-policy-committee/about>

RIAB reviews and delivers an opinion on the quality of impact assessments of draft law. RIAB's opinions constitute part of the final statement by the Czech Government's legislative council.

RIAB is headed by its Chairman Michal Mejstrik.⁵

The Council's participation in better regulation at the EU level

Since 2009, the Swedish Better Regulation Council has been involved in better regulation work at the EU level, along with the corresponding advisory bodies within the EU. Through joint letters, the network has made recommendations on work with better regulation, such as the importance of impact assessments and an independent advisory body at the EU level. The Councils in the network have also submitted joint responses to the European Commission's public consultations on guidelines for impact assessments and consultation. Furthermore, the network has held a number of meetings with MEPs and senior officials within the European Parliament. The purpose of these meetings has been to discuss the development of work with better regulation within the institutions of the EU. Together, we have helped to progress work with better regulation at the EU level.

The Council has also initiated and held various meetings under its own steam with, among others, officials at the European Commission, the European Parliament, and the Permanent Representation of Sweden to the European Union.

The Council has also regularly participated in the forum Directors and Experts of Better Regulation (DEBR), which is a forum of a more informal nature for senior officials responsible for the development of better regulation at the member state level. Meetings are held twice per year with discussions and exchanges of experience on better regulation.

High Level Group on Administrative Burdens

In 2007, the European Commission set up an advisory group of experts for its work to reduce the administrative costs for businesses, the High Level Group on Administrative Burdens. Edmund Stoiber was appointed chairman of the group, which has led to the group sometimes being referred to as the Stoiber group. The group consisted of fifteen members from trade and industry and various stakeholder organisations. During its mandate until autumn 2014, the group presented more than 45 positions and reports with hundreds of recommendations to the Commission on how administrative burdens can be reduced, as well as proposals to the member states concerning how EU legislation can best be incorporated into national law and, at the same time, minimise the regulatory burden. On 14 October 2014, the

High Level Group submitted its final report.⁶ From 2009, the Swedish Better Regulation Council participated as an observer at meetings of the group.

Specific milestones for better regulation within the institutions of the EU

When the Swedish Better Regulation Council was established, work on better regulation in the EU had already been initiated. Various initiatives had been taken for the purpose of simplifying and modernising regulation and to improve the legislative process. In 2006, the Commission, which took the lead in this work, launched an Action Programme for better regulation⁷ in order to strengthen work with better regulation. The Action Programme's aim was to measure the costs for business arising from information requirements and to reduce unnecessary administrative burdens in order to make legislation more effective without jeopardising its purpose. Some 70 Acts from 13 sectors, identified as particularly regulation-intensive, were covered by the Action Programme. These 13 sectors were estimated by the Commission to stand for 80 per cent of businesses' administrative costs arising from EU legislation.

A goal of reducing the administrative costs for businesses by 25 per cent in gross terms by 2012 was also established, and was achieved when costs had fallen by over 30 per cent by the end of 2012.⁸

As mentioned above, the High Level Group on Administrative Burdens has been an important part of the Commission's work with better regulation.

In order to strengthen the Commission's work with better regulation, at the end of 2006 an Impact Assessment Board (IAB) was established. Its position within the Commission is directly under the President and its task is to review and provide opinions on all the impact assessments prepared by the Commission. There is no such legal requirement, but, in principle, the impact assessment of an initiative by the Commission must have received a positive response from the IAB before it can be tabled for adoption. Once the Commission tables its draft initiative, its associated impact assessment is also published with the IAB's comments on it. According to the Commission, the IAB is independent in relation to the various directorates-general that produce the legislative proposals and impact assessments. The IAB is chaired by the Deputy Secretary General of the Commission's Secretariat General, and the members of IAB consist of high-level officials from various parts of the Commission appointed personally for their expertise in the area. Each year, the IAB publishes an annual report on the past year's work, along with conclusions and recommendations for further work.⁹

⁶ http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm

⁷ Action Programme for reducing administrative burdens in the European Union.

⁸ SWD(2012) 423 final.

⁹ http://ec.europa.eu/smart-regulation/impact/iab/iab_en.htm

⁵ <http://www.vlada.cz/cz/ppov/lrv/ria/uvod-87615/>

In 2010, the Commission adopted a new action programme for its continued work on better regulation to apply until 2020. In the new programme, the new concept of "smart regulation" is used. This programme is about continuing to simplify current legislation, and raising the quality and increasing the use of impact assessments when new legislation is prepared. The Programme also addresses the development of a method for the systematic evaluation of legislation ex-post. Through roadmaps, the Commission can address planned initiatives for example, and through the Regulatory Fitness and Performance (REFIT) programme, it can monitor and identify opportunities to reduce the regulatory burden and simplify existing regulations.

Of the three institutions (the European Commission, the European Parliament and the Council of the European Union) it has mainly been the Commission that has progressed this work. For a long time, the former President of the European Commission, José Manuel Barroso, acted to promote work on better regulation within the Commission. The Commission that took office in autumn 2014 appears to also have put better regulation high on the agenda with, among other things, a Senior Vice-President responsible for Better Regulation within the Commission. The development of work on better regulation within the EU is something that the Swedish Better Regulation Council, along with the members of RegWatchEurope, welcomes.

Within the European Parliament, a milestone in 2013 was the establishment of the European Parliament Impact Assessment Unit and European Added Value (IMPA), which is part of the European Parliament's directorate-general for Parliamentary Research Services. IMPA reviews and evaluates legislative proposals from the Commission ex-ante and ex-post. The establishment of IMPA was a clear signal that better regulation and the notion of impact assessment in the regulatory process had also reached all the way into the European Parliament.

Within the Council of the European Union, the development of better regulation with regulatory impact assessments has been slower. A report has been produced by the Council of the European Union to examine how the use of the Commission's impact assessments could be increased. The report revealed a number of proposals for action, as well as three pilot proposals. In the debate on the third pilot proposal, which concerned ecological production, the opinion of the Swedish Better Regulation Council on the Commission's impact assessment of the proposal was used. The conclusions of the Competitiveness Council on Smart Regulation in December 2014 show that it intends to provide more scope for impact assessments and better regulation in its future work. Much of the responsibility still rests with the individual member states and in particular the country that currently holds the EU presidency.

International Contacts

The Swedish Better Regulation Council has also been involved in work on better regulation at the international level beyond Europe, for example, at a number of OECD conferences and workshops. The Council also provided lecturers on these occasions. Furthermore, over the years the Council has submitted comments on documents produced by the OECD on several occasions. The Council has also embarked on study tours to other countries in order to learn more about the work of these countries with better regulation and impact assessments.

In 2013, together with NNR, the Council presented a joint report on gold-plating at the conference "International Regulatory Reform Conference" in Berlin. The report, which attracted interest from other countries, has also been presented for the High Level Group on Administrative Burdens and at a DEBR meeting in Vilnius.

For a period after the establishment of the Swedish Better Regulation Council, interest in visiting the Council began to arise in countries and among stakeholders outside Sweden. Over the years, in addition to its colleagues in RegWatchEurope, the Council has received visitors from Turkey, Romania, Norway, Russia, Finland, Lithuania, the Republic of Korea, Japan and the United Kingdom. The Council has also participated in various international surveys and studies.

Worth noting

- Those who represent Sweden in the negotiations on EU legislation must always work to ensure that EU regulations do not result in unjustified costs for business.
- Together with the other members of RegWatchEurope, the Swedish Better Regulation Council are working for the establishment of an independent advisory body at EU level.
- The quality of EU legislation must be improved through better impact assessments.
- An impact assessment of a Commission proposal must be supplemented throughout the entire regulatory process.
- The Council's international work and cooperation with its sister organisations in RegWatchEurope provide greater opportunities to influence work with better regulation in the EU.



Projects and Communication

Projects completed between 2009 and 2014

Over the years, the Swedish Better Regulation Council has completed a number of projects, both on its own and with other organisations within the area of better regulation.

The Secretariat Response Project

In the supplementary terms of reference (2011:71), the Swedish Better Regulation Council was assigned the task of analysing the secretariat responses stating that there would be only limited impacts for business. The purpose of this was to obtain data that could be used as the basis for taking up a position on cases where an impact assessment does not need to be prepared. The Council conducted the project by reviewing a number of the cases that had led to secretariat responses in 2010 and 2011. It then became possible to see five typical categories into which the majority of cases could be classified: Niche target group, Limited amendments, Local regulations, Obsolete regulations, and Public sector. Even if it was possible to categorise certain cases in this manner, this did not mean that preparing an impact assessment was unnecessary in these cases, particularly since the Council's review is from a company perspective, and there may be other reasons to prepare an impact assessment. However, the categorisation of cases could be seen as an indication of when cases do not need to be submitted for comment to the Swedish Better Regulation Council. Furthermore, the Council found that the categories Local regulations, Obsolete regulations and Public sector could be formulated in statute text, while on the other hand the categories Niche target group and Limited amendments were too diffuse to be formulated in statute text. The Council reported on this task to the Swedish Government in June 2012.

Multi-Criteria Analysis Project

In the supplementary terms of reference (2011:71), the Council was also given the task of analysing impact assessments where opinions had been delivered, in order to form a basis for determining a threshold/threshold value of costs regarding when a full impact assessment needs to be prepared. A comprehensive impact assessment in this respect means that even Section 7 of SFS 2007:1244 is to be taken into account. The Council hired the Jönköping International Business School to produce the data for this task. The School reviewed and analysed a number of the cases that had been submitted to the Council in 2011. The investigation also included a comparison with other countries that had introduced threshold values. The report proposed

the introduction of what is termed multi-criteria analysis based on ten questions which are mainly based on Section 7 of SFS 2007:1244. The report, together with the Council's comments, was submitted to the Swedish Government in June 2012.

From EU proposal to government agency regulation – achieving simple and effective rules

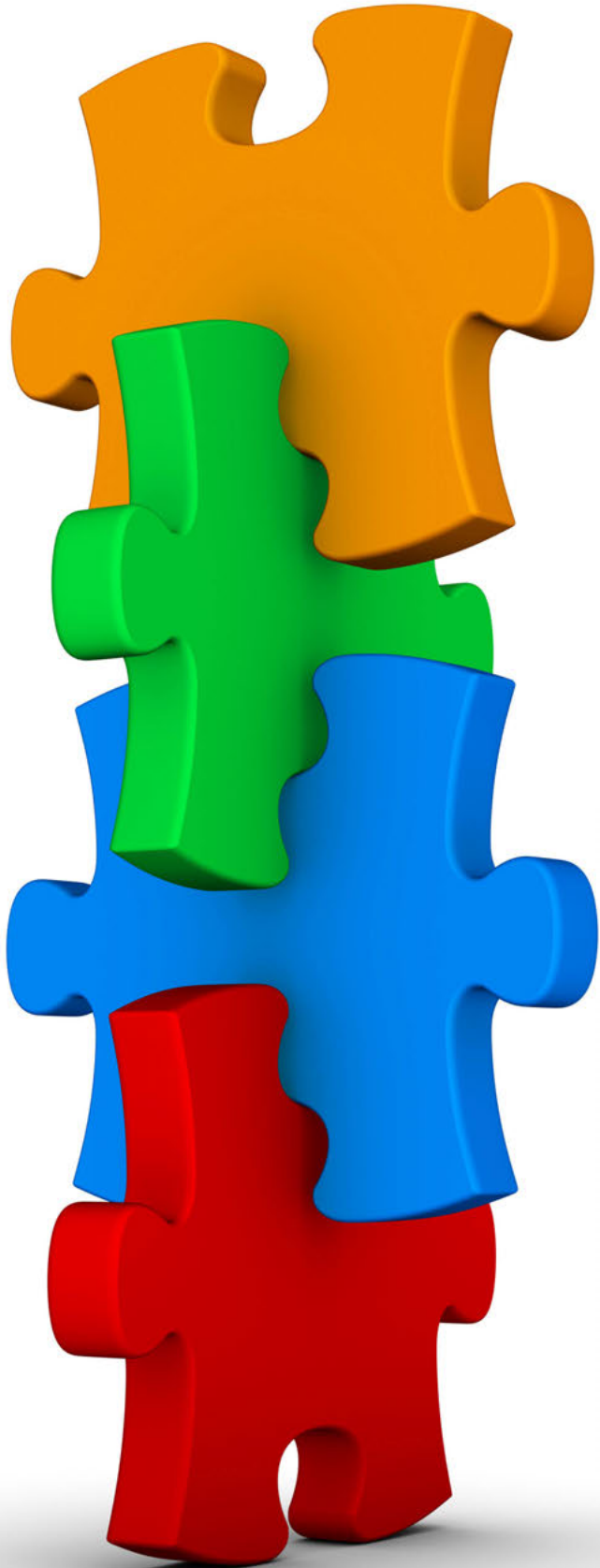
In 2011 and 2012, the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth together wrote a publication entitled "From EU proposal to government agency regulation – achieving simple and effective rules". The publication was based on interviews conducted with five Swedish government agencies on their work with and experience of better regulation in connection with their work with EU legislation, as well as proposals from the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth concerning the areas that the government agencies ought to focus on in particular. It was published in spring 2012.

SCB Project

In 2011 and 2012, the Council surveyed the systems for company reporting of statistics in Sweden, Norway and Denmark. The Council found that Norway and Denmark were at that time ahead in their work with coordinated and limited reporting for businesses. The survey was presented to Statistics Sweden (SCB) in autumn 2012 and the Council stressed the importance of these issues being given priority in the future.

Gold-Plating Report

In 2012, the Swedish Better Regulation Council and the Board of Swedish Industry and Commerce for Better Regulation (NNR) carried out a joint project concerning gold-plating which led to the report "Clarifying Gold-Plating – Better Implementation of EU Legislation". In that report, it was suggested that the Swedish Government should decide that the minimum level for the implementation of EU directives should be determined in each individual case and form the starting point for assessing how a directive is to be implemented; and that the Government, after consultation with stakeholders, should decide on a generally applicable definition of gold-plating for Sweden. It was also proposed that the minimum level for EU legislation should serve as a guideline for its implementation. If there were reasons to exceed this level, they should be clearly described and the impacts for companies analysed and reported in a public document.



The report proposed that the Swedish Government should follow the lead of the United Kingdom and Germany and adopt the principle that EU legislation ought to be implemented in a way that does not disadvantage companies' competitiveness. Furthermore, it was proposed that the Government should make it mandatory for government officials representing Sweden in the legislative process at EU level to prepare national impact assessments for proposed EU legislation. The impact assessments should be public and available to stakeholders and should be updated and developed in line with the negotiations and the decision process at EU level. The report was submitted to the Ministry of Enterprise, Energy and Communications and the Cabinet Office in the autumn of 2012. The report was also presented, together with NNR, at a meeting of the High Level Group on Administrative Burdens, and at the OECD's conference in Berlin.

In October 2012, the Council presented a proposal to the Swedish Government concerning how this could be formulated in statute text.

Communications

Website

Throughout its history, the Swedish Better Regulation Council has had a website www.regelradet.se. All of the Council's submission responses with their underlying proposals have been published on this website. In addition, there is news, information about the training that the Council participates in, the Council's collection of examples, specific information for government agencies, committees of inquiry and ministries, as well as the regulatory framework governing the Council's activities.

During 2012, the website was revamped, which resulted in greater ease-of-use and more visitors. Since then, the Council has continued to review the website's user-friendliness, which led to the Council adding its collection of examples to the site in 2014 for example as a selectable heading directly on the first page.

In 2014, the website had 16,136 visitors with an average visit time of 5 minutes. While in 2013, the website had 12,549 visitors, with an average visit lasting about four and a half minutes.

The most visited page is the one containing submission responses, from where you can easily access all of the Council's opinions and secretariat responses. Submission responses are continuously published on the website.

There is also an English version of the Swedish Better Regulation Council's website. In 2014, it was updated with two new headings: RegWatchEurope (European network of independent advisory bodies consisting of Sweden, the

Netherlands, Germany, the United Kingdom and the Czech Republic); and Regulations and reviews. Among other things, visitors to the Council's English website can get information and contact details to the European counterparts of the Swedish Better Regulation Council. The English site had 572 visitors in 2014 from a total of 68 countries. This may be compared with 2013 when the English version of the website had a total of 477 visitors from 59 countries.

The Newsletter *Regelrätt*

The Swedish Better Regulation Council launched its newsletter in 2011 and the number of subscribers has increased from 400 in 2011 to 800 in 2014. Subscribers often work at government ministries, government agencies or industry and trade organisations but may also be journalists and members of the *Riksdag* (the Swedish parliament). In the newsletter, subscribers can read brief summaries of the Council's opinions, and also read about events and training that the Council will be participating in. There is also always an interview with a person who is newsworthy in the area of better regulation or impact assessments. *Regelrätt* is distributed electronically and those who want to subscribe can register their interest on the Council's website www.regelradet.se.

Social Media

Throughout its history, the Swedish Better Regulation Council has used social media as an additional channel to make it easy for regulators, businesses and industry organisations to come into contact with the Council. The Swedish Better Regulation Council is found on Twitter and the discussions the Council participates in there can also be found in an RSS feed on the Council's website. The Swedish Better Regulation Council had 687 followers on Twitter in 2014. This may be compared with 2013 when the Council had 654 followers on Twitter. Since 2013, the Swedish Better Regulation Council has also had a profile page on LinkedIn for the same reasons as mentioned above – it should be easy to come into contact with the Council. On the LinkedIn page too, the Council can inform about its activities, specific reports and events, and start discussions in the area of better regulation.

External Contacts

The remit of the Swedish Better Regulation Council is to simplify the day-to-day operations of businesses. That is why an important part of its work is the Council's contacts and relationships with the business community. Contacts between the Swedish Better Regulation Council and businesses have several objectives: to inform about the Council's activities and tasks and thus gain acceptance for the Council's activities among those whose daily lives the Council hopes to influence; and to lead to a greater understanding within the Council for the problems that businesses experience as a result of legislative and administrative burdens and ineffective legislation.

Over the years, the Swedish Better Regulation Council has held meetings with the following industry associations: the Federation of Swedish Farmers, Näringspunkten, the Swedish Trade Federation, Almega, the Association of Swedish Engineering Industries, the Swedish Transport Group, the Confederation of Swedish Enterprise's Norwegian counterpart, Företagarförbundet Fria Företagare, the Swedish Construction Federation, the Swedish Catering Equipment Manufacturers and Distributors Association, the Swedish Cosmetics, Detergents and Toiletries Association, the organisation Forum, the Swedish Association of Independent Schools, the Swedish Bankers' Association, the Swedish Association of Road Transport Companies, and Svenska Vård. The Council has also endeavoured to have regular contact with the umbrella organisations the Confederation of Swedish Enterprise and the Swedish Federation of Business Owners, and over the years has had a number of meetings with these organisations. The objective of all these meetings has been to discuss better regulation. Cases of particular interest to the organisation in question have been raised and the Council's positions have been explained. In turn, trade and industry organisations have informed the Council about their activities, how they are working with better regulation and what their members think about current legislative proposals. The discussions have also been about how good conditions for entrepreneurship can be achieved.

Throughout its history, the Council has had a continuous exchange of experience with the Board of Swedish Industry and Commerce for Better Regulation (NNR). The Council has also participated at annual meetings and seminars organised by NNR. Despite the differences in each organisation's remit, both NNR and the Council have a common endeavour: to simplify day-to-day operations for businesses and reduce the administrative costs attributable to regulatory requirements.

Over the years, the Council has also had a number of contacts with the Ministry of Enterprise, Energy and Communications and the parliamentary Committee on Industry and Trade. The then Minister for Enterprise and Energy Maud Olofsson attended the opening of the Swedish Better Regulation Council on 16 March 2009. The Council's annual reports have been submitted to Maud Olofsson and her State Secretary and to former Minister for Enterprise Annie Lööf and her State Secretary. In addition to submitting its annual reports, the Council's Chair has had regular debriefing meetings with the Ministry of Enterprise, Energy and Communications, with both the political leaders and the responsible government officials. The Council's Chair has also had meetings with officials at various ministries, and with the Directors-General for Legal Affairs to discuss better regulation and impact assessments. The Council's Chair and Administrative Director have visited the Committee on Industry and Trade on several occasions to provide information about the Council's activities and its experiences.

The Council's Administrative Director has participated in a number of seminars organised by the *Riksdag* (the Swedish parliament) for discussions on better regulation and impact assessments. Members of parliament as well as representatives of the business community, the Government Offices of Sweden, and government agencies have also participated at several of these seminars. Similarly, on several occasions the Council has met with the interdepartmental working group on better regulation.

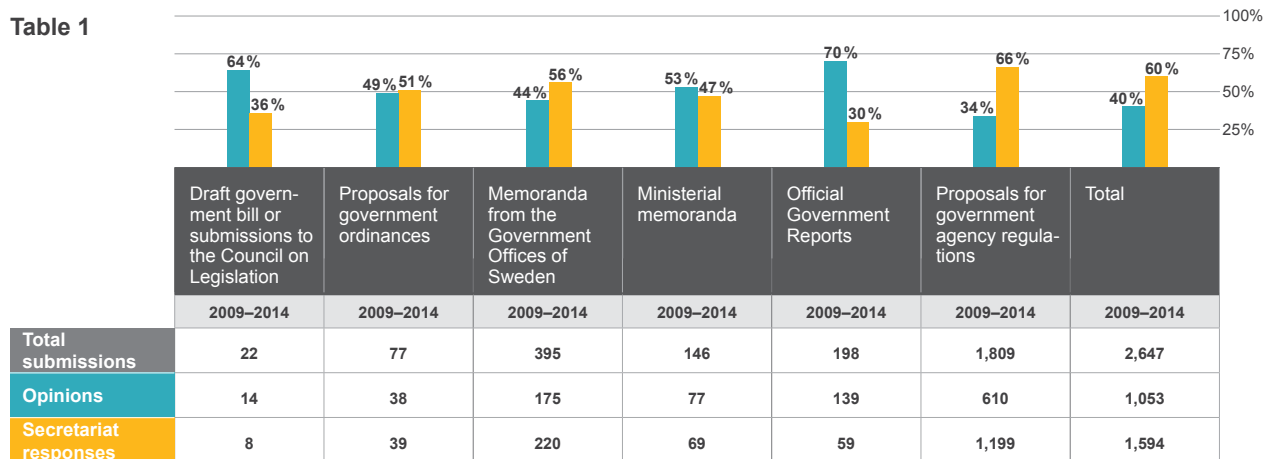
Worth noting

- The Council's projects have contributed to the continuous development of its activities.
- Several of the Council's projects have been noted by and had an impact with regulators, companies and organisations.
- The Council's communications have been developed and refined – from primarily informing about the Council's activities to showcasing the results of its review process.
- For the Council, contact with industry and trade organisations is important for a valuable exchange of experiences.



The Review in Figures

Table 1



The Review in General

Government ministries and government agencies are required to submit all proposed statutes that may have an impact on businesses' working conditions, competitiveness or conditions in general to the Swedish Better Regulation Council. During the years 2009–2014, the Council processed 2,647 submissions and five EU impact assessments. Of the ordinary submissions, the Council gave an opinion on 1,053 cases and provided secretariat responses in another 1,594 cases.¹⁰

The Council normally meets every other week and is to be given at least 14 days to submit its comments on a proposal in accordance with the Ordinance (2011:118) on the obtaining of opinions from the Swedish Better Regulation Council and the guidelines of the Government Offices of Sweden for the submission of documentation to the Swedish Better Regulation Council. If the specified statutory period for submitting comments is shorter than 14 days, or if the submission is received at a time that makes it impossible to respond to the submission within the specified statutory period, an extension of time will be requested so that the Council is able to deliver an opinion. In cases where an extension of time is not granted, a secretariat response is provided.

Table 1 shows the total number of cases that have been submitted to the Council, distributed by type of case.

Opinion or Secretariat Response

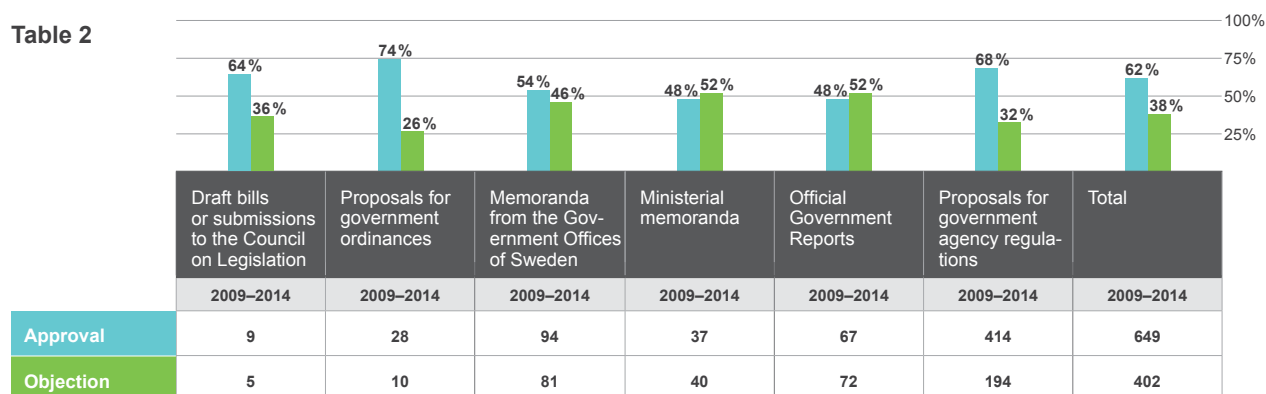
Whether a case resulted in an opinion or a secretariat response was determined case-by-case and in consultation between the supervising case officer at the Council's secretariat, the Administrative Director and the Council Chair. The members of the Swedish Better Regulation Council were therefore not normally involved in the processing of secretariat responses. This responsibility was delegated to the Council Chair and Administrative Director. In cases where the distinction between opinion and secretariat response was difficult to make, the case was taken up at the Council's meeting for determination on whether the submission should be answered with an opinion or a secretariat response.

Opinions

In accordance with the Council's remit, the review of submissions has involved two parts. In the first part, the Council has evaluated whether the proposal is drafted in such a way that it achieves its aim in a simple way and at a relatively low administrative cost to the businesses affected. This has resulted in an approval of or an objection to the proposal. In the second part, the Council has also assessed whether the impact assessment complies with the requirements in Sections 6 and 7 of SFS 2007:1244. In the case of a few submissions, the Council has only delivered an opinion on the submission's proposed statute or impact assessment, but not both. This means that the total number of opinions differs

¹⁰ Where minor errors have been detected in previous annual reports, these have now been corrected.

Table 2



somewhat from the number of opinions where the Council has assessed both the proposed statute and its impact assessment.

The Council has chosen to divide up the submissions from the ministries into proposals that have been drawn up inside and outside the Government Offices of Sweden, respectively. Proposals that are reported as having been produced inside the Government Offices include internal ministerial memoranda but also government agency reports that have been submitted by the responsible ministry. Proposals that are reported as produced outside the Government Offices are submissions of Ministerial memoranda (DS) and Official Government Reports (SOU). In the annual report for 2013, another kind of division between what was to be considered as inside and outside the Government Offices of Sweden was planned for future annual reporting. Due to the fact that, besides the reports for the year for 2014 included in this Final Report for 2009–2014, the Council has chosen not to implement any such change at this point in time in order to be able to more easily compare results over the period 2009–2014.

It happens that regulators resubmit their proposals to the Council for a new opinion after having made changes in their proposed statute or impact assessment as a result of comments received from the Swedish Better Regulation Council or another referral body. The Council supports and encourages such a procedure and would like to see it happen more frequently than it does today. This means, however, that the statistics reported are somewhat misleading, since one proposed statute may have resulted in two opinions with different results if, for example, the impact assessment has been supplemented and resubmitted. Since this has occurred in only a few cases over the years, it has no more than a marginal effect on the overall result, although it may affect the outcome for individual regulators to a somewhat greater degree.

Two submissions from the Swedish Environmental Protection Agency have been prepared on behalf of the Swedish Government and therefore are included in the list of government reports as having been submitted from the government ministries. Both proposed statutes were approved, with acceptable impact assessments.

Table 3

Ministries	Inside the Government Offices		Outside the Government Offices		Total
	Approval	Objection	Approval	Objection	
Ministry of Employment	1	0	7	5	13
Ministry of Finance	34	21	16	29	100
Ministry of Defence	1	0	3	0	4
Ministry of Integration and Gender Equality	0	0	1	2	3
Ministry of Agriculture	3	1	4	1	9
Ministry of Justice	14	11	31	19	75
Ministry of Culture	1	0	5	6	12
Ministry of Rural Affairs	4	2	2	2	10
Ministry of the Environment	17	15	2	6	40
Ministry of Enterprise, Energy and Communications	37	29	15	11	92
Ministry of Health and Social Affairs	8	6	14	20	48
Ministry of Education and Research	11	10	3	11	35
Ministry for Foreign Affairs	0	1	1	0	2
Total	131	96	104	112	443

Approval or objection

Over the years, the Council has delivered its opinion on 1,051 submissions, resulting in 649 approvals and 402 objections. Table 2 shows the number of approvals and objections, distributed based on the type of proposal.

Seen over the entire period of the Council's activities, 2009–2014, the proportion of approved proposals was 62 per cent. The result for individual years varies, however. During the years 2009–2010, 57 per cent of proposals received approval while 56 per cent were objected to. In 2011–2012, the proportion of approved proposals increased to 73 and 74 per cent, respectively, then later fell to 52 per cent in 2013. In 2014, the proportion of approved proposals again increased to 60 per cent. It is difficult to know why there was a sharp increase in 2011–2012, but it is possible that the Council's opinions contributed to a better understanding among regulators of what information needed to be reported in order to secure an approval. A reasonable assumption is that the Council's opinions, in combination with the previous government's stated goal that the administrative costs for business should be reduced by 25 per cent by 2012, contributed to a better focus on the administrative costs for businesses. The goal formulated in 2013 was slightly more conservative – that administrative costs in 2020 should be lower than they were 2012. Consequently, there is not the same focus on administrative costs today as there was in 2009–2012.

As stated earlier, since 2013 the Council has also required more detailed reporting on how the proposed statute would decrease administrative costs in order to approve a proposal. This may have had an impact on the statistics.

The most common reason for objection to a proposal is that the administrative costs are not reported in full.

Approvals and objections by ministry and government agency

The number of proposals from the Government Offices of Sweden approved or objected to can be seen in Table 3 on p. 35. See the Annex for the results broken down by ministry and year. The data is presented per ministry and based on whether the proposal was prepared inside or outside of the respective ministries.

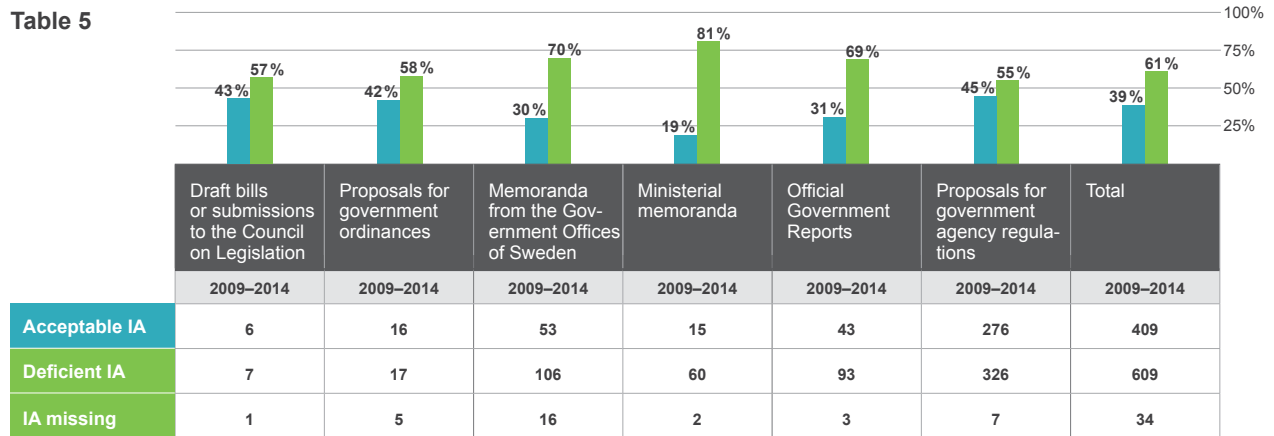
Out of a total of 443 submissions from the Government Offices that the Council delivered its opinion on, 235 were approved. This means that the proportion of approved proposals is only 53 per cent. The proportion of approved proposals prepared inside the Government Offices is 58 per cent, while the proportion of approved proposals prepared outside the Government Offices is 48 per cent. As mentioned previously, the most common reason for objecting to a proposal is that there is not enough evidence for the Council to be able to assess the impact of the proposed statute on the administrative costs of affected businesses, and whether the most suitable solution from an administrative point of view has been chosen.

Table 4

Government agency	Approval	Objection	Total
The Swedish Public Employment Service	0	1	1
The Swedish Work Environment Authority	15	6	21
The Swedish Companies Registration Office	2	0	2
The Swedish National Board of Housing, Building, and Planning	13	4	17
The Swedish National Electrical Safety Board	3	2	5
The Swedish Energy Markets Inspectorate	13	8	21
Swedish Energy Agency	12	4	16
The Swedish Board of Supervision of Estate Agents	0	1	1
The Swedish Financial Supervisory Authority	20	14	34
The Swedish National Board of Fisheries	2	2	4
The Swedish Social Insurance Agency	0	1	1
The Swedish Agency for Marine and Water Management	4	5	9
The Swedish Board of Agriculture	81	18	99
The Swedish Chemicals Agency	5	3	8
The Swedish Competition Authority	0	1	1
The Swedish Consumer Agency	7	1	8
The National Food Agency	8	6	14
The Medical Products Agency	19	6	25
Västra Götaland County Administrative Board	1	0	1
The Swedish Broadcasting Authority*	1	1	2
The Swedish Civil Contingencies Agency	8	6	14
The Swedish Agency for Accessible Media	0	1	1
The Swedish Environmental Protection Agency	6	5	11
The Swedish Pensions Agency	0	1	1
The Swedish Post and Telecom Agency	13	2	15
The Press Subsidies Council	0	1	1
The Supervisory Board of Public Accountants	1	1	2
The Swedish National Debt Office	1	0	1
The Swedish National Police Board	2	4	6
The Swedish Maritime Administration	9	3	12
The Swedish Tax Agency	5	6	11
The Swedish Forestry Agency	10	2	12
The Swedish National Agency for Education	6	8	14
National Board of Health and Welfare	3	12	15
Swedish National Institute of Public Health	4	1	5
Statistics Sweden	12	2	14
The Swedish Radiation Safety Authority	7	4	11
SWEDAC	9	5	14
The Swedish ESF Council	0	1	1
Svenska kraftnät	0	1	1
The Swedish Dental and Pharmaceutical Benefits Agency	8	8	16
The Swedish Agency for Economic and Regional Growth	0	2	2
Transport Analysis	0	1	1
The Swedish Transport Administration	0	1	1
The Swedish Transport Agency	96	29	125
Swedish Customs	7	1	8
The Swedish National Road Administration	1	2	3
Total	414	194	608

* One submission was sent from the Swedish Radio and TV Agency, but the new Swedish Broadcasting Authority was set up during the submission period.

Table 5



Proposals approved or objected to from government agencies are listed in Table 4. See the Annex for the results broken down by government agency and year. Of a total of 608 submissions, 414 were approved (68 per cent). There are large differences between the government agencies. The Swedish Transport Agency and the Swedish Board of Agriculture are examples of government agencies that have made many submissions that have resulted in opinions, and they also had good results. The Swedish Post and Telecom Authority is an example of a government agency that has not made as many submissions, but which has also achieved good results.

Quality of Impact Assessments

The Council reviews the quality of the impact assessment that is to be submitted along with the proposed statute. The review is based on Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (2007:1244).

Of the 1,052 cases where the Council expressed its opinion on impact assessments, 409 of the impact assessments were evaluated as being of sufficiently good quality, while 609 were evaluated as not being of sufficiently good quality. Of these submissions, 34 lack an impact assessment entirely, and they are included in the figure for impact assessments of insufficient quality. However, the number of submissions lacking an impact assessment entirely was greatest in 2009, and since then this figure has gradually fallen over the years. The proportion of impact assessments assessed as meeting the requirements under SFS 2007:1244 was 39 per cent.

During the years 2009-2012, the proportion of impact assessments which were assessed as meeting the requirements was around 40 per cent (39-42 per cent). In 2013, this figure fell to 34 per cent and in 2014 it was 36 per cent. The result has thus not trended in the desired direction when looking at the trend over time. In the opinion of the Council, this result is alarming and indicates that vigorous efforts are needed to deal with the problems.

There are a number of reasons why impact assessments of proposed statutes affecting business should be done. The primary purpose is that impact assessment will help regulators to arrive at the most suitable solution for businesses in relation to what the regulator wants to achieve with the new legislation. Another important purpose is to ensure that decision-makers will have sufficient data to be able to make evidence-based decisions. A third purpose is being able to use the impact assessment in connection with follow-up once a statute has entered into force. From 2014, the calculations in impact assessments are also being used to monitor the development of administrative costs for business in Sweden. For these reasons, it is of great importance that the impact assessments are of good quality.

Common deficiencies that the Council has noted in impact assessments over the years are the lack of calculations or estimates of costs, and that the calculations or estimates are not fully reported. Alternative solutions are often poorly reported and it is extremely rare that any financial accounting of alternative solutions, if any, has been done. It is also common that the number of affected businesses and industries is not described well enough. Such information is essential to be able to calculate or estimate the economic impacts that a proposal might have on the businesses affected, but also to develop an understanding of how the proposal may impact these businesses in other respects.

There are also deficiencies in the description of the proposal's impact on the competitive situation, and whether there needs to be special consideration for small businesses. When these points are described, there is often a brief comment that the proposal will affect all companies in a similar way, and special consideration cannot be given to small businesses. According to the Council, a more detailed account of how and in what way a proposal impacts companies is valuable – from the regulator's point of view but also from the point of view of follow-up. Therefore, this also applies to proposals that have been prepared on the

Table 6

Ministries	Inside the Government Offices		Outside the Government Offices		Total
	Acceptable	Deficient	Acceptable	Deficient	
Ministry of Employment	1	0	3	9	13
Ministry of Finance	21	34	11	34	100
Ministry of Defence	0	1	1	2	4
Ministry of Integration and Gender Equality	0	0	0	3	3
Ministry of Agriculture	2	2	2	3	9
Ministry of Justice	7	18	15	35	75
Ministry of Culture	1	0	2	9	12
Ministry of Rural Affairs	2	4	1	3	10
Ministry of the Environment	7	25	2	6	40
Ministry of Enterprise, Energy and Communications	23	43	8	18	92
Ministry of Health and Social Affairs	5	9	9	25	48
Ministry of Education and Research	6	15	3	11	35
Ministry for Foreign Affairs	0	1	1	0	2
Total	75	152	58	158	443

basis of limited or non-existent scope for action because they are based on EU directives or international agreements, for example.

For many years, the Council has stressed the importance of the regulators' engagement in the process. Regulators with a senior management who are committed to and prioritise work on impact assessments in terms of both time and resources achieve a better result. That more than half of the impact assessments on which the Swedish Better Regulation Council has delivered an opinion are assessed as not meeting the requirements in Sections 6 and 7 of SFS 2007:1244 is not acceptable. It is also clear that the measures taken thus far to improve work with impact assessments have not been sufficient.

The quality of impact assessments per ministry and government agency

Table 6 shows that the Swedish Better Regulation Council has delivered an opinion on 443 impact assessments from the Government Offices of Sweden. Of these, 133 impact assessments have been assessed as being of sufficient quality (30 per cent). On closer examination, 75 of a total of 227 proposals that have been prepared inside the Government Offices have been assessed as being of sufficiently good quality (33 per cent). Of the impact assessments prepared outside the Government Offices, 58 out of 216 have been assessed as being of sufficiently good quality (27 per cent). In the Council's opinion, these results are not acceptable. The Council understands that it can be difficult to calculate or estimate the economic impacts of proposals for example, and to give an account of which businesses will be impacted, since this can become much clearer when preparing the impact assessment for proposals for subordinate (delegated) regulation. At the same time, the scope for alternative solutions in subordinate regulation is curtailed if the focus is already decided in Acts and Ordinances. If a decision is made based on incomplete data, there is also a risk that

the benefits of the regulation will be overestimated and the negative consequences for businesses will be underestimated. Dealing with any problems that arise after a decision has already been made is time-consuming and costly for both businesses and the regulators. For this reason, in the opinion of the Council, it is of great importance that work with impact assessments is taken seriously and that steps are taken to achieve an improvement. Furthermore, well-executed impact assessments from the Government Offices of Sweden ought to be able to facilitate future work in both the Government Offices and the government agencies responsible at a later stage for drafting proposals for Regulations. The government ministries need to improve their work with impact assessments but it is also important to have a clear description of what is expected in cases where the ministries outsource the preparation of impact assessments. It is also important that the ministries do not accept impact assessments that have been prepared in a substandard way. An example of how things can go is a submission from the Ministry for Rural Affairs comprising the Swedish Forestry Agency's report on scaling of timber in 2013. After criticism from the Swedish Better Regulation Council, the Ministry for Rural Affairs tasked the Swedish Forestry Agency with supplementing the impact assessment. The proposal with its supplemented impact assessment was resubmitted to the Council, which resulted in the impact assessment being assessed as acceptable.

The results for individual ministries vary quite a lot between years which is why it is difficult to see a clear trend in respect of ministries that have done particularly well, seen over the entire history of the Council's activities. See the Annex for the individual ministries results broken down per year.

The government agencies' results in terms of the quality of their impact assessments can be seen in Table 7. Of 609 submitted cases, 276 impact assessments have been assessed as complying with the requirements (45 per cent). Thus, the

Table 7

Government agency	Acceptable	Deficient	Total
The Swedish Public Employment Service	0	1	1
The Swedish Work Environment Authority	11	10	21
The Swedish Companies Registration Office	1	1	2
The Swedish National Board of Housing, Building, and Planning	8	9	17
The Swedish National Electrical Safety Board	2	3	5
The Swedish Energy Markets Inspectorate	9	12	21
The Swedish Energy Agency	8	8	16
The Swedish Board of Supervision of Estate Agents	0	1	1
The Swedish Financial Supervisory Authority	13	21	34
The Swedish National Board of Fisheries	2	2	4
The Swedish Social Insurance Agency	0	1	1
The Swedish Agency for Marine and Water Management	0	9	9
The Swedish Board of Agriculture	64	35	99
The Swedish Chemicals Agency	2	6	8
The Swedish Competition Authority	0	1	1
The Swedish Consumer Agency	0	8	8
The National Food Agency	5	9	14
The Medical Products Agency	12	13	25
Västra Götaland County Administrative Board	0	1	1
The Swedish Broadcasting Authority*	1	1	2
The Swedish Civil Contingencies Agency	4	10	14
The Swedish Agency for Accessible Media	0	1	1
The Swedish Environmental Protection Agency	3	8	11
The Swedish Pensions Agency	0	1	1
The Swedish Post and Telecom Agency	12	4	16
The Press Subsidies Council	0	1	1
The Supervisory Board of Public Accountants	1	1	2
The Swedish National Debt Office	0	1	1
National Police Board	2	4	6
The Swedish Maritime Administration	5	7	12
The Swedish Tax Agency	4	7	11
The Swedish Forestry Agency	7	5	12
The Swedish National Agency for Education	3	11	14
National Board of Health and Welfare	2	13	15
Swedish National Institute of Public Health	4	1	5
Statistics Sweden	12	2	14
The Swedish Radiation Safety Authority	5	6	11
SWEDAC	5	9	14
The Swedish ESF Council	0	1	1
Svenska kraftnät	0	1	1
The Swedish Dental and Pharmaceutical Benefits Agency	6	10	16
Swedish Agency for Economic and Regional Growth	0	2	2
Transport Analysis	0	1	1
The Swedish Transport Administration	0	1	1
The Swedish Transport Agency	61	64	125
Swedish Customs	2	6	8
The Swedish National Road Administration	0	3	3
Total	276	333	609

* One submission was sent from the Swedish Radio and TV Agency, but the new Swedish Broadcasting Authority was set up during the submission period.

government agencies have performed better than the Government Offices of Sweden, but in the opinion of the Council, the proportion of impact assessments that comply with the requirements is still far too low. Some of government agencies that have shown a good result are the Swedish Board of Agriculture and Statistics Sweden. Examples of government agencies that have resubmitted impact assessments to the Council are SWEDAC and the Swedish Post and Telecom Authority. The results broken down per year for the government agencies are reported in an Annex.

Secretariat Responses

Under the Swedish Better Regulation Council's remit, it is to deliver its opinion on proposals that are anticipated to have impacts on businesses' working conditions, competitiveness or conditions in general. If a proposal is not assessed as having such impacts, the submission is answered by secretariat response. Of the 2,647 submissions to the Council received, 1,594 have led to secretariat responses (60 per cent).

There are several reasons why secretariat responses are issued and these reasons are always provided in the response. For example, the submission may refer to a proposed statute that will not affect businesses at all, or is estimated to have only a limited impact on the activities of businesses. A secretariat response is provided if the submission does not contain any Swedish statute text. Often this can be reports without proposed statutes, or proposals for general advice but may also include proposals for EU regulations or EU directives where, under special arrangements, review has not been requested; and in the case that, for other reasons, the submission is not covered by the Swedish Better Regulation Council's remit.

Another reason for a secretariat response is time constraints. The Council meets every other week and is to be given at least two weeks to process a case. Sometimes submissions are received with a short response time between meetings. In such a case, generally an extension of the response time is requested. If this is not possible, a secretariat response is formulated, mostly due to time constraints. Finally, a secretariat response may be provided due to a lack of resources, which only applies in exceptional periods of particularly high workload. In such a situation, the Council attempts to prioritise cases so that those proposals which are assessed as having impacts of greater importance for business are answered with an opinion.

By far the biggest number of secretariat responses have been received by the Swedish Transport Administration followed by the county administrative boards. The submissions of these regulators have exclusively resulted in secretariat responses.¹¹ Examples of government agencies that have received many secretariat responses, relative to the total

¹¹ There is only one opinion with a county administrative board as the sender, which is the submission by the Västra Götaland County Administrative Board's Regulations on measures against money laundering and the financing of terrorism.

number of submissions from the government agency, are the Swedish Social Insurance Agency, the National Board of Health and Welfare, and the Swedish National Agency for Education. Government agencies such as the Swedish Board of Agriculture and the Swedish Transport Agency, which has submitted many cases to the Council, have received both a large number of opinions and a large number of secretariat responses.

The Council is anxious to receive all submissions that may have impacts for business. However, some recurrent secretariat responses entail unnecessary administration for both the Council's secretariat and for the regulators. For this reason, in the autumn of 2014, a statement was added to some secretariat responses that the submission should not have been sent to the Swedish Better Regulation Council (see the Reporting for the year for 2014). The purpose of this information is to minimise the submission of cases that always result in a secretariat response from the Council. This concerns submissions that are not covered by the Council's review task and submissions that do not involve any, or only extremely limited, impacts for business. After this new procedure was introduced, the Council has noted a reduced inflow of certain types of submissions, such as, for example local road traffic speed regulations.

It should be emphasised that the Council would like to retain the option to determine which submissions should be answered with a secretariat response and which with an opinion. It is therefore important that regulators send their submissions to the Council when this should be done. It is better to submit once too often rather than the reverse.

Review of the European Commission's Impact Assessments

Background

Quite early on in its history, the Swedish Better Regulation Council understood that in order to succeed in its work with better regulation, a focus on the legislative process in the EU was needed. In 2010, the Council submitted several proposals to the Swedish Government regarding impact assessments within the EU and the Council's role. The Council had noted that Swedish regulators often did not have the option of rejecting administratively burdensome solutions where these were a consequence of EU law. Because of this, the Council stressed the importance of member states being able to actively work to influence the legislative process in the EU so that work with better regulation begins right from before the final legal act of the Union is to be transposed in Swedish law. With this in mind, and for the purposes of identifying opportunities for improvement, the Council conducted a study of the procedures that the Government Offices of Sweden had for influencing the drafting of new EU regulations. The Council made the assessment that the drafting of EU legislation could be influenced mainly when the legislative proposal was being prepared by the European Commission, when the proposal was being prepared within the framework of the comitology procedure, and when the

proposal was being discussed in the Council of the European Union.

Guidelines had already been drawn up within the Government Offices of Sweden on how work with the EU should be carried out, but the Swedish Better Regulation Council was of the opinion that the guidelines could be improved without needing to change the current organisation. As the Council understood things, it was important that Swedish experts participating in the European Commission's expert groups and implementation committees were utilised more effectively. Furthermore, the Council's view was that there were reasons to carry out analyses of proposals for new EU legislation at an earlier stage than had been the case. In 2010, the Council submitted a report¹² to the Swedish Government that presented proposals for a series of measures to strengthen the Government's procedures in connection with its work with EU legislation.

During its presidency of the EU in 2009, Sweden also had better regulation at the EU level as a priority issue. Another important factor was that, in its report *Better Regulation in Europe SWEDEN 2010*,¹³ the OECD stressed the importance of impact assessments being carried out on proposals for legislation at the EU level, and that the Swedish Better Regulation Council should be able to play an important role in this context. In its supplementary terms of reference (2011:71), the Council was given the task of reviewing impact assessments for those proposals from the EU that are assessed as having a significant impact on businesses in Sweden, as well as providing recommendations on whether a supplementary Swedish impact assessment ought to be made and providing support in that work.

Over half of the administrative costs for Swedish companies have their origins in legislation from the EU. Through the Swedish Better Regulation Council's remit, Sweden has a greater opportunity to take an active role in promoting better regulation during the negotiations on new legislation from the EU. In this way, the Council also becomes part of the legislative process at an earlier stage, before a legal act from the EU is to be implemented in Swedish law, and will therefore have the opportunity to influence the proposed regulatory framework in a direction more suited to the day-to-day operations of Swedish companies.

The Review Process

When the Swedish Better Regulation Council reviews an impact assessment from the EU, the process is similar in many ways to the review of a Swedish impact assessment. Descriptions of what the regulator wants to achieve, the businesses affected, changes in costs and competition conditions are also carefully examined in the review of an impact assessment from the EU. On the other hand, the

¹² This report was entitled *Synpunkter på regeringens arbete med EU-lagstiftning* [Views on the Swedish Government's work on EU legislation]

¹³ *Better Regulation in Europe SWEDEN*, <http://www.oecd.org/gov/regulatorypolicy/betterregulationineuropesweden.htm>

Council does not make any assessment of whether the proposal achieves its purpose in a simple way and at a relatively low administrative cost. The Council does not either make any assessment of whether the impact assessment complies or does not comply with the requirements in Sections 6 and 7 of SFS 2007:1244 but has this regulatory framework as guidance for the review. The review of an impact assessment from the EU is usually more extensive than the review of an impact assessment from a national regulator, and the task is to explain what the Council believes is missing in the impact assessment from the EU, and consequently what a Swedish impact assessment ought to contain.

Follow-up of the Review

Since receiving its supplementary terms of reference, the Council has delivered its opinion on five EU impact assessments. For this reason, it has been possible for the Council to do in-depth follow-ups of how the review was perceived by the relevant government ministries. The Council considers that the task is an important part of its work to simplify things for businesses in Sweden. For this reason also, follow-ups are needed to get information about how the Council's opinion is received, how it is used, and what can be improved.

For each completed review of an impact assessment from the EU, the Swedish Better Regulation Council has had follow-up meetings with the ministry that requested the review. At the follow-ups conducted, it was found that the Swedish Better Regulation Council's review was beneficial to the Swedish representatives in the Council of the European Union. The Council's review has been considered a quality stamp that the impact assessment has been reviewed by an independent body that has expertise in the content of impact assessments and the financial impacts on businesses. The ministries are also in agreement that the Council's opinions on EU impact assessments have been greatly significant for their continued work on the proposals, and that the opinion has constituted part of the material on which the Swedish working group has based its position. With the help of these opinions, it has been possible to clearly identify the deficiencies in the European Commission's impact assessments. The ministries have found that they have derived the greatest benefit from the Council's opinions in the early stages of a negotiation process, but at the same time they have pointed out that an opinion can also be used at a later stage in negotiations.

The Council's opinions are perceived as clear, but a comment that has emerged is that the opinions could be even more detailed and that the Council's assessment could be developed further. It is the Council's assessment that is considered to be the most important thing in the opinion, and the more developed it is, the more useful it is. For example, it is apparent from the follow-ups that the more developed the analyses presented in the Council's opinion are, the easier it is for the Swedish representatives in the

Council of the European Union to argue based on Swedish conditions in relation to other member states and the presidency. This has been a great help when the Council has been able to clearly point out the Articles in the proposals that have been assessed as potentially having far-reaching consequences for business, and whether these impacts have been sufficiently described in the EU's impact assessment.

So far, no ministry has followed the Council's recommendation to prepare a supplementary Swedish impact assessment while the negotiations in the EU are still in progress. According to the ministries, the reason for this is that the proposals from the EU change regularly during negotiation processes, and a supplementary impact assessment with its own calculations would therefore quickly become obsolete and would need to be updated continuously. According to the ministries, there is neither time, expertise nor sufficient resources to maintain such extensive work. Through the follow-up, it has become clear that at least one ministry has commissioned an external consultancy firm to carry out an impact assessment that describes the impacts of a specific Article on businesses in Sweden in order to use this impact assessment in negotiations in the EU. The follow-up of the two most recent reviews conducted have shown that the Swedish Better Regulation Council's review task was not known at the Divisions of the ministries that were responsible for the issues. In both of these cases, the ministry's request for review of the EU impact assessment was received by the Council only after the Council's secretariat had contacted the responsible Senior Adviser at the Permanent Representation of Sweden to the European Union and informed him/her about the Council's task. It is therefore important that information about this task is communicated within the Government Offices of Sweden. At the same time, each completed review has provided marketing in itself. It has become clear from the follow-up that those Divisions that have requested a review have spread the information that the Swedish Better Regulation Council performs the task, and that the Divisions would request a review again where new proposals are to be submitted by the European Commission.

Worth noting

- Concerning administrative costs, deficient estimates are the most common reason for an objection from the Council.
- A few regulators have consistently high quality in their impact assessments. For the others, there is great potential for development and improvement.
- The Council has taken steps to avoid unnecessary submissions.
- The Council's review of EU regulatory impact assessments has been positively received by the government ministries.



Follow-up in General

In order for the Council's work to be as efficient and effective as possible, it is important that its work is followed up and that experiences are gathered from the results. Over the years, various types of follow-up of the Council's opinions have been carried out. These have concerned, on the one hand, whether it is clear from the opinion why an impact assessment is considered to be deficient and how it should be supplemented; and on the other hand what impact the Council's opinions with comments have had, and if any changes are made based on the Council's comments.

In this section, a comparison is made between the various follow-ups conducted since the Swedish Better Regulation Council was established. In addition, some new approaches to follow-up are highlighted, such as whether certain industries have been particularly affected, and if any specific conclusions can be drawn concerning the background to proposals.

Impact of the Council's Opinions 2009–2014

There is a strong focus on the Council's statistics on the regulators' impact assessments. However, in working to improve impact assessments, the impact of the Council's opinions is at least equally important. Over the years and in different ways, the Council has followed up what happens to the regulator's impact assessments after the regulator has received an opinion from the Council. The follow-up has examined the regulator's deficient impact assessments – how many cases have gone on in the statute process, and which wholly or in part have or have not been supplemented according to the Council's comments delivered in the opinion. The basis for the Council's follow-up has been slightly different between the years, and the results are therefore not fully comparable. However, the Council has noted the following.

During the latter part of the Council's history, it has been found that an increasing proportion of impact assessments that, at the time of the Council's opinion, were not considered to comply with the requirements, have in fact been supplemented subsequently. In 2013 and 2014, this has occurred in 40 to 50 per cent of cases. In these years too, the data provided to the Council has been the greatest. It is very positive that the regulators take note of the Council's comments and supplement their impact assessments, in order to improve the evidence base.

The comments made by the regulators over the years concerning the supplementation of impact assessments based

on the Council's comments are largely similar to what regulators usually state as challenges in work with impact assessments. For example, it has been stated that it is difficult to calculate costs. Also, it has been argued that there is a lack of time and resources, which has led to regulators not having had the opportunity to take the Council's comments into account. It has also been argued that in some cases the regulators do not share the Council's assessment and that the Council's opinions are not binding.

That the Swedish Better Regulation Council's remit is drafted as it is, with review of final proposals as a referral body among other referral bodies, combined with the fact that the Council usually only sees the proposal and its related impact assessment once, also explains the regulators' statistics on the quality of impact assessments at the general level.

However, follow-up has often shown that the final evidence base contains far too many deficiencies for it to be assessed as acceptable. Thus, the Council's comments could well be taken into account to a greater extent, even if there is a positive trend.

Surveys on Opinions – Comparison 2012–2014

As part of the follow-up in 2012, surveys were sent to the government agencies that had submitted impact assessments judged by the Council not to comply with the requirements in Sections 6 and 7 of SFS 2007:1244, and where the Council submitted its opinion during the period August – October. This same type of follow-up was done in 2013 and 2014, at that time also to government ministries that had submitted impact assessments judged not to comply with the requirements during the stated period.

In the surveys, the regulator was asked to say whether the Council's opinion made it clear why the impact assessment was judged not to comply with the requirements, and if it was clear in what ways the impact assessment needed to be supplemented. In addition, there was an opportunity for the regulator to submit their own comments in connection with the survey.

The response rate between the years has varied, but was between 70–80 percent in the years 2012 and 2013. The proportion of regulators who stated that it was clear why the impact assessment was judged not to comply with the requirements in these years was over 90 per cent. The proportion of regulators who stated that it was clear

how the impact assessment should be supplemented was between 78–92 per cent in 2012 and 2013. The survey for 2014 showed a slight decline, but the response rate was also very low. The proportion of regulators who stated that it was clear in what ways the impact assessment ought to be supplemented was 80 per cent, which is comparable with previous years.

In the surveys, the respondents expressed an appreciation for the fact that the Council motivates its position in its opinions, but that a specific heading for supplementation would be desirable, as well as a specification in point form of what needs to be supplemented and why. Similarly, the regulators expressed a desire to obtain information about how the requested quantitative estimates can be produced.

According to the Council, it is positive that a large proportion of the regulators have understood from the opinion why the impact assessment is judged not to comply with the requirements. The regulators' comments are important in work with how to make the Council's opinions as clear as possible. Therefore, the Council has taken on board the comments from the regulators for its future work to produce clear opinions. From 1 January 2015, the Council's opinions will have a slightly different formulation as a result of certain changes in the Council's remit. Work to make its opinions clear will continue during 2015 and subsequent years.

Particularly Exposed Trades or Industries

The Swedish Better Regulation Council delivers an opinion on submissions that are judged to have an impact on businesses. Businesses operate in different trades and industries. Over the years, some trades and industries have more frequently been the subject of proposals for new and amended regulations than others. The Council has looked at the types of trades and industries that have been the subject of a larger share of proposals over the years. The starting point has been the submissions that have resulted in an opinion from the Council. In this survey, the fact that the proposals directed at one trade or industry may have different impacts on companies in that trade or industry was not taken into account. Moreover, the survey omitted the proposals that affect more than one, or all, trades or industries. It would also have been interesting to examine the cost implications of the proposals for these particularly exposed trades or industries, but due to the lack of cost accounting in the impact assessments, it is not been possible to make such a compilation.

The Council has found that it is usually the same trades or industries that tend to be the subject of several proposals for new or amended regulations, even if the number of submissions that affect a specific trade or industry may be different from year to year. The finance, energy, agriculture, pharmaceutical, pharmacy and school industries are periodically subject to proposals for new and amended regulations. As already mentioned in the Swedish Better Regulation Council's annual report for 2013, the finance and

energy industries have exhibited a gradually increasing trend in the number of proposals, even if the number of submissions has varied between the years. The opposite can be said of the agricultural industry, which has shown a downward trend, with a varied number of submissions per year. The maritime, pharmacy, pharmaceutical and school industries have had a more varied number of submissions in different years.

Proposals relating to the finance industry more often than not entail major changes in costs. Proposals affecting farmers, on the other hand, do not always entail such large changes in costs. However, agriculture is also an industry that has many small businesses, which is why companies in the industry can be more sensitive even to minor changes. However, the Council has noted that the Swedish Board of Agriculture and even the Swedish Transport Agency are actively working to try to reduce or minimise the costs for affected businesses when new or amended regulations are proposed.

The Council has also noted that several proposals impacting specific industries have resulted in secretariat responses, because the impacts of individual proposals have been assessed to be limited. An example is the school industry, where the Council has responded to a number of submissions with secretariat responses. However, it is not possible to rule out the possibility that a number of less costly proposals taken together can result in quite a considerable burden for the businesses affected. This burden can relate to both financial burdens and the disruptive aspect of frequent changes in normal activities.

In the view of the Council, it would be better if, whenever possible, proposals for changes to a statute were accompanied by an overhaul of the existing statute in its entirety. This would make it possible to repeal or amend existing statutory requirements that have limited or no benefit to a greater extent than is currently the case. Thus, companies could be compensated, at least in part, for an increased regulatory burden. It would also be desirable to coordinate the regulators' work on statutes to a greater extent so that their entry into force occurs on fewer occasions, and to ensure that companies have sufficient time to implement the necessary changes required by new or amended regulations.

Small Businesses

The Council has not carried out any specific follow-up of the impact of proposals on small businesses. Over the years, however, the Council has noted the following.

In the opinion of the Council, proposals are rarely drafted with any special consideration for small businesses. On the contrary, proposed statutes commonly entail an increase in complexity and increased requirements for companies in general, which can be especially burdensome for small businesses. Such statutes risk knocking out existing companies and making it more difficult for new companies to enter

the markets concerned. The Council has also noted that such serious consequences for small businesses are described poorly in impact assessments, insofar as they are described at all.

When the Council's secretariat has been in contact with trade and industry organisations, it has found that these organisations' view of the impacts differs from the account presented in the impact assessments. Not uncommonly, the industry's views have been communicated to the regulator without the regulator having presented or responded to the industry's arguments in the impact assessment, just expressed the regulator's own understanding.

In contacts with the various government agencies, the Council's secretariat has also received information that the agencies are fully aware that the impacts of their proposals could lead to small businesses being knocked out of a market, but that the agencies have considered this to be a necessity in order to achieve the quality and safety that the proposed statutes are intended to provide. Even if this is the case, the Council is of the opinion that the negative impacts should be made clear in the impact assessments, along with a well-founded justification for the proposed regulation.

Better Regulation and Open Consultations

Some of the proposals submitted for comment to the Council aim to make things simpler for businesses. It does happen that the regulator has taken on board communications received from industry organisations for example, which has resulted in proposals for better regulation for business. In connection with the preparation of proposals for regulation changes, it also happens that the existing regulation is overhauled, which can lead to proposals for better regulation for business. Even in these cases, an impact assessment needs to be made.

To achieve the aim of avoiding red tape for business, the Council is of the opinion that the regulators must listen to and maintain regular contact with the businesses, and the industry and trade associations, affected by the regulatory area. Good contact with businesses and these organisations increases the chances that a proposal for new or amended regulations will not become unnecessarily burdensome for businesses, and provides an opportunity to identify existing burdensome regulations that could potentially be amended or repealed. It is also important to try to capture the views of small businesses so that it is not just the larger companies with plenty of resources that succeed in making their voices heard.

The Council has not had the opportunity to carry out a specific follow-up of how large a proportion of the proposals were prepared in open consultations with the business community, or in that case what impact that consultation

had on the final proposal. Through years of experience in reviewing submissions with impact assessments, the Council has found that in general there is more consideration for businesses when proposals are prepared in open consultations with the businesses that will be affected by the regulation. In addition, regulators are more likely to get access to relevant information that needs to be reported in the impact assessment if the regulator has good contacts with the affected businesses, and with industry and trade organisations. Consequently, it might be assumed that the proposals would then also be more readily accepted by the businesses they impact.

When the Council's secretariat has been in contact with industry and trade organisations, it has found that they would consider assisting in the preparation of the evidence base for the regulator's impact assessments, if that evidence base can have an impact on the final proposal. However, their inclination to produce data for a ready-made proposal that is not up for discussion is understandably slight. It has emerged that in some instances, industry and trade organisations have tried to get insight into the regulatory process without gaining a hearing. It has also emerged that companies and industry and trade organisations have pointed out problems with a proposal, and in some instances even prepared a proposal with alternative solutions that has been presented to the responsible regulator, without this information having been reported or commented on when the regulator's proposal was submitted. In the opinion of the Council, transparency in the regulatory process is important so that decisions can be made on a sound basis.

Official Government Reports, DS and Government Agency Reports

Proposals submitted for comment from the Government Offices of Sweden may be produced within the ministries, but the ministries may also choose to outsource the preparation of the impact assessment to another party. The most common form of outsourcing relates to Official Government Reports where an investigator, assisted by the Secretary of the Committee, for a limited period of time investigates an issue based on terms of reference and resulting in one or more Official Government Reports. Another form of inquiry is the proposals that various committees of inquiry have submitted to the Swedish Government, in what is called the DS. This series contains inquiries that the government ministries have conducted.¹⁴ Government ministries may also entrust a government agency with the task of investigating an issue that results in a report. A government agency or other external stakeholder such as an industry or trade organisation can also propose new or amended regulations that, in some cases, the ministry may choose to send out for comment. However, this procedure is rare and is included here in the list of government agency reports.

¹⁴ <http://www.riksdagen.se/sv/Dokument-Lagar/Utedringar/Departementsserien/>

Table 8

Ministries	Official Government Reports		Ministerial memoranda		Government agency reports		Total
	Acceptable	Deficient	Acceptable	Deficient	Acceptable	Deficient	
Ministry of Employment	2	6	1	3	1	0	13
Ministry of Finance	8	22	3	12	6	4	55
Ministry of Defence	1	2	0	0	0	0	3
Ministry of Integration and Gender Equality	0	1	0	2	0	0	3
Ministry of Agriculture	0	1	2	2	0	2	7
Ministry of Justice	11	19	4	16	2	5	57
Ministry of Culture	2	4	0	5	0	0	11
Ministry of Rural Affairs	0	2	1	1	1	1	6
Ministry of the Environment	2	6	0	0	3	10	21
Ministry of Enterprise, Energy and Communications	7	8	1	10	12	22	60
Ministry of Health and Social Affairs	6	20	3	5	1	3	38
Ministry of Education and Research	3	5	0	6	0	0	14
Ministry for Foreign Affairs	1	0	0	0	0	0	1
Total	43	96	15	62	26	47	289

Table 8 reports the number of Official Government Reports, Ministerial memoranda and government agency reports distributed by ministry and the Council's assessment of the quality of the impact assessments in the years 2009–2014.

Of the official government reports on which the Council has delivered an opinion, 31 per cent were assessed as having acceptable impact assessments. The corresponding figure for Ministerial memoranda is 19 per cent. The proportion of acceptable impact assessments in government agency reports is 36 per cent. As can be seen in Table 8, the Ministry of Enterprise, Energy and Communications had the largest number of government agency reports. The Swedish Energy Markets Inspectorate, the Swedish Energy Agency and the Swedish Transport Agency are the government agencies that primarily receive such tasks from the Ministry of Enterprise, Energy and Communications. The Swedish Chemicals Agency and the Swedish Environmental Protection Agency have prepared most of the government agency reports submitted by the Ministry of the Environment, and the Swedish Tax Agency has mainly prepared the reports from the Ministry of Finance.

For several years, the Council has pointed out the need for clear instructions concerning what is expected of impact assessments when an inquiry task is entrusted to a third party. The clarity of such tasks affects the impact assessments and thus the regulator's statistics. Those who carry out assessment tasks also need to have adequate skills or otherwise have access to staff with such skills, which can be about resources to purchase consultant services to perform the calculations for example. It is also essential that the inquiry be given sufficient time to prepare a proposal with its associated impact assessment.

Background of Proposals

The proposed statutes on which the Swedish Better Regulation Council delivers an opinion can have their background in EU law, international agreements or be entirely national regulation. Occasionally, the proposals cannot be fully categorised solely on the basis of just one of these backgrounds. Proposals based on EU law for example may contain requirements that go beyond what the Directive requires, and this is termed gold-plating. Mainly during the years 2009–2010, the situation occurred where impact assessments associated with submitted proposals based on EU law or with an international background were very deficient or lacking entirely. The reason given was that there were no alternative solutions. The Swedish Better Regulation Council did not accept this stance, and had then and has continued to have as a starting point that proposals concerning the transposition of EU directives and international agreements are to contain an acceptable impact assessment. Since the beginning of 2012, the Council has registered the origin of each proposal.

Of the 485 submissions on which the Council delivered an opinion in the years 2012–2014, 317 proposals were of national origin, 140 had their basis in EU law and 28 were based on international agreements.

In 86 of the total of 140 submissions based on EU law, the impact assessment was judged not to comply with the requirements in Sections 6 and 7 of SFS 2007:1244 (61 per cent). Of the 28 proposals based on international agreements, 19 had impact assessments deemed not to comply with the requirements (68 per cent). Concerning the 316¹⁵

¹⁵ For one submission, the Council has not assessed the quality of the impact assessment at all.

proposals with a national background, 197 were assessed to have impact assessments that did not comply with the requirements (62 per cent).

The proportion of impact assessments that are not of sufficiently good quality is therefore somewhat higher if the proposal has its origin in an international agreement compared with purely national regulation or an origin in EU law. Even if the starting point is that the impacts should be investigated in full, the regulator may have limited scope for action, for example, that it is obvious that there is no scope for alternative solutions, or that it is not possible to include special consideration for small businesses. This should, however, be made clear. Where a proposal provides some scope for alternative solutions or national special regulations, it is assumed, however, that the impacts of this will be highlighted, assessed and reported in full. Regulations originating from EU law and international agreements are usually subject to further negotiations and adjustments. In such cases, impact assessments in combination with the evaluation of the actual outcome may be of value for Sweden's negotiation process.

External Views on the Swedish Better Regulation Council

Stakeholder Analysis

The Council has initiated a number of surveys from different angles concerning how the Council is perceived and how the work it does is received.

Views expressed through all the years 2010–2014

Over the years, in several of the surveys conducted, the view was expressed that it is positive that the Council as a function exists and that the work it does is important. The Council is considered to be very active in its efforts to raise the quality of the regulators' impact assessments. The view was also expressed that the Council has a good understanding of the day-to-day operations of businesses, but at the same time it is perceived by some as rather unimaginative.

Another view expressed in several surveys is that it is a disadvantage that the Council's review only targets administrative costs. Similarly, that the Council's mandate is unnecessary weak – the fact that regulators can ignore the Council's comments makes it toothless.

During the period from the Council's establishment up until August 2014, the term "acceptable" was used to describe impact assessments that comply with the requirements in Sections 6 and 7 of SFS 2007:1244 – this was considered by many regulators to be inappropriate as the only degree beyond a "deficient" impact assessment, a view which emerged in a number of surveys. Since August 2014, the Council has been using a different formulation of its position concerning the quality of impact assessments.

The importance of training for regulators has been expressed in several surveys, and that the Council needs to come in early in the process in all processes – both those relating to national proposals and those with their origins in the EU.

Differences in what emerged in 2010/2011 compared with later years

In surveys from 2010 and 2011, the view was expressed that the Council's opinions were routine, black-and-white and difficult to make use of. More pedagogical opinions were requested, and comments were made on the Council's clarity. A solution put forward was to provide opinions that encourage improvement, which has been developed by the Council through ongoing work with clearer and more detailed opinions. Similarly, in previous surveys requests were made for training for the regulators through visits and ongoing support during the submission processing period – which have been developed by the Council mainly subsequent to its supplementary terms of reference in 2011.

In surveys from 2010/2011, the view was also expressed that the Council ought to work on its brand – a view not expressed in later surveys. This may indicate that, in the years that have passed, the Council's brand has become well-established.

In surveys from 2010/2011, the view was expressed that the Council ought to communicate the work of the regulators, which the Council has developed through gathering statistics and presenting these statistics in annual reports.

The conclusions drawn from the above are that the Council listens to and takes note of the comments receives and, as is apparent above, those aspects that the Council is able to influence and change, within the framework of its mandate, have developed in a positive direction. For example, the formulations concerning the quality of impact assessments have changed since August 2014.

From 1 January 2015, the Swedish Better Regulation Council's primary task is to assess the quality of impact assessments, which means that the distinction between administrative costs and the impact assessment disappears. The review of administrative costs will thus be wholly included in the assessment of the impact assessment's quality.

The Council see opportunities for improvement as a work in progress that will continue in 2015 and subsequent years.

Auditing of the Council's Work

In 2012, two separate audits of the Council's work were conducted. The Council received positive feedback throughout both these reports, while opportunities for development were highlighted in certain areas.

One was the Swedish National Audit Office's audit of the Swedish Government's work with better regulation. The results of the audit were presented in the report *Regelförenkling för företag – regeringen är fortfarande långt från målet* [Better regulation for businesses – the Government is still far from reaching its goal]. In its report, the Swedish National Audit Office proposed measures that they felt needed to be taken in order to improve the Council's work with better regulation. For example, it was argued that the Swedish Better Regulation Council's mandate was too limited. The National Audit Office suggested that the Council should focus its review on the overall economic impacts of the proposals and not just on the administrative costs. The Swedish National Audit Office went on to warn about over-emphasising the Council's supportive role, since this was seen as potentially having a negative impact on its reviewing role. The Council was considered to be at risk of losing its independent role if the Council ended up getting too close to those it was set up to review.

The other audit in 2012 was the Government's commission to the Swedish Agency for Public Management to evaluate the Swedish Better Regulation Council's activities. The Swedish Agency for Public Management reported on its task in the report *Vad gör Regelrådet? Arbetsprocesser, roller och organisation för enklare regler* [What does the Swedish Better Regulation Council do? Work processes, roles and organization for better regulations]. This report reveals that the Council's reviews and activities were functioning well based on the focus that it had at that time. However, the Agency for Public Management argued that the review ought to be able to have a clearer focus by focusing only on impact assessments. The Agency for Public Management also argued that the Council ought to justify its positions in more detail than what was done at the time. As stated earlier in this final report, the Agency for Public Management also proposed the introduction of a special process for the review of official government reports. The Agency for Public Management also concluded that the activities of the regulators are different in nature, and consequently the Council's supportive activities should be geared more to the individual regulator's needs. Finally, Agency for Public Management argued that the division of responsibilities between the Swedish Better Regulation Council, the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority could become clearer if one of these players were given a coordinating role.

Worth noting

- More and more regulators are supplementing their impact assessments based on the Council's comments.
- The Council's review shows that regulators do not adequately describe in their impact assessments whether they include special consideration for small businesses.
- In their work on statutes, regulators that conduct open consultations with the businesses affected, the business community and industry and trade organisations gain a better foundation for shedding light on and assessing the impact of their proposals on business.
- The number of impact assessments judged to comply with the requirements is approximately the same regardless of whether the proposal is based on national law, EU law or international agreements.
- Stakeholder analyses have shown that both regulators and the business community think that the Swedish Better Regulation Council plays an important role.



Conclusions and Recommendations

Conclusions

During the period 2009–2014, the Swedish Better Regulation Council delivered 1,053 opinions. This led to 62 per cent of the proposals being approved. Thirty-nine (39) per cent of impact assessments were assessed as complying with the requirements.

Better regulation is work that requires a long-term, persevering and methodical approach, which must permeate the entire regulatory process and which requires strong political anchorage. Political will is crucial for the success of work with better regulation.

Since its start in 2009, the Swedish Better Regulation Council has been one of the cornerstones of Sweden's work with better regulation. The strong political support that the Council had at the start of its mandate is a key reason why its work has had an impact at all. The Government set the frames but the Council's independent function was never questioned.

Over the years, the Council has implemented a number of measures within its mandate to improve the quality of impact assessments. The Council has worked proactively in relation to regulators to inform them about the training courses available in the area of impact assessment, and that the Council's secretariat can provide support in work with impact assessments. The Council has also realised the importance of clarity in its opinions, and in the last few years has worked more and more on describing the deficiencies noted in an impact assessment precisely in order to make it easier for the regulator to supplement the impact assessment. This is an issue that the Council always has in mind when formulating opinions.

Over time, the Council has not seen any general improvements in the quality of impact assessments. The statistics for some regulators are very good, in particular for the government agencies. Other regulators have great potential for improvement. Seen over time, the results in some cases have deteriorated. In recent years, the Council has noted a waning interest in these issues which in all probability is one of the reasons why the results in terms of reductions in administrative costs and the quality of impact assessments have not improved.

As the Council has emphasised in its previous annual reports, work with impact assessments is dependent on time

and resources being allocated for it. An engaged senior management with an interest in these issues is therefore important. The Council has been able to see clear links between an engaged senior management and a good result in work with impact assessments. In this sense, work with impact assessments has an important top-down aspect. Besides sufficient time needing to be set aside for work with impact assessments, the Council has also noted that individual administrators need to start work with the impact assessment in good time to have the opportunity to thoroughly assess all the impacts of the proposal, and not view the impact assessment as a product latched on when a proposed statute has already been completed.

Understanding the conditions for businesses and their day-to-day operations is another important component for being able to assess the proposal's impacts for business in a satisfactory manner. In order to supplement their own experiences of business and entrepreneurship, there is the option for regulators to consult with the affected industry and trade organisations or companies directly. Regulations are needed, but a greater focus on the benefits and economic impacts of the regulations on those affected is also essential. The impacts of regulations should be evaluated within the framework of the ongoing work with better regulation within the regulator.

The Council can conclude that the previous quantitative goal that the former government set – to reduce the administrative costs as a result of state regulatory frameworks within four years by 25 per cent and effect a tangible change in the day-to-day operations of businesses – was positive for companies, even though the goal has not been achieved. Hence, in the opinion of the Council, working in a focused way with impact assessments, in combination with the Council's review and a new quantitative goal covering all of the costs that regulatory requirements entail for businesses, are important components in creating a favourable climate for business in Sweden. The Swedish Better Regulation Council therefore wants the Swedish Government set a new quantitative goal for costs attributable to regulatory requirements for businesses.

As an advisory body, the Council is not able to take enforcement measures. The Council can, however, induce regulators in other ways to realise the importance of assessing in detail a proposed statute's impacts on businesses. The Council's goal is that all impact assessments from all

regulators will comply with the requirements laid down in SFS 2007:1244. This ordinance is binding on all regulators, so this should be a matter of course. Today, however, we are in a position where not even half of all the submitted impact assessments comply with these requirements. In the light of the still high number of impact assessments which do not comply with the requirements, more effective measures need to be taken. The regulatory frameworks surrounding work on impact assessments therefore need to be tightened up.

The Council secretariat's supportive function and training have increased in scope since its supplementary terms of reference (2011:71). Together with other players in the area of better regulation, the secretariat has conducted a large number of training courses specifically targeting government agencies. As regards training courses targeting government ministries, there continues to be a great need, and the Council considers it a matter of urgency that the administrators who prepare impact assessments at the ministries also have the opportunity to complete both general and more specialised training. The Council also wants to stress that the regulators have a supportive function to turn to with both general and more specialised questions. From 1 January 2015, as mentioned previously in this report, the Council's supportive and training activities are part of the activities of the Swedish Agency for Economic and Regional Growth, while the Council's secretariat is placed in the Swedish Agency for Economic and Regional Growth. There is great potential here for the Swedish Agency for Economic and Regional Growth to take advantage of the unique capabilities of the Council's secretariat and carry this on through training and support.

Many statutes affecting the everyday affairs of businesses have their origins in regulations in EU law. It is therefore important that the Council continues to participate actively in RegWatchEurope. Together, there is greater opportunity to influence work with better regulation within the EU. Over the years, the Council has regularly pointed out the importance of legislation from the EU being preceded by detailed impact assessments, with the participation of all the institutions of the EU. It is also important to encourage EU institutions to set reasonable time limits for the implementation of the legislation in national law. The Council's task to review impact assessments prepared within the EU at the request of the regulators is an important part of this work. From the follow-ups of the reviews conducted, it has become evident that the Council's opinions have provided support for the continuation of this work, and for this reason, the Council recommends that the regulators utilise the possibilities of the Council's review task to a greater extent than they do today.

Recommendations

– Strengthen the political backing for work with better regulation

With strong political backing, the work of the Swedish Better Regulation Council can have an even greater impact.

– Set measurable goals for better regulation

Without measurable goals, there is a risk that work with better regulation will cease at the regulators. For businesses, it is of the utmost importance that work with better regulation goes forward. Therefore, there is a need for a renewed focus with measurable goals, in the short and long term. To date, measurable goals have been confined to administrative costs, which is also the case with the current goals.

In order to take as broad an approach to costs as possible, so that even those industries with low administrative costs but nonetheless other higher costs are included, the Council proposes that all costs for businesses be included in new measurable goals and interim objectives. This is also in line with the direction being taken by other EU countries.

In the opinion of the Council, it may also be worth considering the introduction of a system similar to that found in the United Kingdom, where the introduction of a new regulation on a given area requires that two other regulations within the same area are repealed. This only applies to national proposals and proposals originating from the EU that entail gold-plating in their transposition in national law. In the Council's opinion, this system has an important purpose in getting regulators to really think before regulations are routinely proposed; resulting in an increasing, but not always effective and simple, regulatory burden on businesses.

– Give the Swedish Better Regulation Council a stop function

The lack of satisfactory results regarding the quality of impact assessments, despite the Council's measures and work with the issues, means that more enforceable measures must be instituted to persuade regulators to prioritise work with impact assessments and to assess the impacts of proposed regulation more thoroughly in each individual case. The Council therefore proposes it is assigned a stop function with mandatory resubmission – meaning that proposals that have an impact assessment which is assessed as not complying with the requirements need to be revised and submitted again to the Swedish Better Regulation Council. Only after the Council assesses that the impact assessment meets the requirements should the proposal be able to proceed in the legislative process.

– Introduce voluntary resubmission to the Council

Pending the introduction of a stop function, the Council proposes that all regulators with impact assessments which do not comply with the requirements voluntarily resubmit these to the Council. It is suggested that this could be noted down in the regulator's internal guidelines for work with impact assessments.

– Introduce mandatory resubmission of proposals from the Government Offices of Sweden to the Council

The Council proposes that the Guidelines for submissions to the Swedish Better Regulation Council from the Government Offices of Sweden are transferred into ordinance form. On a number of occasions, the Council has pointed out that submissions emanating from the Government Offices that the Council ought to have received for comment have not been submitted to the Council. Making the submission of proposals mandatory in the form of an ordinance also signals more clearly the importance that submission to the Council should rightly have. This would also be more consistent with and correspond to what already applies to government agencies. The independent review of proposed statutes affecting business must include all such proposals.

– Take advantage of the Council's unique competencies in the area of better regulation

Over the years, the Council and its secretariat have built up a unique expertise in the area of better regulation. Today, a large portion of the regulations affecting business are EU-based. It is therefore vital that the Council continues to participate in international work on better regulation, and that it can continue to develop its cooperation with other independent advisory bodies in Europe. Furthermore, the secretariat's expertise in training and support ought to be taken advantage of in the new organisation.





Regel|rådet

Annual Report **2014**

Reporting for the Year

What's new in 2014

In principle decisions

During 2014, work on formulating as clear opinions as possible continued. During the year, the Council held two discussions on principles, where issues of importance for the review process were discussed. Among other things, this led to a change in the wording in the position statement in the Council's opinions on impact assessments. Over the years, the terms "acceptable" and "deficient" had given rise to a number of questions and uncertainties. In order to be clearer in this respect, the Council therefore introduced new wordings: that the impact assessment does or does not comply with the requirements in Sections 6 and 7 of SFS 2007:1244. These new wordings started being applied from the meeting of the Swedish Better Regulation Council on 27 August 2014.

New Secretariat Response Wordings

During 2014, the Swedish Better Regulation Council received 443 submissions. Of these, 177 led to opinions from the Council, while 266 led to secretariat responses. Under its remit, the Council has assessed the drafting of proposed statutes that could have significant impacts on the working conditions, competitiveness or conditions in general of businesses. In other words, if a proposal is assessed as not entailing such impacts, the submission has led to a secretariat response. In order to reduce administration for both the regulators and the Council, new wording has been introduced in the Council's secretariat responses.

The first new variant of wording relates to when a regulator has made a well-founded judgement in the impact assessment that the proposed statute will not have impacts for



business and, based on the submission, the Council agrees with this assessment. In these cases, a secretariat response is prepared with the wording that the submission is not covered by the Council's review task and therefore ought not to have been submitted to the Council.

The other new variant of the wording relates to cases where the submission does not include any proposed statute text. For example, the Council's task does not include reviewing general advice or proposals for EU legislation – other than on special request from a Swedish government ministry. This means that submissions without proposals for a Swedish statute text are not covered by the Council's review task. In these cases too, a secretariat response is prepared stating that the submission is not covered by the Council's review task and therefore ought not to have been submitted to the Council.

Reporting of Substantial Administrative Costs

From 2014, the Swedish Agency for Economic and Regional Growth has been tasked with monitoring the trend in substantial administrative costs for businesses. The method used by the Agency is based on the impact assessment made by the regulator in connection with new or amended regulations. The Council's secretariat has been responsible for identifying proposals that entail or could entail substantial administrative costs for affected businesses. These proposals with their impact assessments have been reported on to the Swedish Agency for Economic and Regional Growth which

then conducted an in-depth analysis and checked whether the proposals had been decided on.

The purpose of using impact assessments with the estimated costs (ex ante) as the starting point instead of, as in previous surveys, measuring the ex-post costs, is to be able to monitor the trend in administrative costs for businesses and also to be able to forecast future changes in costs. This is also a monitoring method which is used in several other European countries.

One difficulty in applying this method is that many impact assessments still have major deficiencies, including in the quantification of a proposal's administrative costs for business. For this reason, the Council's secretariat has reported all submissions where a considerable impact on administrative costs could not be ruled out. The Swedish Agency for Economic and Regional Growth has hired a consultant to help assess and estimate changes in administrative costs that are not fully estimated in the impact assessments. Those proposals that entail substantial changes in the administrative costs for affected businesses, and have been decided, will be included in the Agency's monitoring of administrative costs for business. Feedback will also be provided to the regulators that have not included complete estimates of substantial administrative costs. The results of this monitoring will be published in regular reports from the Swedish Agency for Economic and Regional Growth.

Table 9

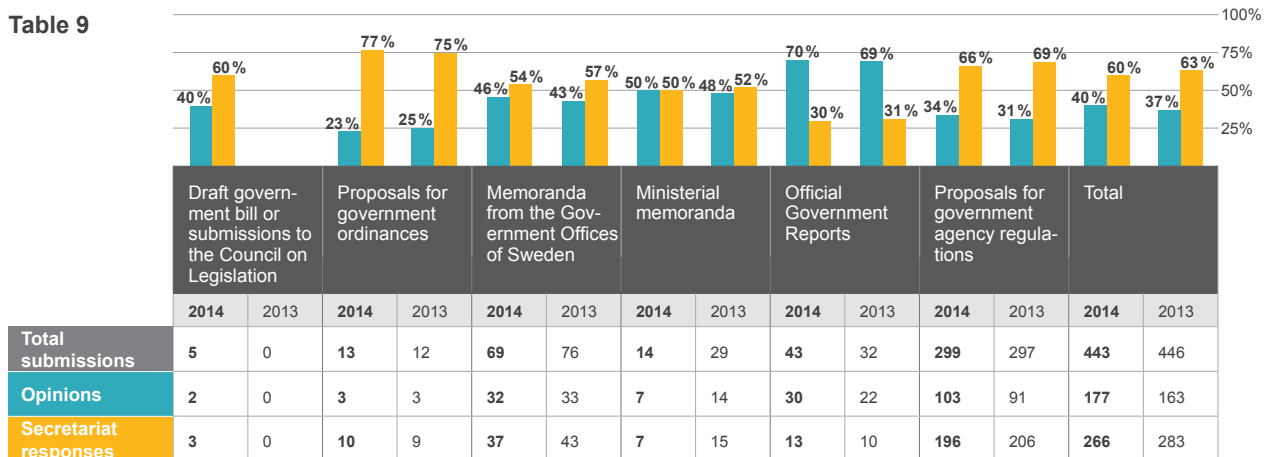
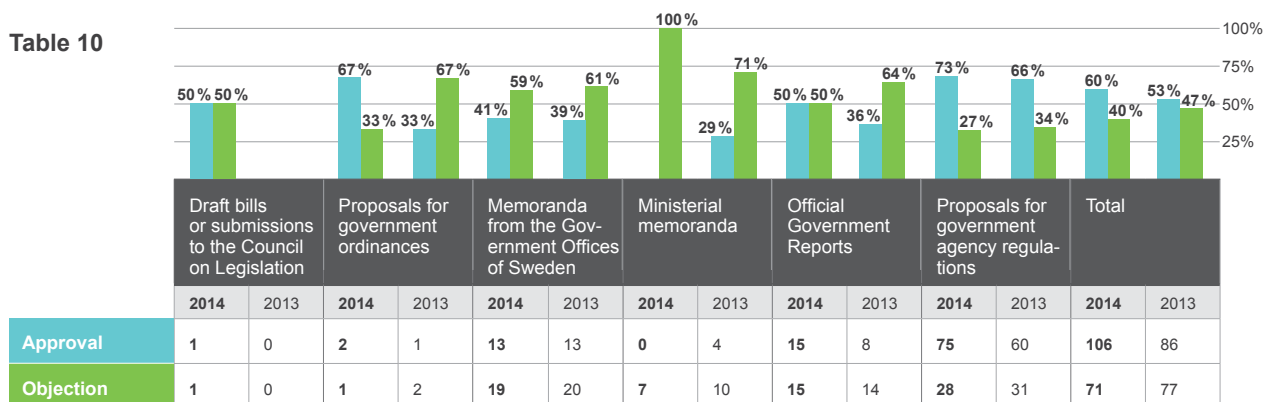


Table 10



The Review Process in Figures 2014

Opinions

The Council's opinions have been divided into two parts. In the first part, the Council evaluated whether the proposal was drafted in such a way that it achieved its aim in a simple way and at the lowest possible administrative cost for business. This resulted in an approval of or an objection to the proposal. In the second part, the Council has also evaluated whether the impact assessment complied with the requirements in Sections 6 and 7 of SFS 2007:1244.

One submission from the Swedish Environmental Protection Agency was prepared on behalf of the Swedish Government and therefore is included in the list of government reports as having been submitted by government ministries. The proposed statute has been approved with an acceptable impact assessment.

Approval or objection

Over the course of 2014, the Council has delivered its opinion on 177 cases, resulting in 106 approvals and 71 objections. The proportion of approved proposals was 60 per cent. Table 10 shows the number of approvals and objections.

The most common reason for a proposal receiving an objection is the lack of adequate estimates or quantified estimates of the administrative costs that the proposal is anticipated to entail for businesses. When such information is lacking, the Council has been unable to assess the impact of the proposal on the administrative costs for affected businesses and whether the most suitable solution has been chosen from an administrative point of view.

Table 11

Ministries	Inside the Government Offices		Outside the Government Offices		Total
	Approval	Objection	Approval	Objection	
Ministry of Employment	0	0	2	0	2
Ministry of Finance	2	7	2	6	17
Ministry of Defence	0	0	2	0	2
Ministry of Justice	3	2	3	5	13
Ministry of Culture	0	0	1	3	4
Ministry of Rural Affairs	1	1	0	0	2
Ministry of the Environment	3	3	0	1	7
Ministry of Enterprise, Energy and Communications	4	3	0	3	10
Ministry of Health and Social Affairs	1	1	4	3	9
Ministry of Education and Research	2	4	1	1	8
Total	16	21	15	22	74

Table 12

Government agency	Approval	Objection	Total
The Swedish Work Environment Authority	3	2	5
The Swedish National Board of Housing, Building, and Planning	2	0	2
The Swedish Energy Markets Inspectorate	7	0	7
The Swedish Energy Agency	3	1	4
The Swedish Financial Supervisory Authority	4	3	7
The Swedish Agency for Marine and Water Management	2	2	4
The Swedish Board of Agriculture	13	0	13
The Swedish Chemicals Agency	1	0	1
The National Food Agency	1	3	4
The Medical Products Agency	1	0	1
The Swedish Civil Contingencies Agency	3	2	5
The Press Subsidies Council	0	1	1
The Swedish Maritime Administration	2	2	4
The Swedish Tax Agency	2	2	4
The Swedish Forestry Agency	4	0	4
The Swedish National Agency for Education	1	0	1
The National Board of Health and Welfare	2	3	5
Statistics Sweden	4	1	5
SWEDAC	4	1	5
Svenska kraftnät	0	1	1
The Swedish Dental and Pharmaceutical Benefits Agency	2	1	3
Transport Analysis	0	1	1
The Swedish Transport Agency	14	2	16
Total	75	28	103

Approvals and objections by ministry and government agency

The number of approvals of and objections to proposals from the Government Offices of Sweden can be seen in Table 11. The data are presented per ministry and show whether the proposal has been prepared inside or outside of the respective ministries. Submissions prepared inside the Government Offices may include ministerial memoranda, which includes reports from government agencies submitted by the ministry responsible. Submissions that have been prepared outside the Government Offices may include Official Government Reports (SOU) and Ministerial memoranda in the Ministry publications series (DS). In the annual report

for 2013, it was stated that from 2014 proposals from the Ministerial memoranda would be registered as proposals from inside the Government Offices of Sweden. Since such a change would make comparison more difficult in this final report for 2009–2014, the Council has chosen not to implement any such change at the present time.

Of the submissions from the Government Offices which have led to opinions, 31 out of 74 have been approved, which is equivalent to 42 per cent. Of the proposals prepared inside and outside the Government Offices of Sweden, respectively, 43 per cent of those prepared inside the Government Offices were approved compared with 41 per cent of those prepared outside the Government Offices. The Ministry of Employment and the Ministry of Defence are examples of ministries showing good results in 2014. The Ministry of Health and Social Affairs also showed a relatively good result in 2014 (see Table 11 on page 60).

Of the submissions from government agencies which have led to opinions, 75 out of 103 were approved, which is equivalent to 73 per cent. The Swedish Energy Markets Inspectorate, the Swedish Transport Agency, the Swedish Board of Agriculture and Statistics Sweden are some of the government agencies that achieved good results in 2014 (see Table 12).

Quality of impact assessments

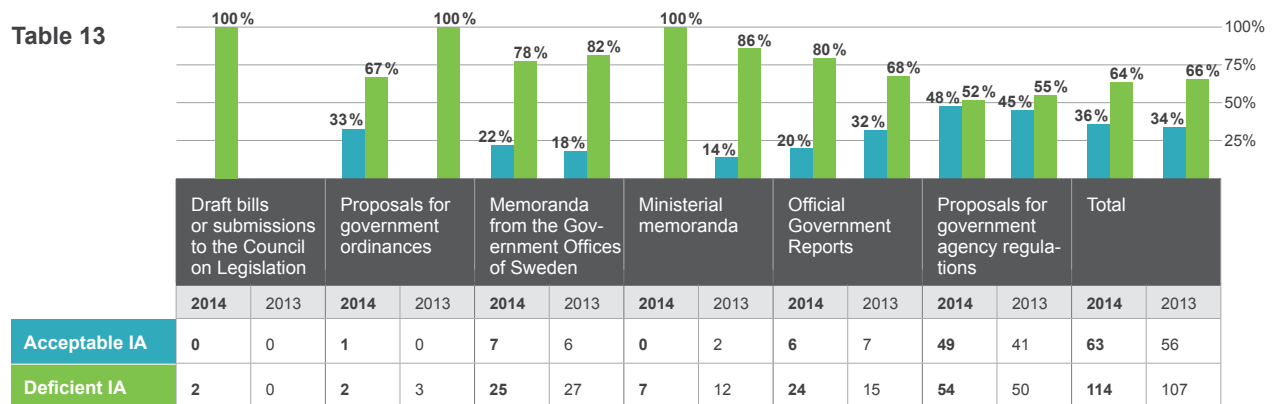
Of the 177 submissions on which the Swedish Better Regulation Council has delivered an opinion in 2014, 63 impact assessments were judged to comply with the requirements in Sections 6 and 7 of SFS 2007:1244 while 114 impact assessments were judged not to comply with the requirements. The proportion of impact assessments that have been assessed as having sufficiently good quality is thus only 36 per cent.

The quality of impact assessments per ministry and government agency

As shown in Table 14 on page 62, the Council delivered an opinion on 74 submissions from the Government Offices of Sweden in 2014. Of these, 14 impact assessments have been assessed as being of good quality (19 per cent). Of the 37 proposals prepared inside the Government Offices, 8 had impact assessments assessed as having good quality (22 per cent). Of the proposals prepared outside the Government Offices, six out of 37 impact assessments were assessed as having good quality (16 per cent). One submission from the Ministry of Finance in 2013 and one submission from the Ministry of Enterprise, Energy and Communications in 2014 were totally lacking an impact assessment. These are reported as deficient impact assessments.

In 2014, the Council delivered an opinion on 30 official government reports, of which 6 impact assessments were assessed to be of good quality (20 per cent). None of the 7 submissions from the Ministerial memoranda on which

Table 13



the Council has delivered an opinion had an impact assessment judged to comply with the requirements. Of the 12 government agency reports submitted by the ministries and on which the Council has delivered an opinion, 4 had acceptable impact assessments (33 per cent).

As regards impact assessments from the government agencies, of 103 opinions delivered, 49 impact assessments had good quality (48 per cent). See Table 15 on page 63.

Secretariat Responses

In 2014, 266 submissions received secretariat responses. In 197 of these submissions (74 per cent), the Council assessed that the proposals would not have any impacts on business of sufficient significance to warrant delivering an opinion. On four occasions, the Council was given a period of time shorter than 14 days to comment. Due to a high workload, secretariat responses have been provided on 8 occasions. The remaining 57 submissions were not covered by the Council's review task which may be due to the submission lacking any Swedish statute text, for example. In autumn 2014, the Council provided clarifying information in some

secretariat responses that submissions that have always received a secretariat response ought not to be sent to the Council. Since this clarification was introduced, the Council has noted that certain categories of such submissions have ceased entirely, such as, for example local road traffic speed regulations. This is positive since handling these submissions has only resulted in unnecessary administration for both the regulator and the Council's secretariat.

Review of the European Commission's Impact Assessments

In April 2014, a request was received from the Ministry for Rural Affairs for a review of an impact assessment of the European Commission's draft regulation on organic production and labelling of organic products. The Council delivered its opinion on the matter in May 2014. At a follow-up meeting with the Ministry for Rural Affairs, the view was expressed that it was positive that the Council's review had been received at an early stage after the European Commission had presented its draft regulation on organic production.

Table 14

Ministry	Inside the Government Offices		Outside the Government Offices		Total
	Acceptable	Deficient	Acceptable	Deficient	
Ministry of Employment	0	0	1	1	2
Ministry of Finance	0	9	0	8	17
Ministry of Defence	0	0	0	2	2
Ministry of Justice	2	3	1	7	13
Ministry of Culture	0	0	1	3	4
Ministry of Rural Affairs	1	1	0	0	2
Ministry of the Environment	1	5	0	1	7
Ministry of Enterprise, Energy and Communications	3	4	0	3	10
Ministry of Health and Social Affairs	1	1	2	5	9
Ministry of Education and Research	0	6	1	1	8
Total	8	29	6	31	74

Table 15

Government agency	Acceptable	Deficient	Total
The Swedish Work Environment Authority	3	2	5
The Swedish National Board of Housing, Building, and Planning	1	1	2
The Swedish Energy Markets Inspectorate	5	2	7
The Swedish Energy Agency	3	1	4
The Swedish Financial Supervisory Authority	3	4	7
The Swedish Agency for Marine and Water Management	0	4	4
The Swedish Board of Agriculture	12	1	13
The Swedish Chemicals Agency	1	0	1
The National Food Agency	1	3	4
The Medical Products Agency	0	1	1
The Swedish Civil Contingencies Agency	0	5	5
The Press Subsidies Council	0	1	1
The Swedish Maritime Administration	1	3	4
The Swedish Tax Agency	1	3	4
The Swedish Forestry Agency	1	3	4
The Swedish National Agency for Education	1	0	1
National Board of Health and Welfare	1	4	5
Statistics Sweden	4	1	5
SWEDAC	4	1	5
Svenska kraftnät	0	1	1
The Swedish Dental and Pharmaceutical Benefits Agency	1	2	3
Transport Analysis	0	1	1
The Swedish Transport Agency	6	10	16
Total	49	54	103

Better Regulation Council, an independent advisory body that is also part of RegWatchEurope. It carries weight with many member states that Swedish regulators can show a review carried out by an independent advisory body. The Ministry for Rural Affairs valued the Council's review and it emerged that they will recommend others to make contact with the Swedish Better Regulation Council, and that they will contact the Council again for any new review tasks in the future.

The Council's opinion was translated by the Ministry for Rural Affairs and submitted to the Italian Presidency and the other member states. It was well received and was the first document of its kind to be submitted in the process. Subsequently, other similar documents were received. According to the Ministry for Rural Affairs, the Council's opinion and how it was used inspired other member states to do the same. For the Ministry for Rural Affairs, the opinion has been useful in both working on the Swedish position and in the negotiation process. The views and recommendations in the Council's opinion have been well received and used in the process in the Council of the European Union. At follow-up meetings with the Ministry for Rural Affairs, it also emerged that one reason why the Council's opinion had a major impact was because it had come from the Swedish

Training and Support

Report on training completed in 2014

Ministries

On one occasion in spring 2014, and one in autumn 2014, the Council conducted a basic training course with the Swedish Agency for Economic and Regional Growth, the Swedish National Financial Management Authority and the Ministry of Enterprise, Energy and Communications, that was open to all ministries. In autumn 2014, the Council also conducted a training course for the Division for Intellectual Property and Transport Law at the Ministry of Justice. The follow-up of these training courses showed that most of those who responded felt that the training in its entirety was good or very good, and that they had increased their knowledge about work with impact assessments thanks to the training.

Government agencies

In 2014, the Council's training efforts targeting government agencies intensified, with the highest number of successful training courses held yet for government agencies since the Council's establishment. Together with the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority, four basic training courses on impact assessments were conducted. In addition, the Council and the Swedish Agency for Economic and Regional Growth held a total of five targeted training courses for government agencies that particularly requested such.

Two new extension course for government agencies were introduced in 2014. One was an estimates course that the Council, the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority conducted on three occasions for government agencies. The purpose of the estimates course was to give participants who had already completed the basic training on impact assessments a more advanced and practical training with a focus on estimating the costs for business resulting from regulation. The evaluation of the first of these training events showed that it was successful, but that the group tasks could have been more advanced. The course coordinator took this into account for the subsequent training days which took place in late autumn 2014, by further developing parts of the group tasks.

The other new course was an EU course arranged by the Swedish Agency for Economic and Regional Growth for government agencies. This course also targeted the administrators at the government agencies who had already completed the basic training in impact assessments. The Council contributed the lecturer and presented how the Council reviews descriptions of a statute proposal's compliance with EU law and any gold-plating of EU directives, and also the special review of EU impact assessments that the Council carries out at the request of regulators. Besides the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth, the Swedish National

Board of Trade, the Cabinet Office and the Swedish National Food Agency participated in the course day.

Committees of inquiry

In 2014, the Council participated at all 6 courses organised by the Committee Service for official inquiries. The Council's session lasted 1.5 hours and was held during a training day where the Swedish National Financial Management Authority and the Ministry of Finance also lectured on work with impact assessments. New for autumn 2014 was that the courses had been partially revised to raise the quality and sharpen the focus in the training. Those parts for which the Council was responsible were not significantly changed but all in all, with changes in the structure and content of the other participants' material, a new approach was taken in the training for the committees of inquiry. The follow-up of the autumn training sessions showed that development efforts had yielded results and the rating rose for the training day in which the Council participated.

Support to committees of inquiry, government agencies and ministries

In addition to participating in Committee Service training on impact assessments, the Council has also offered support to individual committees of inquiry. As with committee training, the Council has also continued to develop committee support during the year. In 2014, the Council has provided support to 27 different committees of inquiry. This support may have been provided on one or several occasions, mostly in meeting form, but also via e-mail and telephone calls. Generally, two case officers from the Council's secretariat have participated in each instance of support. The fact that a specific committee of inquiry has received support from the Council's secretariat has not automatically meant that the Council determined that the impact assessment met the requirements. The case officer from the Council's secretariat involved in providing support to a particular committee of inquiry has not dealt with the committee's report when this has subsequently been submitted and the Council has not received any information about which committees have received support.

The committees of inquiry have been encouraged to meet early in the process with the Council's secretariat. This has been recommended in order to describe the inquiry in general terms, and so that the case officer from the Council's secretariat can provide information about the requirements on impact assessments in respect of the Council's review task. Once a draft impact assessment has been completed, the case officer from the Council's secretariat has generally gone through the draft to point out any potential for improvement. The draft impact assessments that the Council's secretariat has looked at have been very wide-ranging. Some impact assessments have been of good quality even before the case officer from the Council's secretariat has submitted his/her comments. In other impact assessments, greater scope for improvement and supplementation has been found.

The time spent on an individual instance of support has varied, but the total time increased during 2014. The Council's secretariat has drawn up detailed documentation of the committee support provided in order to be able to follow up the results of the support and to see whether or not the committees have taken on board the comments that they received from the secretariat.

The Council has followed up the committee support provided in the years 2013 and 2014 and where the Council has delivered an opinion on submissions during 2014. Of the 14 committees that have received support and where the Council subsequently delivered an opinion on the committee's report 8 of the proposals were approved (57 per cent). Of these submissions, 5 impact assessments were assessed as being of sufficient quality (36 per cent).

In the 6 impact assessments not judged to comply with the requirements, the Council almost exclusively directed its criticism at the points the case officer from the Council's secretariat had already pointed out in the context of the support provided, however, apparently without the committee then having supplemented the impact assessment to a sufficient extent.

The results mentioned above for the committees to which the Council provided support can be compared with the 16 reports on which the Council delivered an opinion, where the committees did not receive any committee support from the Council. The number of approved submissions was 7, corresponding to 44 per cent. Of these 6 proposals, 1 impact assessment was assessed as complying with the requirements (6 per cent).

In the spring of 2014, a survey to follow up committee support was conducted. All respondents recommended that committee support be provided to other committees of inquiry – even if not all of the respondents considered that they had benefited from the support themselves. Most of the respondents requested information about what is required for the Council to judge the impact assessment as being of good quality. Approximately half wanted to receive support concerning cost estimates. Around 70 per cent felt that they had some benefit from the support. Other requests included more concrete advice, suggestions for contacts for external support to get help with the evidence base for impact assessments and a more flexible interpretation of the requirements on impact assessments for shorter assessments.

In 2014, the Council has provided government agency support on 12 occasions. This is more than in previous years, and suggests that awareness of the support has increased. Government agency support has consisted of a government agency contacting the Council's secretariat with either specific questions or with a request to have a draft impact assessment looked at by the Council's secretariat. The 12 instances of support provided were for a number of different government agencies. Follow-ups of the support

provided have shown that the government agencies have given weight to the Council's comments, that the support was beneficial, and that it was recommended to other government agencies.

In 2014, no requests for support from a ministry regarding a specific impact assessment were received, which the Council regrets. Even if the government ministries have had fewer opportunities to attend training courses on impact assessment than the government agencies, information about the Council's support function ought to have reached the responsible parties at the ministries. On the other hand, the Council has been in contact with administrators at the ministries, primarily via telephone, and responded to questions that have arisen in the administrator's work with impact assessments.

International Cooperation

Network of Independent Advisory Bodies

The Council's involvement in the informal network of independent advisory bodies has continued. In 2013, this network adopted the name RegWatchEurope. On several occasions in 2014, the members met to discuss how work with better regulation can be developed further. With more European countries now in the process of setting up their own independent advisory bodies like the members of RegWatchEurope, during the year the possibilities for more countries to join the network in 2015 were discussed.

In August, RegWatchEurope composed a joint statement which was sent to¹⁶ Jean-Claude Juncker, who has been the new President of the European Commission since autumn 2014. The joint statement contains RegWatchEurope's suggestions for tools and measures for more effective and better EU legislation. Through these, legislation from the EU can better contribute to more jobs and a more favourable business climate that stimulates growth and strengthens European competitiveness. The joint statement has also been presented at a seminar organised by RegWatchEurope at the European Parliament in Brussels. The seminar was attended by all members of RegWatchEurope, about a dozen MEPs, representatives from the European Commission and the Council of the European Union, and the business community.

In autumn 2014, Actal's President Jan ten Hoopen met with Frans Timmermans, the new First Vice-President of the European Commission and responsible for, among other things, better regulation. The conclusions in RegWatchEurope's letter to the European Commission were presented at this meeting among other things. A meeting between Frans Timmermans and the Chairs of all the members of RegWatchEurope will be held at the beginning of 2015.

Furthermore, in autumn 2014 RegWatchEurope jointly responded to two open consultations¹⁷ from the European Commission. These consultations concerned the European Commission's guidelines for impact assessments and guidelines for consultations. These guidelines largely control work with impact assessments in the European Commission, which is why the Council considers it very important to participate in these open consultations. Even if much has been done in the last ten years to improve the quality of impact assessments prepared within the European Commission, much still remains to develop.

During 2014, the Council participated in one meeting of the Stoiber group in Brussels. The low level of participation from the Swedish Better Regulation Council was primarily because during the year the Stoiber group was primarily working on its final report, in which the Council has not had any part in its role as an observer. The meeting attended by the Council was the Stoiber group's last meeting in that its mandate has expired. This last meeting was conducted in the form of a large seminar with a presentation of the group's final report. José Manuel Barroso, outgoing President of the European Commission, and founder of the Stoiber group spoke at the seminar.

In October, the Council also participated in NKR's celebrations in Berlin marking the halfway point for NKR's mandate. During the celebrations, NKR's President Johannes Ludewig presented NKR's annual report for Chancellor Angela Merkel, who also gave a speech about the important work that NKR does.

International contacts

In spring 2014, the Council participated in the OECD's preparation of the document "Regulatory Compliance Cost Assessment Guidance" by submitting comments on their submission. The OECD then presented its document in April, which highlighted ways to set requirements on the description of compliance costs in regulatory impact assessments.

In September 2014, the Council's secretariat attended a meeting organised by the network DEBR in Rome. Together with the Swedish Agency for Economic and Regional Growth, the Council held a presentation about the use of impact assessments in the EU's regulatory process.

During the year, the Council has been able to note a great deal of interest in its activities from many countries. For example, the Council has received visitors from Finland, Lithuania, Norway, South Korea, Japan and the United Kingdom. The Council has also contributed information and its experiences to Iceland and Norway, which are both working to establish their own advisory bodies.

In February 2014, the Council's secretariat went on a study tour to Brussels. They visited the European Parliament, the EP's Research Service and IMPA. They also visited IAB at the European Commission, the General Secretariat of the Council of the European Union and Eurochambres.

¹⁶ A Smart Agenda For the New European Commission – RegWatchEurope on the future of European smart regulation (the Swedish Better Regulation Council's website).

¹⁷ Joint response of RegWatchEurope to consultations on IA Guidelines and Joint response of RegWatchEurope to consultations on Stakeholder Consultation Guidelines.



Follow-up

Reporting of administrative costs from impact assessments

The Swedish Better Regulation Council has the task of reporting on the trend in companies' administrative costs, as they are specified in submitted impact assessments. The report is to contain the regulator's assessment of whether the costs increase or decrease, and, in cases where the costs have been quantified, the amount.

In 62 of the total of 177 submissions on which the Council has delivered an opinion, some kind of quantification of the administrative costs was reported separately (35 per cent). In addition, 28 of the submissions stated that the administrative costs would remain unchanged. In 45 submissions, the regulator has made an assessment of the proposal's impact on companies' administrative costs but not reported any amount. Of these submissions without quantified data, 38 stated that they would increase administrative costs and 7 stated that costs would be reduced. In 42 submissions, an assessment of the proposal's impact on companies' administrative costs was entirely lacking. Based on these deficiencies and with regard to other uncertainties, the Council's compilation of the administrative costs for 2014 must be interpreted with great caution.

Concerning proposals where the administrative costs have been quantified, the proposals on which the Council delivered an opinion led to a future annual net reduction in recurring administrative costs of approximately SEK 230 million, if the proposals were implemented. The annual net reduction is based on the specified increased, annual recurring administrative costs amounting to approximately SEK 134 million and reduced annual recurring administrative costs being specified at approximately SEK 364 million. Initial administrative one-off costs amounted to approximately SEK 865 million.

The compilation for 2013 showed an annual net increase in recurring administrative costs of approximately SEK 290 million and initial administrative one-off costs of approximately SEK 690 million.

The Swedish constitutional system is structured in three levels and the Council receives proposed legislation for comment from all levels. The effect of this is that, for example, information requirements in a submission with a proposal for an Ordinance can be followed by another submission with a proposal for a Regulation relating to the same information requirements. For this reason, it is possible that the same administrative cost changes have been registered several times on the basis of separate submissions.

In a comparison between 2013 and 2014, the administrative costs for businesses are going in the right direction with regard to recurring administrative costs. Unfortunately however, the initial administrative costs appear to be

increasing. Due to the compilation's imperfect evidence base, as well as other uncertainties, in the Council's opinion, it not possible to draw any reliable conclusions.

Surveys about Opinions 2014

As part of its work to clarify its opinions, in the autumn of 2014 and as in previous years, the Council sent out questionnaires to the regulators that had impact assessments judged not to comply with the requirements laid down in Sections 6 and 7 of SFS 2007:1244, where the opinion was delivered during the period 27 August to 22 October 2014. This survey is carried out to investigate whether the regulators consider that the Council's opinions state clearly the deficiencies of their impact assessments and how these can be dealt with.

Impact of the Council's Opinions 2013–2014

The same follow-up as in previous years has been carried out regarding the impact of the Council's opinions. In this follow-up period, for opinions delivered by the Council from 1 July 2013 to 30 June 2014, the impact assessments in 111 opinions were judged not to comply with the requirements in SFS 2007:1244. Of these, 57 proposals came from the Government Offices of Sweden and 54 proposals from government agencies.

Concerning the 57 proposals submitted by the Government Offices, at the time of the follow-up, 26 proposals had gone further in the legislative process to either submissions to the Council on Legislation or government bills. In 13 of the cases, in its decision the Swedish Government had made more or less extensive adjustments that took into account the Council's comments. These adjustments resulted in the descriptions of the proposals' impacts becoming clearer. In the other 13 cases, it is not possible to discern any action as a result of the comments put forward by the Council in its opinions.

Concerning government agencies, the follow-up covered 54 opinions delivered by the Council to 24 different government agencies during the period. Of these opinions, seven are from last year's follow-up because they were reported as not yet decided. The government agency with the largest number of cases within the framework of the follow-up had 7 cases with associated impact assessments that the Council judged as not complying with the requirements under Sections 6 and 7 of SFS 2007:1244.

Of these 54 proposals from government agencies, at the time of the Council's follow-up, 49 proposals has gone further in the legislative process. In 4 cases, they were still being processed. In one case, the government agency reported that they had chosen to lift out the parts of the proposal on which the government agency had received comments and not implemented these. The government agency thus did not amend the impact assessment but on the other hand did change the proposal in its subsequent processing.

Of these 49 proposals, 20 impact assessments were supplemented after submission. In a few cases, a new submission of a revised proposal will be made. The additions made included, among other things, estimates for typical companies and data on the number of companies, estimates of the time needed to comply with the proposal, and what information efforts would be undertaken.

In 2 cases during the follow-up period, regulators have resubmitted to the Council after the impact assessments were judged not to comply with the requirements in SFS 2007:1244. In both cases, additions were made to the extent that the resubmitted impact assessments were judged to comply with the requirements in Sections 6 and 7 of SFS 2007:1244. In a further 2 cases, it has been communicated that a revised proposal will be submitted anew, and in a third case, a revised proposal may be submitted. The Council is naturally pleased that the regulators intend to supplement these impact assessments and resubmit them.

Stakeholder Analysis 2014

Prior to the transition to a new type of activity on 1 January 2015 the Swedish Better Regulation Council wanted to get in-depth knowledge of how the various stakeholders view the Council's work and how its activities could be developed. Gullers Grupp was engaged for the task of conducting a stakeholder survey. The purpose of the survey was to seek views and reflections on work with better regulation in Sweden and the Council's work over the past five years since its establishment, as well as comments and suggestions on how work with better regulation could be developed in the future. The stakeholder survey was carried out by means of interviews with representatives of government agencies, government ministries and stakeholder organisations. The stakeholder survey was presented in the form of a report in spring 2014.

Analysis of this survey showed that the Council has increased awareness about not developing regulations that cause unnecessary complication. Furthermore, interviewees were agreed that the Council's work is significant and important – that there is a body whose role is formal review and active pursuit of better regulation.

What the government agencies and ministries stated as less good was that the demands made on the content of impact assessments are too high. Similarly, the Swedish Better Regulation Council's remit is toothless –representatives of the business community stated that the Council cannot take action. The government agencies and ministries stated that the Council risks watering down its trust because a high proportion of proposals are objected to and impact assessments are judged not to comply with the requirements. According to the interviewees, this risks leading to a weakened position for the Council, where they are dismissed as sticklers for detail.

The survey also found that the regulatory framework governing the Council ought to be reviewed – that it results in too narrow an outlook. This has been a recurring comment over the years. From 1 January 2015, the Swedish Better Regulation Council's primary task is to assess the quality of impact assessments, which means that the distinction between administrative costs and the impact assessment disappears. The review of administrative costs will thus be wholly included in the assessment of the impact assessment's quality.

As regards the Council's role, it was stated that the Council's independence is particularly valuable for carrying out reviews that can be relied on under the law. The view was also expressed that review and training are important components in the Council's remit. A conclusion in the report was also that more was wanted from the Council, for example, a broader approach, more of the business community's perspective, and earlier involvement in the processes. The survey also showed that any limitation on the activities of the Council was not desirable.

2

Conclusions

In 2014, 443 cases were submitted to the Council. 177 cases led to an opinion from the Council, while 266 cases led to secretariat responses.

The proportion of approved cases was 60 per cent, which is an increase compared with 2013 (52 per cent). The proportion of acceptable impact assessments was 36 per cent, which is a slight increase compared with 2013 (34 per cent).

Examples of government agencies and ministries that have shown good results in 2014 are the Swedish Energy Market Inspectorate, the Swedish Board of Agriculture, Statistics Sweden, the Ministry of Employment and the Ministry of Defence.

The government ministries face a continued challenge to formulate clear directives that clarify the importance of, and the requirements on, impact assessments for the committees of inquiry established, and the consultation needed in this work. The same applies when ministries task government agencies with preparing reports and other documents.

As the Council has put forward in previous annual reports, work with impact assessments needs to be given enough time and resources, and senior management needs to show an interest in and engagement with these issues. The Council can conclude that the requirement for impact assessments again needs to be put in focus. Much work remains to be done before the quality of impact assessments can be generally considered acceptable. There are, however, examples of a number of individual regulators working conscientiously with these issues and therefore also achieving good results in the Council's statistics.

In 2014, the Council has been active in its training and supportive role. In 2014, the highest number of government agency training courses in the Council's history were conducted. The Council has thus met the needs of government agencies regarding both general and targeted training, with a good result in the surveys conducted following the training courses. In the case of government ministries, the Council carried out a number of training courses for these - but there is a continued substantial need for general and targeted training courses.

The Council also carried out a large number of supportive measures in 2014, primarily in relation to committees of inquiry and government agencies. The Council's secretariat also had contacts with administrators at government ministries, who asked a variety of questions emanating from work with impact assessments.

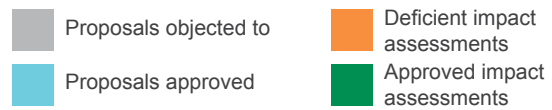
In 2014, the Council participated actively in the network RegWatchEurope. It is important that the Council continues to be active in work with better regulation in the EU, not least because a large proportion of regulations affecting business have their origins in EU law. In 2014, the Council delivered its opinion on an EU impact assessment that had a big impact within the EU. The option of getting EU impact assessments reviewed by the Swedish Better Regulation Council is something that more regulators ought to take advantage of.



Annexes

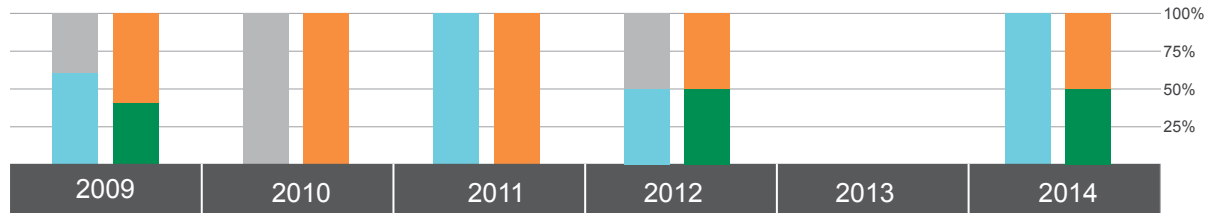
Introduction

The Annex sets out the regulators' results broken down per year. Bar charts show the percentages of proposals approved and objected to and the percentages of acceptable and deficient impact assessments. Regulators that have submitted at least 8 proposals resulting in opinions during the period 2009-2014 are reported per regulator. The results for the other regulators are reported together in one graph for ministries and one for government agencies.



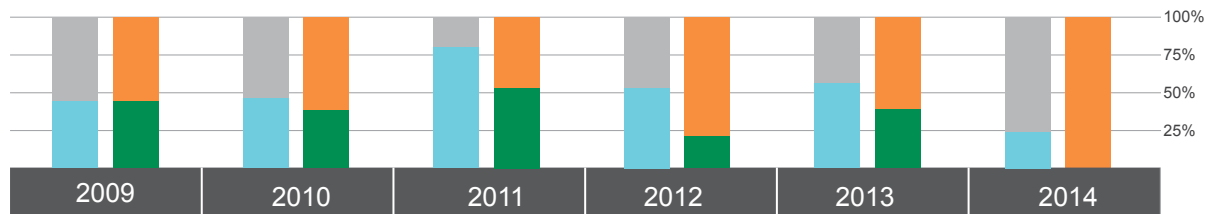
Ministries

Ministry of Employment



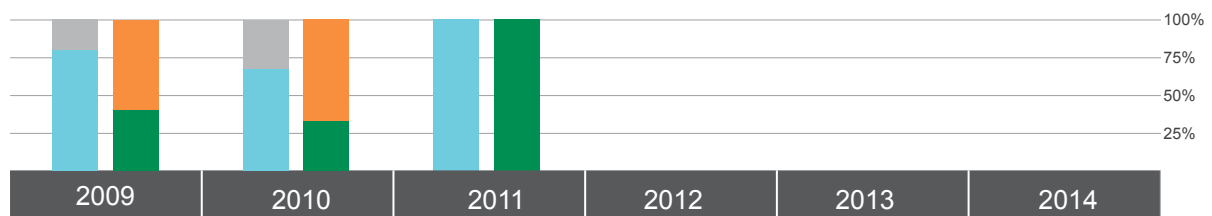
No. of opinions per year, 2009: 5, 2010: 2, 2011: 2, 2012: 2, 2013: 0, 2014: 2

Ministry of Finance

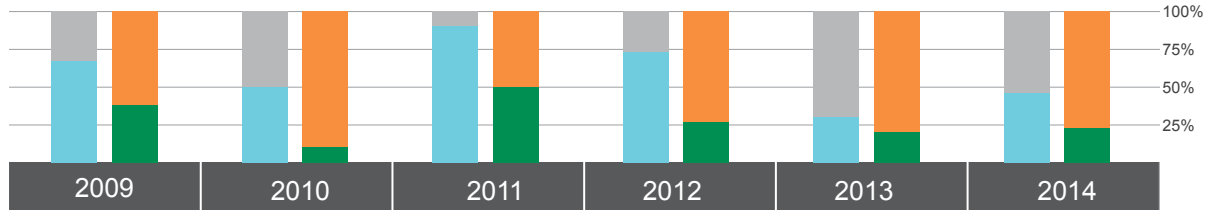


No. of opinions per year, 2009: 18, 2010: 13, 2011: 15, 2012: 19, 2013: 18, 2014: 17

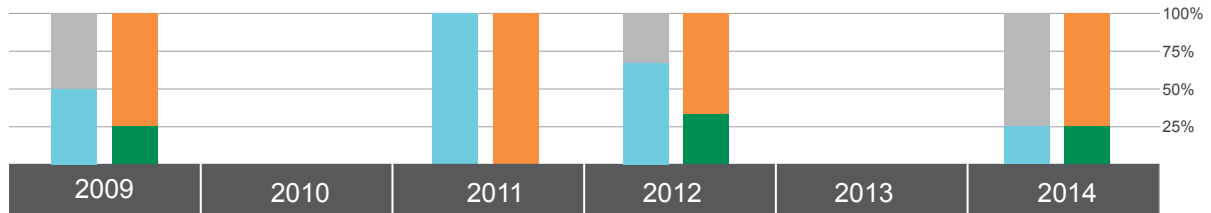
Ministry of Agriculture



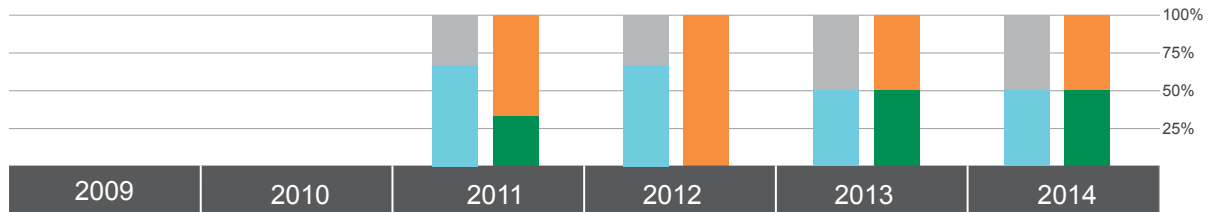
No. of opinions per year, 2009: 5, 2010: 3, 2011: 1, 2012: 0, 2013: 0, 2014: 0

Ministry of Justice

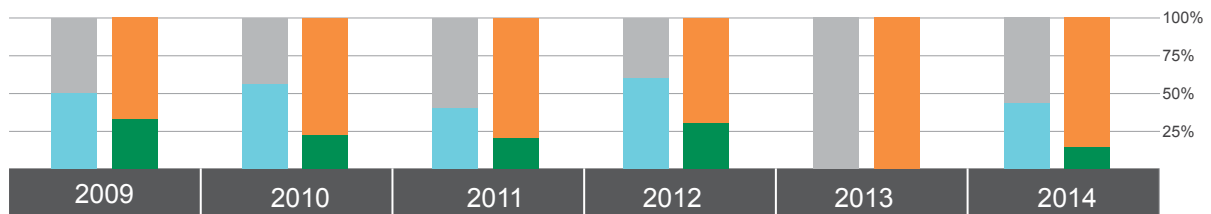
No. of opinions per year, 2009: 21, 2010: 10, 2011: 10, 2012: 11, 2013: 10, 2014: 13

Ministry of Culture

No. of opinions per year, 2009: 4, 2010: 0, 2011: 1, 2012: 3, 2013: 0, 2014: 4

Ministry of Rural Affairs

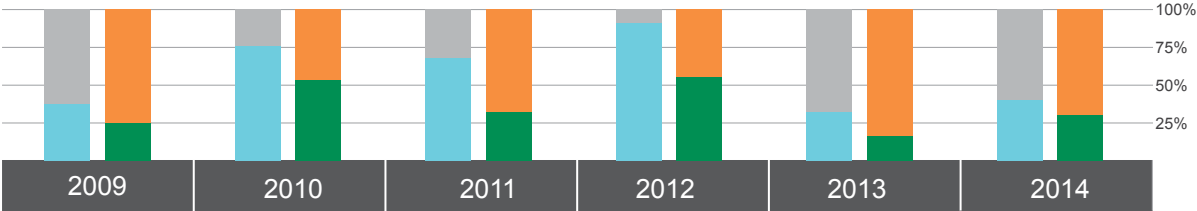
No. of opinions per year, 2009: 0, 2010: 0, 2011: 3, 2012: 3, 2013: 2, 2014: 2

Ministry of the Environment

No. of opinions per year, 2009: 6, 2010: 9, 2011: 5, 2012: 10, 2013: 3, 2014: 7

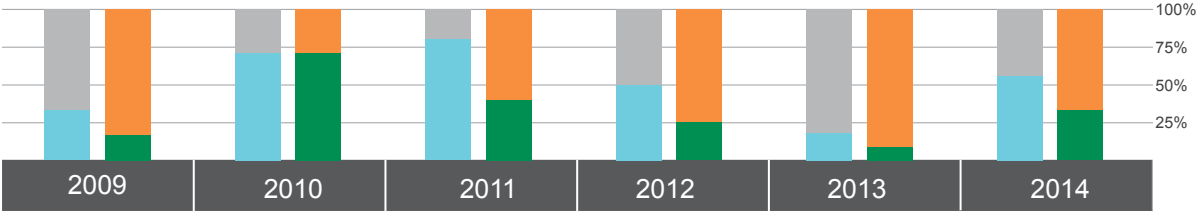
¹ Two submissions from the Swedish Environmental Protection Agency were prepared on behalf of the Swedish Government and therefore are included as government agency reports submitted from the Ministry of the Environment. Both proposals were approved with acceptable impact assessments.

Ministry of Enterprise, Energy and Communications



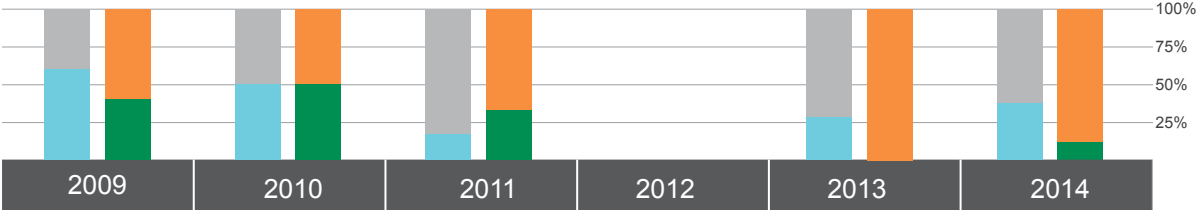
No. of opinions per year, 2009: 16, 2010: 17, 2011: 19, 2012: 11, 2013: 19, 2014: 10

Ministry of Health and Social Affairs



No. of opinions per year, 2009: 12, 2010: 7, 2011: 5, 2012: 4, 2013: 11, 2014: 9

Ministry of Education and Research



No. of opinions per year, 2009: 10, 2010: 4, 2011: 6, 2012: 0, 2013: 7, 2014: 8

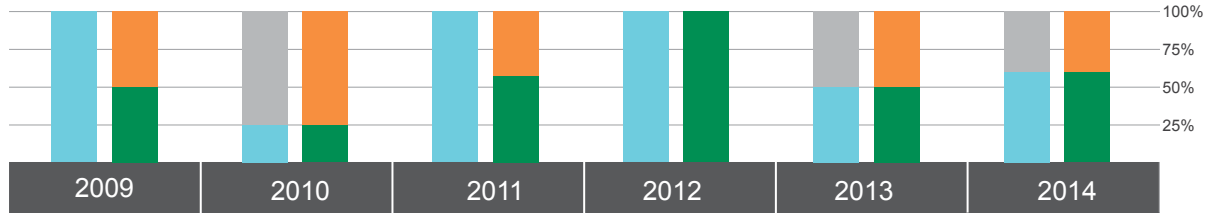
Other government ministries



No. of opinions per year, 2009: 2, 2010: 3, 2011: 0, 2012: 0, 2013: 2, 2014: 2

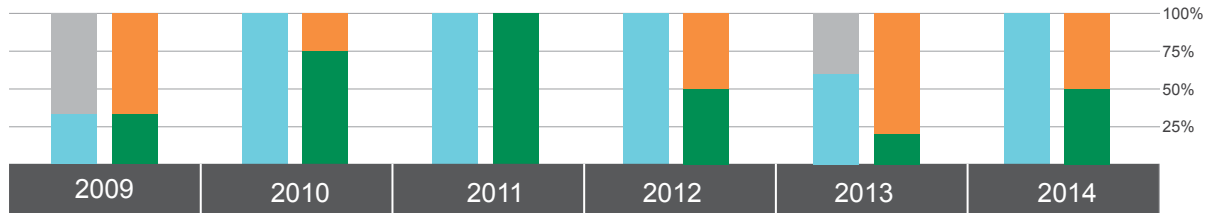
Government agencies

The Swedish Work Environment Authority



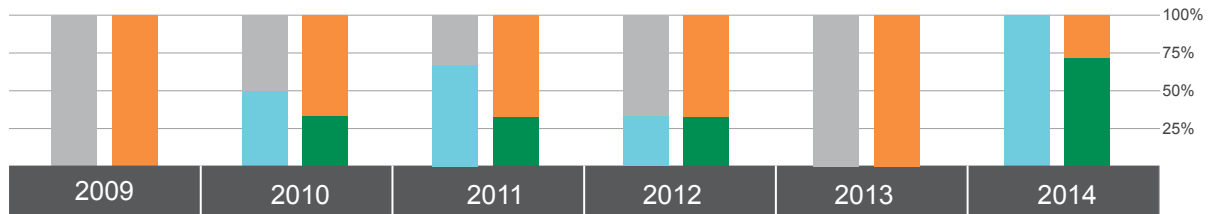
No. of opinions per year, 2009: 2, 2010: 4, 2011: 7, 2012: 1, 2013: 2, 2014: 5

The Swedish National Board of Housing, Building, and Planning



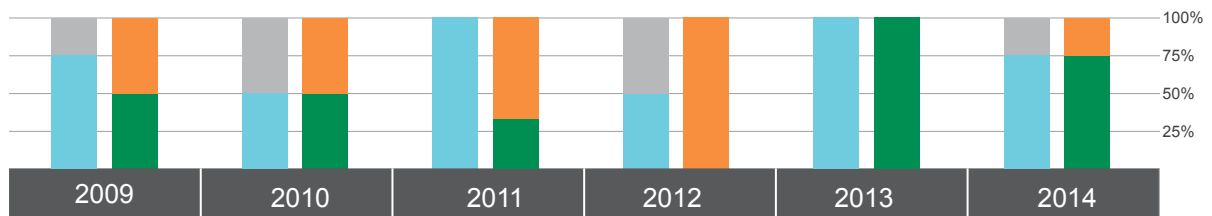
No. of opinions per year, 2009: 3, 2010: 4, 2011: 1, 2012: 2, 2013: 5, 2014: 2

The Swedish Energy Markets Inspectorate



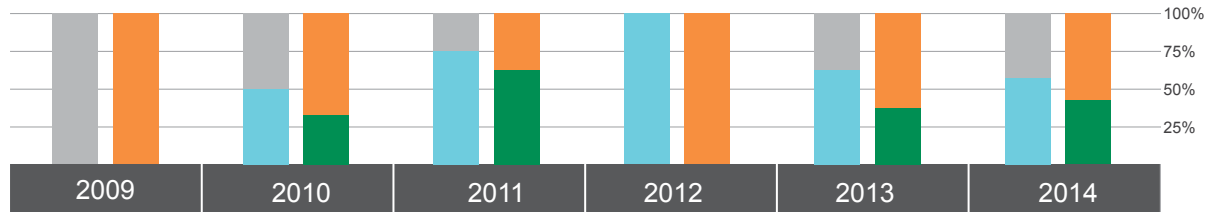
No. of opinions per year, 2009: 1, 2010: 6, 2011: 3, 2012: 3, 2013: 1, 2014: 7

The Swedish Energy Agency



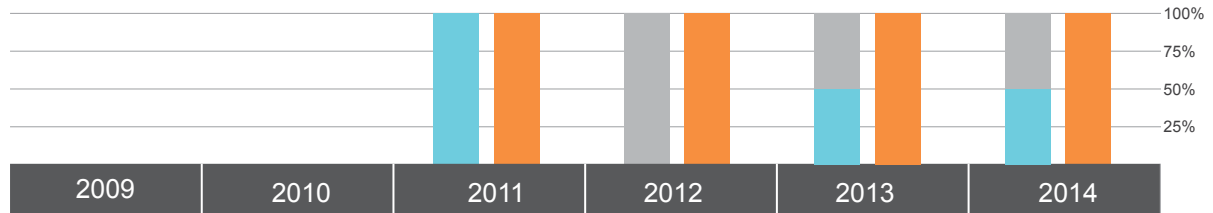
No. of opinions per year, 2009: 4, 2010: 2, 2011: 3, 2012: 2, 2013: 1, 2014: 4

The Swedish Financial Supervisory Authority



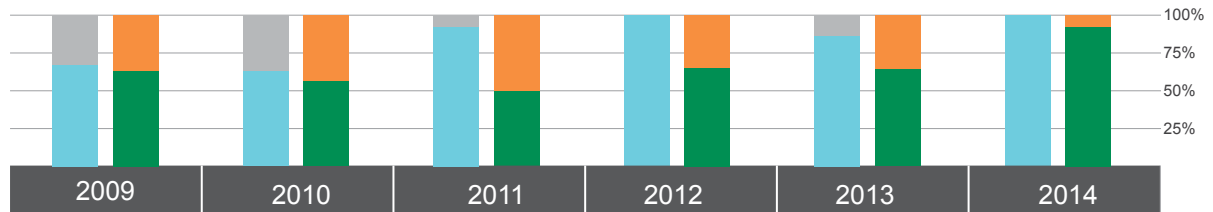
No. of opinions per year, 2009: 3, 2010: 6, 2011: 8, 2012: 2, 2013: 8, 2014: 7

The Swedish Agency for Marine and Water Management



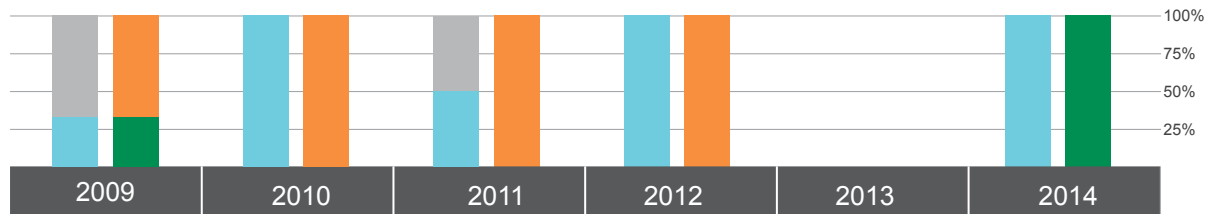
No. of opinions per year, 2009: 0, 2010: 0, 2011: 1, 2012: 2, 2013: 2, 2014: 4

The Swedish Board of Agriculture



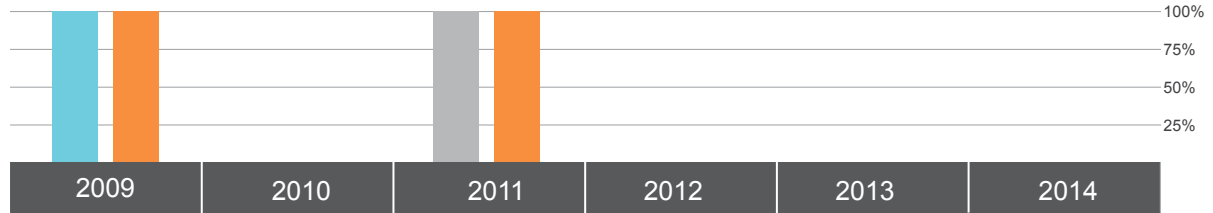
No. of opinions per year, 2009: 27, 2010: 16, 2011: 12, 2012: 17, 2013: 14, 2014: 13

The Swedish Chemicals Agency



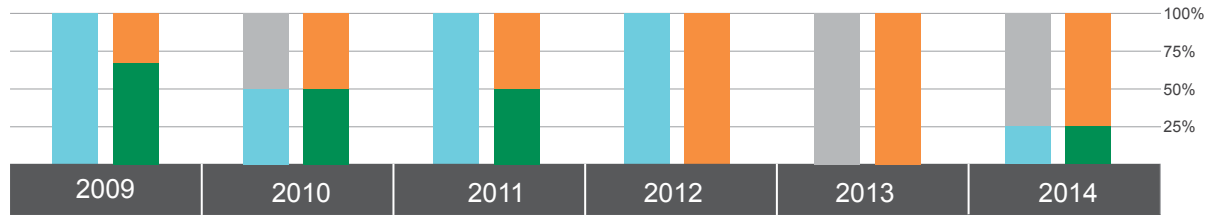
No. of opinions per year, 2009: 3, 2010: 1, 2011: 2, 2012: 1, 2013: 0, 2014: 1

The Swedish Consumer Agency



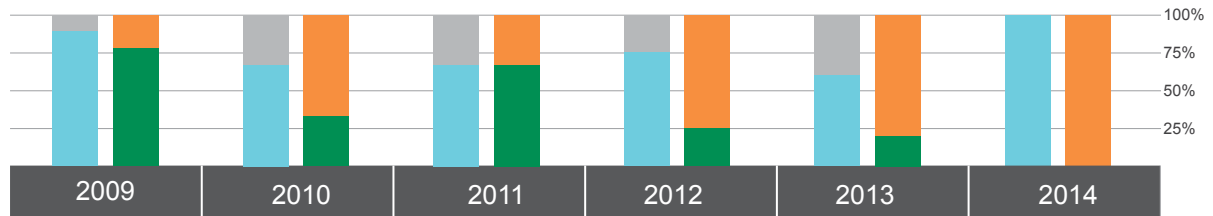
No. of opinions per year, 2009: 7, 2010: 0, 2011: 1, 2012: 0, 2013: 0, 2014: 0

The National Food Agency



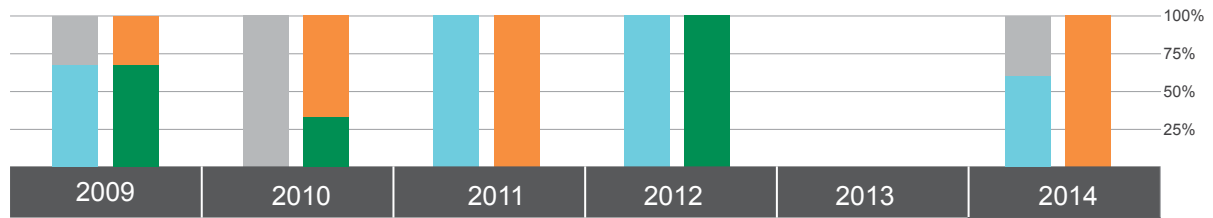
No. of opinions per year, 2009: 3, 2010: 2, 2011: 2, 2012: 1, 2013: 2, 2014: 4

The Medical Products Agency



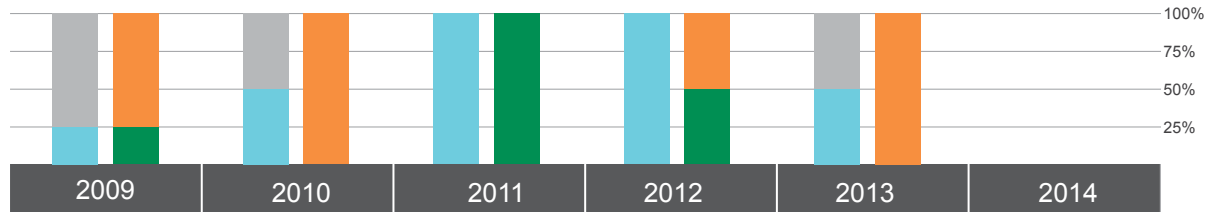
No. of opinions per year, 2009: 9, 2010: 3, 2011: 3, 2012: 4, 2013: 5, 2014: 1

The Swedish Civil Contingencies Agency



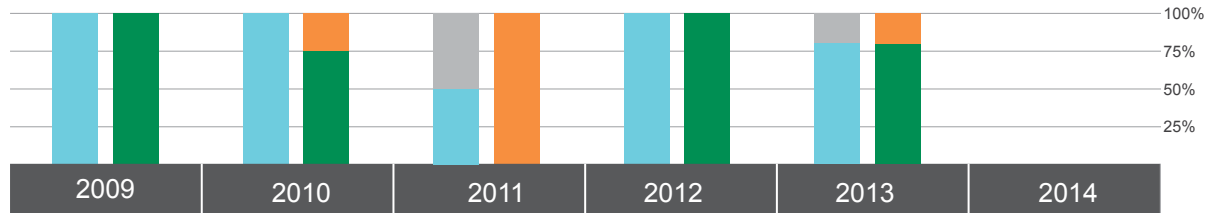
No. of opinions per year, 2009: 3, 2010: 3, 2011: 2, 2012: 1, 2013: 0, 2014: 5

The Swedish Environmental Protection Agency²



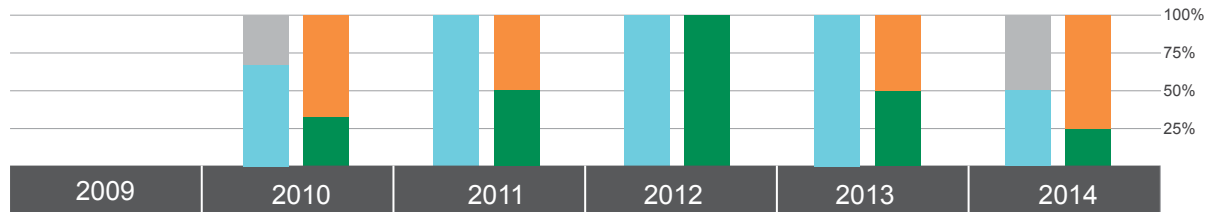
No. of opinions per year, 2009: 4, 2010: 2, 2011: 1, 2012: 2, 2013: 2, 2014: 0

The Swedish Post and Telecom Authority



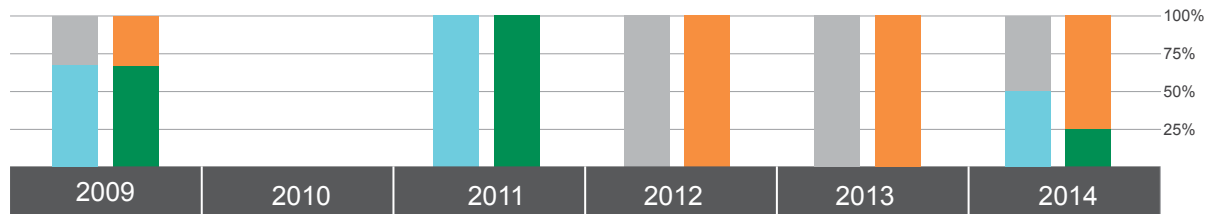
No. of opinions per year, 2009: 2, 2010: 4³, 2011: 2, 2012: 3, 2013: 5, 2014: 0

The Swedish Maritime Administration



No. of opinions per year, 2009: 0, 2010: 3, 2011: 2, 2012: 1, 2013: 2, 2014: 4

The Swedish Tax Agency

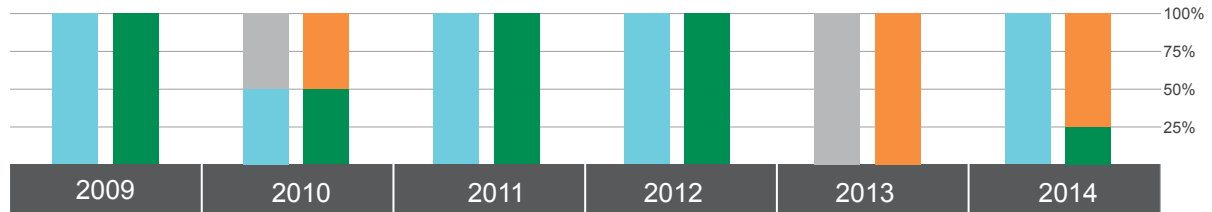


No. of opinions per year, 2009: 3, 2010: 0, 2011: 1, 2012: 2, 2013: 1, 2014: 4

² Two submissions from the Swedish Environmental Protection Agency were prepared on behalf of the Swedish Government and therefore are included as government agency reports submitted from the Ministry of the Environment. Both proposals were approved with acceptable impact assessments.

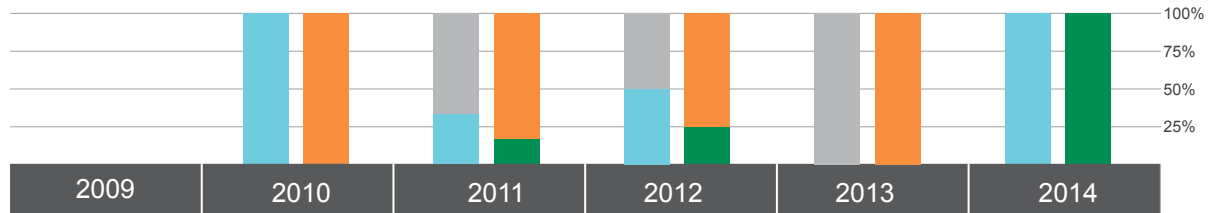
78 ³ In one resubmission, the Council only delivered an opinion on the quality of the impact assessment.

The Swedish Forestry Agency



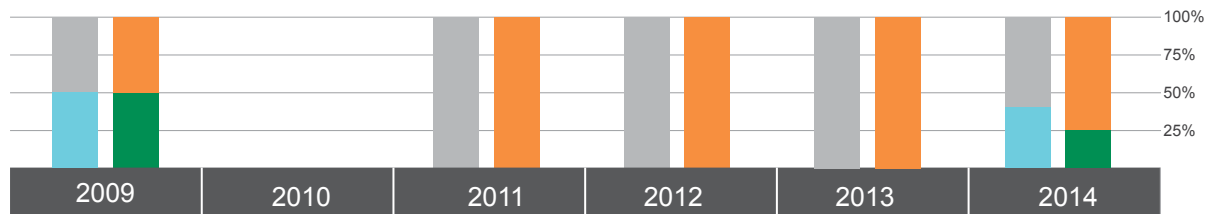
No. of opinions per year, 2009: 2, 2010: 2, 2011: 1, 2012: 2, 2013: 1, 2014: 4

The Swedish National Agency for Education



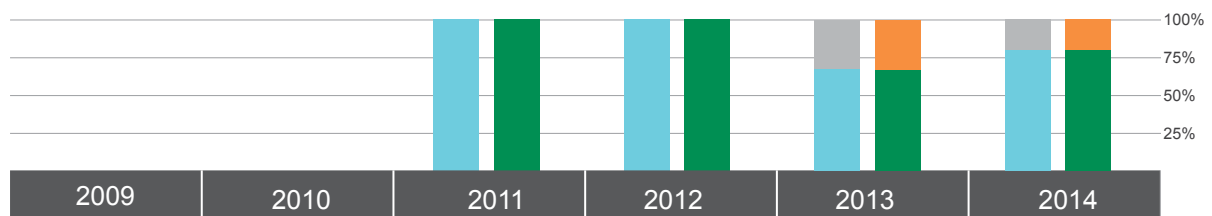
No. of opinions per year, 2009: 0, 2010: 1, 2011: 6, 2012: 4, 2013: 2, 2014: 1

The National Board of Health and Welfare



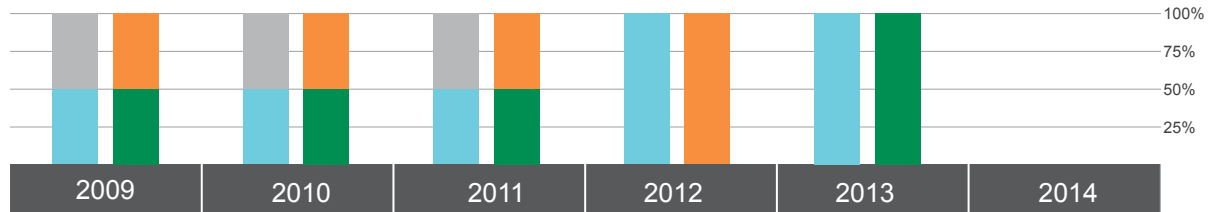
No. of opinions per year, 2009: 2, 2010: 0, 2011: 2, 2012: 3, 2013: 3, 2014: 5

Statistics Sweden



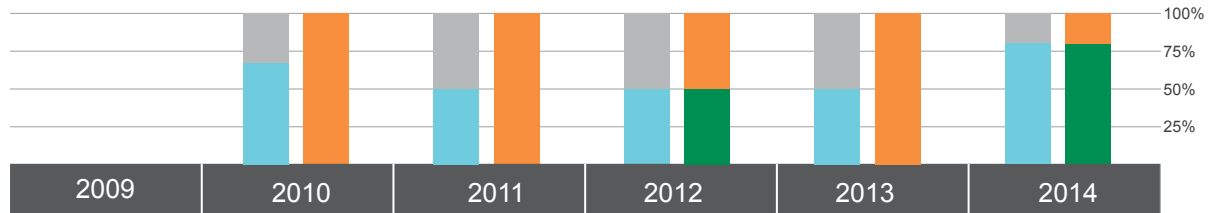
No. of opinions per year, 2009: 0, 2010: 0, 2011: 4, 2012: 2, 2013: 3, 2014: 5

The Swedish Radiation Safety Authority



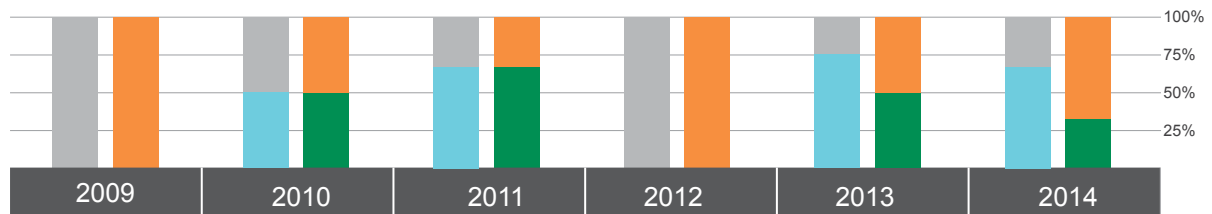
No. of opinions per year, 2009: 2, 2010: 2, 2011: 4, 2012: 2, 2013: 1, 2014: 0

SWEDAC



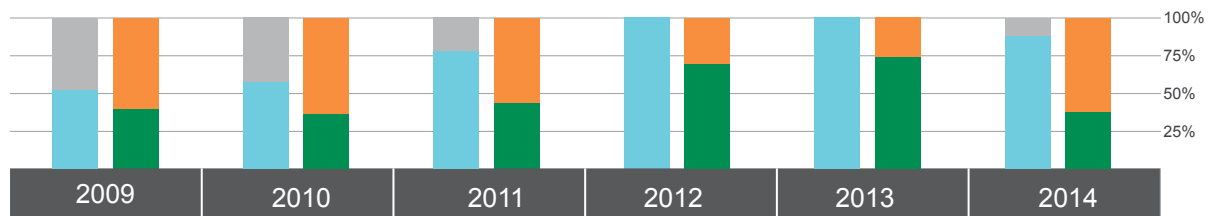
No. of opinions per year, 2009: 0, 2010: 3, 2011: 2, 2012: 2, 2013: 2, 2014: 5

The Swedish Dental and Pharmaceutical Benefits Agency



No. of opinions per year, 2009: 3, 2010: 2, 2011: 3, 2012: 1, 2013: 4, 2014: 3

The Swedish Transport Agency

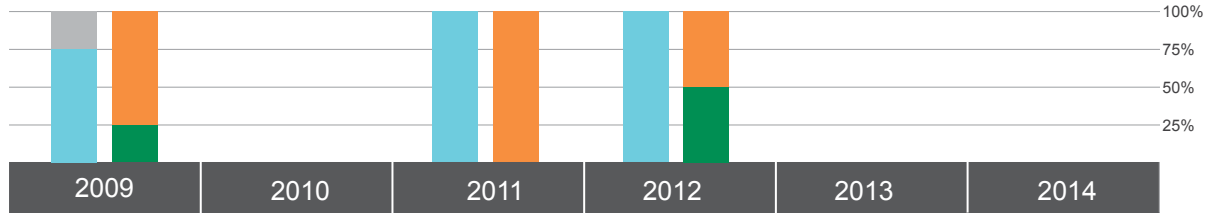


No. of opinions per year, 2009: 25, 2010: 22⁴, 2011: 27, 2012: 17⁵, 2013: 19, 2014: 16

⁴ In one resubmission, the Council only delivered an opinion on the quality of the impact assessment.

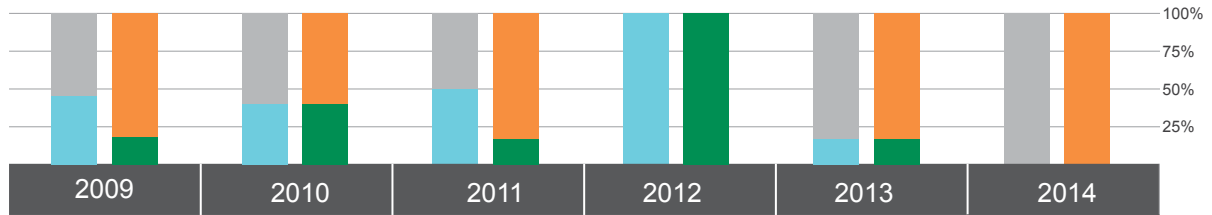
⁵ In one submission, the Council only delivered an opinion on the proposal.

Swedish Customs



No. of opinions per year, 2009: 4, 2010: 0, 2011: 2, 2012: 2, 2013: 0, 2014: 0

Other government agencies



No. of opinions per year, 2009: 11, 2010: 15, 2011: 6, 2012: 3, 2013: 6, 2014: 3



Terms of Reference

The Swedish Better Regulation Council – a Council for reviewing all new and amended legislation affecting the regulatory burden borne by businesses.

**Dir.
2008:57**

Decided at a Cabinet meeting on 15 May 2008

Summary of the remit

An advisory body for the Swedish Government and administrative authorities under the Government, the Swedish Better Regulation Council, shall be established to assist regulators in the work to simplify regulations for businesses (better regulation). The Swedish Better Regulation Council shall include representatives with specific experience of the impacts of regulations on businesses. A secretariat shall be attached to the Swedish Better Regulation Council.

The Swedish Better Regulation Council shall review the design of proposals for new or amended regulations that may have impacts of significance for businesses' working conditions, competitiveness or conditions in general. The Swedish Better Regulation Council shall adopt a position on whether the regulators have carried out the prescribed impact assessments, and assess whether the new or amended regulations are formulated such that they achieve their purpose in a simple way, and at a relatively low administrative cost to businesses.

The Swedish Better Regulation Council shall also assess the quality of the impact assessments and monitor developments in the area of better regulation and provide information and advice that can promote cost-conscious and effective regulation.

The Swedish Better Regulation Council shall carry out its activities until 31 December 2010.

Background

Regulations that affect businesses' administrative costs can often be designed in a simpler way while still achieving their purpose as effectively. Reducing administrative costs creates the conditions for businesses to devote more time and resources to operating and developing their activities, and thereby contributing to greater growth and employment. Better regulation in order to reduce the administrative costs for businesses has therefore become an increasingly important issue; not just in Sweden, but also in many other countries. In Europe, several countries have set ambitious national goals for reducing businesses' administrative costs. Better regulation is high on the agenda for the EU as part of the implementation of the Lisbon Strategy. The conclusions from the European Council meeting in Brussels in March 2007 emphasised that the reduction of administrative burdens, in particular in terms of the repercussions for small and medium-sized enterprises, is an important measure for stimulating Europe's economy. The European Council agreed that administrative burdens caused by EU legislation ought to be reduced by 25 per cent, to be achieved by 2012.

In 2006, the Swedish Government committed to the goal of reducing the administrative costs consequential to State regulatory frameworks by 25 per cent in four years, resulting in a noticeable change in the day-to-day operations of businesses. The Swedish Government and government agencies that carry out government tasks must work together to achieve this goal. As part of this work, the Swedish Government has produced an Action Plan that lists the actions for better regulation taken by the Government Offices of Sweden and a large number of government agencies. The National Board for Industrial and Technological Development (Nutek) has been tasked by the Swedish Government with continuously, within different areas, measuring how much it costs businesses to comply with the administrative requirements found in legislation.

In order to be able to adopt a position on the effects a proposal for new or amended regulations may have, the regulator must investigate the proposal's impacts. The requirements concerning carrying out a regulatory impact assessment, and what content this assessment should have, are not always complied with when proposals for regulations are developed. In order to remedy this situation, a body is needed to ensure that impact assessments are carried out as and when required, and that these assessments are of good quality.

Comments in line

with this were made by the OECD in its recently completed review of Sweden in respect of regulation reform (Sweden – Achieving Results for Sustained Growth, OECD 2007).

Outside Sweden, there are several examples of such advisory bodies. In 2000 in the Netherlands, an independent advisory body, Actal, was established to advise the Dutch government on matters relating to the reduction of bureaucracy and administrative impediments. Actal has been highly instrumental in the work to achieve the Dutch government's goal to reduce the administrative burden by 25 per cent by 2007. In Germany in 2006 an advisory body, *Nationaler Normenkontrollrat* (NKR – the National Regulatory Control Council) was established with Actal as its model. These national bodies advise the regulators in conjunction with the drafting process, and insofar as these agencies deliver formal opinions, these are first made public in connection with the publication of the regulator's proposed statute. The European Commission has also set up an advisory body in the form of an impact assessment board.

The task

The Swedish Better Regulation Council shall review the formulation of proposed statutes with new or amended regulations that may have impacts of significance for businesses' working conditions, competitiveness or conditions in general. This review is to be based on the Swedish Government's goal to reduce the administrative costs for businesses that are attributable to State regulatory frameworks.

The Swedish Better Regulation Council will be afforded the opportunity as a referral body, or in a similar manner, to review proposals for Acts, Ordinances and government agency regulations that may have significant impacts on businesses' working conditions, competitiveness or conditions in general. Guidelines or directives for submissions of documentation by the Government Offices of Sweden and other government agencies to the Swedish Better Regulation Council will be notified under special regulations. The Swedish Better Regulation Council's review shall include the proposed statute as well as the impact assessments that are included in the decision data for the proposed statute. As far as possible,

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the Swedish Better Regulation Council is to support the committees of inquiry in the drafting of impact assessments.

In its review, the Swedish Better Regulation Council shall observe the requirements concerning impact assessments in the Committees Ordinance (1998:1474), the Ordinance on Regulatory Impact Assessment (Swedish Code of Statutes 2007:1244), or, where it concerns proposals drafted in the Government Offices of Sweden, the guidelines for working with impact assessments within the Government Offices of Sweden.

The Swedish Better Regulation Council shall adopt a position on whether the regulators have carried out the kind of impact assessment required to be able to assess the impacts of the proposed regulations on businesses' administrative costs. The Swedish Better Regulation Council shall also adopt a position on whether new or amended regulations are formulated in such a way that they achieve their purpose in a simple way, and at a relatively low administrative cost to businesses. The Swedish Better Regulation Council shall also assess the quality of impact assessments in other respects based on the requirements specified above.

The Swedish Better Regulation Council is to monitor developments in the area of better regulation. Taking into account the advice given by other actors in the area of better regulation, the Council is to be able to provide information and advice that promotes cost conscious and effective regulation.

A large number of proposals will be submitted to the Swedish Better Regulation Council. In all probability, the Swedish Better Regulation Council will not be able to review all of the proposals exhaustively. The Council itself must solve this problem by determining the detailed selection and evaluation criteria for its review.

The Swedish Better Regulation Council shall deliver its opinion in writing on the proposals that have been submitted to it.

When the Swedish Better Regulation Council delivers a written opinion, the Council shall specify if, based on the starting points that the Council is required to observe, the Council can recommend the proposed regulations' formulation or not. If the Council does not recommend the proposed regulations' formulation, the Council can propose an alternative formulation of the regulations which, in the Council's view, is better taking into account that the regulations are to achieve their purpose in a simple way and at a relatively low administrative cost for businesses. If the Council does not have any comments to make, it is sufficient that the opinion contains a statement to this effect. The Swedish Better Regulation Council's review is to be conducted

in a way that observes the purpose of the proposed regulation. The Swedish Better Regulation Council's role is not to assess the policy foundation for the proposal. The Swedish Better Regulation Council is only to point out if the proposal has deficiencies in its impact assessment, or if it can be anticipated to give rise to administrative costs for businesses that are not justified in the light of the purpose of the proposed regulation. The Swedish Better Regulation Council is advisory in relation to the regulator's ordinary drafting and decision-making organisation.

Organisation

The Swedish Better Regulation Council shall consist of a Chair and two other Council Members, one of whom is to be the Deputy Chair, and substitutes. The Council has a quorum when the Chair or Deputy Chair and at least one additional Member are present. Any dissenting opinions are to be specified in the Council's statements of opinion.

The Members are to have specific experience in issues relating to the impact of regulations on businesses. A secretariat is to be connected to the Swedish Better Regulation Council, which is to assist the Council in its activities. In its work, the Swedish Better Regulation Council may employ external experts and ought to maintain continuous contact with the business community and other affected stakeholders, including Nutek.

The Swedish Better Regulation Council is to meet with the frequency required for it to be able to deliberate on submitted proposed statutes and deliver opinions within the specified processing time or, when the Council's handling of a case does not coincide with the submission round, within two weeks from the date on which the proposal was submitted to the Council. If the Council does not intend to review a proposal, this ought to be notified without delay. The Swedish Better Regulation Council ought to have great latitude to decide for itself how the work is to be carried out in practice. It shall therefore be a task for the Council, observing what is set out in these Terms of Reference concerning its task and organisation, to draft the guidelines in detail for its own work and that of its Secretariat.

6

Timetable and reporting

The Swedish Better Regulation Council shall carry out its work until 31 December 2010. By no later than this date, the Swedish Better Regulation Council shall give an account of its accumulated experience and the results achieved in a final report to the Swedish Government in writing.

By no later than 31 January of each year, the Swedish Better Regulation Council shall provide a written progress report to the Swedish Government. In particular, the Swedish Better Regulation Council shall specify the number of proposed statutes that have been received and reviewed, respectively, what criteria have been used to select these, and the number of proposals that, without an acceptable reason, have lacked an impact assessment, or contained a qualitatively deficient impact assessment.

Other matters

The Swedish Government intends to regularly evaluate the impacts of the activities of the Swedish Better Regulation Council.

(Ministry of Enterprise, Energy and Communications)

Terms of Reference



Supplementary Terms of Reference for the Swedish Better Regulation Council (N 2008:5)

**Dir.
2008:142**

Decided at a Cabinet meeting on 13 November 2008

Supplementary Terms of Reference

On 15 May 2008, the Government decided on the Terms of Reference of the Swedish Better Regulation Council – a Council for reviewing all new and amended legislation affecting the regulatory burden borne by businesses (Dir. 2008/57).

Concerning the Council's organisation, among other things, the following is specified in those Terms of Reference. The Swedish Better Regulation Council shall consist of a Chair and two other Council Members, one of whom is to be the Deputy Chair, and substitutes. The Council has a quorum when the Chair or Deputy Chair and at least one additional Member are present. Any dissenting opinions are to be specified in the Council's statements of opinion.

Instead of the above, the following shall apply in respect of the Swedish Better Regulation Council's organisation. The Swedish Better Regulation Council shall consist of a Chair and three other Council Members, one of whom is to be the Deputy Chair, as well as four substitutes. The Council has a quorum when the Chair or Deputy Chair and at least two additional Members are present. When voting results in a tie, the Chair has the casting vote. Any dissenting opinions are to be specified in the Council's statements of opinion.

(Ministry of Enterprise, Energy and Communications)

Terms of Reference



**Dir.
2010:96**

Supplementary Terms of
Reference for the Swedish
Better Regulation Council
(N 2008:05)

Decided at a Cabinet meeting on 23 September 2010

Extended period for the remit

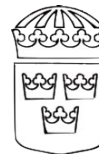
On 15 May 2008, the Government decided to establish an independent advisory body for the Government Offices of Sweden and the administrative authorities, the Swedish Better Regulation Council – a Council for reviewing all new and amended legislation affecting the regulatory burden borne by businesses (Dir. 2008/57). Under its Terms of Reference, the Swedish Better Regulation Council is to pursue its remit until 31 December 2010 and, no later than on that date and in a final report to the Swedish Government in writing, give an account of its accumulated experience and the results that have been achieved. By no later than 31 January of each year, the Swedish Better Regulation Council shall also submit a written progress report to the Swedish Government.

The period of this commission has been extended. This remit shall instead be pursued until 31 December 2014 and a final report shall be submitted no later than at that time. By no later than 31 January of each year, the Swedish Better Regulation Council shall continue to also submit a written progress report to the Swedish Government.

(Ministry of Enterprise, Energy and Communications)

Terms of Reference

Supplementary Terms of Reference for the Swedish Better Regulation Council (N 2008:05)



**Dir.
2011:71**

Decided at a Cabinet meeting on 25 August 2011

Summary

The Swedish Better Regulation Council is an advisory body to the Government Offices of Sweden and the administrative authorities whose task it is to review impact assessments. Under its Terms of Reference, the Council was to pursue its remit t.o.m. until 31 December 2010 (Dir. 2008/57). As a consequence of the Supplementary Terms of Reference (Dir. 2010:96), the Council's task has been extended to 31 December 2014. The Swedish Better Regulation Council's role as an advisory body needs to be developed further.

The Swedish Better Regulation Council shall therefore, by way of clarification of its task:

- More clearly delimit its review of proposals and impact assessments based on the purpose of the proposed regulation;
- In its opinions, where applicable, provide clear guidance to the regulator on how impact assessments ought to be supplemented; and
- In its advisory role, prioritise support to the committees of inquiry in their work of preparing impact assessments.

In addition, the Swedish Better Regulation Council shall:

- Assist the regulators, if they so request, in reviewing impact assessments of those proposals from the European Union (EU) that are anticipated to have a major impact on businesses in Sweden, and to provide advice on what a Swedish impact assessment ought to contain;
- Establish a collection of examples, accessible from the Swedish Better Regulation Council's website, of how impacts can be described in a satisfactory way; and

2

- Compile and analyse statistics for the purpose of contributing to the development of work with impact assessments.

Background

On 15 May 2008, the Swedish Government decided to establish an independent advisory body to the Government Offices of Sweden and the administrative authorities, a Swedish Better Regulation Council. The Swedish Better Regulation Council consists of four Members and is assisted by a Secretariat. The Swedish Better Regulation Council is to:

- review the drafting of proposals for new or amended regulations that may have impacts on businesses' working conditions, competitiveness or conditions in general;
- adopt a position on whether the regulators have carried out the prescribed impact assessments;
- adopt a position on whether new or amended statutes are formulated in such a way that they achieve their purpose in a simple way, and at a relatively low administrative cost to businesses;
- assess the quality of impact assessments in other respects; as well as
- monitor developments in the area of better regulation and provide information and advice that promotes cost-conscious and effective regulation.

The Swedish Better Regulation Council's review is to cover the proposed statute as well as the impact assessments that are included in the decision data for the proposed statute. The starting point for this review is to be the Swedish Government's goal to reduce the administrative costs for businesses that are attributable to State regulatory frameworks. Furthermore, the review is to take into account the purpose of the proposed regulation.

The Swedish Better Regulation Council is to be afforded the opportunity as a referral body or in another similar way to review proposals for such Acts, Ordinances and government agency regulations as may have impacts on businesses' working conditions, competitiveness or conditions in general.

Since February 2009, the Swedish Better Regulation Council meets two times per month. Up to the end of 2010, 832 submissions had been received

by the Swedish Better Regulation Council. The Swedish Better Regulation Council has delivered an opinion on over 393 submissions while 439 cases have been the subject of secretariat responses. Secretariat responses are provided when it is judged that the proposal does not have impacts on businesses' working conditions, competitiveness or conditions in general. A secretariat response means that the Members of the Swedish Better Regulation Council do not deliver an opinion on the submission. The Swedish Better Regulation Council has approved 221 proposals, i.e., judged that the proposal is administratively the best from the point of view of businesses, and objected to 170 proposals. Impact assessments have been judged to be deficient in 217 cases and acceptable in 154 cases. However, according to the Swedish Better Regulation Council, there has been no noticeable improvement in the quality of impact assessments between 2009 and 2010.

International outlook

The Swedish Better Regulation Council's counterparts in other EU Member States are *Nationaler Normenkontrollrat* (NKR – the National Regulatory Control Council) in Germany, *Adviescollege Toetsing Administratieve Lasten* (Actal – the Dutch Advisory Board on Regulatory Burden) in the Netherlands, and the Regulatory Policy Committee (RPC) in the United Kingdom. These three players have in common that they are advisory and that they come in at an early stage in the drafting process, at the point when impact assessments are prepared. However, the Swedish Better Regulation Council generally first reviews the impact assessment in connection with the proposal being submitted for comment, that is, much later in the drafting process than is the case for the other European actors. Unlike the Swedish Better Regulation Council, which is required to adopt a position on the same proposed statute text and impact assessment as other referral bodies, these foreign actors do not routinely deliver an opinion on the final impact assessment or the draft statute text.

Even the European Commission's Impact Assessment Board (IAB), which is also an advisory body, is involved early in the process of producing an impact assessment and only delivers an opinion on proposals that are not final.

4

The task

Simplifying the day-to-day operations for Swedish entrepreneurs and businesses has been one of the Swedish Government's most important initiatives for job creation and greater prosperity. A regulatory framework suited to its purpose that does not entail disproportionate or unnecessary costs for businesses is important in order for Sweden to maintain and increase its competitiveness. It is of great importance that impacts for businesses are illuminated well and that regulations affecting businesses are formulated in an administratively simple way. In the light of this, there is reason to revise the Terms of Reference that govern the activities of the Swedish Better Regulation Council. Such a revision was advised in the Budget Bill for 2011 (Govt. Bill 2010/11:1, expenditure area 24).

The Swedish Better Regulation Council is to develop its advisory role

During the roughly two-and-a-half years that the Swedish Better Regulation Council has been in operation, it has built up a knowledge base in respect of how regulations can be drafted in an administratively simple way for businesses, as well as how the various components of a regulatory impact assessment can be described in a satisfactory way. It is important that this knowledge is shared with the regulator in a clear and simple manner in the individual legislation case. The Swedish Better Regulation Council's role as an advisory body ought therefore to be clarified. In conjunction with delivering opinions where the Council has objected to a regulation or judged the impact assessment to be deficient, the Swedish Better Regulation Council is to submit proposals on how the deficiencies in an impact assessment are to be corrected and if it is deemed possible, also to submit proposals on how the regulation should be formulated. These opinions should be able to serve as the basis for improvements in proposed statutes, as well as improvements and additions to impact assessments. Furthermore, the Swedish Better Regulation Council is to develop its advisory role further so that the Council can provide advice and support as early as possible if so requested in the preparation of a regulatory impact assessment.

The review is to focus on substantial changes

For regulations for which amendments are proposed, the

parts of regulations which are not affected by the proposal are not dealt with in the impact assessment. Generally, linguistic changes or minor changes which mean that the legislation is adapted and updated, or that regulations are transferred unaltered from one statute to another, are not affected either. This limitation should be reflected in the Swedish Better Regulation Council's review in that the review is to focus on the substantial changes proposed. If the Swedish Better Regulation Council judges that there may be potential to simplify the regulations in the submitted proposal, the Council's opinion can point this out.

*The Swedish Better Regulation Council
is to establish a collection of samples*

The Swedish Better Regulation Council is to establish and systematically maintain a collection of samples of how impacts can be described in a satisfactory way. With this collection, the regulator is to have an easy way of finding examples of how impacts have been described in various respects. It is an advantage if the Swedish Better Regulation Council, to the extent that the Council considers appropriate, provides its own comments. The collection of examples is to be accessible from the Swedish Better Regulation Council's website.

*The Swedish Better Regulation Council is to prioritise the
committees of inquiry in their drafting of impact assessments*

In its Annual Report for 2010, the Swedish Better Regulation Council stresses the importance of the Terms of Reference for committees of inquiry containing concrete requirements on impact assessments. Since June 2008, the work of drafting impact assessments has been made uniform through various governing documents for the committees of inquiry¹, the Government Offices of Sweden² and administrative authorities under the Government³. The same requirements with respect to the content and quality of impact assessments apply to all regulators. An impact assessment that complies with the requirements set on content and quality already in the early stages of

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drafting the legislation facilitates its subsequent drafting. The Swedish Better Regulation Council is therefore to give priority to efforts to assist the committees of inquiry in their drafting of regulatory impact assessments.

Impact assessment on proposals for EU legislation

More than half of Swedish businesses' administrative costs have their origin in legislation at the EU level. Better regulation was a high priority issue during the Swedish presidency of the EU in 2009 and this is still the case.

In its report "Better Regulation in Europe SWEDEN 2010", the OECD stresses in one of its recommendations the importance of impact assessments on proposals for legislation at the EU level. Furthermore, this report emphasised that the Swedish Better Regulation Council could play an important role in this context⁴.

It is clear from Circular 14 *Riktlinjer för genomförande av unionsrättsakter* [Guidelines for the implementation of legal acts of the European Union] that there must be a thorough analysis of the proposed EU legislation at an early stage of the negotiations. It goes on to say that a regulatory impact assessment ought to be prepared as early as possible and be reported in the preparatory material in connection with the tabling of the new proposal for or amendments to EU legislation. If the European Commission has completed an impact assessment, this can serve as the basis.

In a letter dated 15 December 2010 entitled *Synpunkter på regeringens arbete med EU-lagstiftning* [Views on the Swedish Government's work on EU legislation] the Swedish Better Regulation Council highlighted the importance of shedding light on the impacts for Swedish businesses in the negotiations at EU level.

The Swedish Better Regulation Council ought to be able to play a role by reviewing the impact assessment prepared at EU level on request, where the proposal is deemed to have a major impact on Swedish businesses. Furthermore, the Council should be able to submit suggestions concerning the extent to which a supplementary Swedish impact assessment ought

⁴ Recommendation 7.2 "...Consider whether key ministries and agencies have adequate capacities for effective negotiation. Prioritise efforts on key issues for Sweden and make impact assessments a requirement for draft directives that fall within these priority areas (the Better Regulation Council could play a prominent role here...).

to be carried out and provide advice and support in this work. In so doing, the Prime Minister's Office Circular 14 *Riktlinjer för genomförande av unionsrättsakter* [Guidelines for implementation of legal acts of the European Union] can also serve as guidance. However, responsibility for completing the impact assessment is not to rest with the Swedish Better Regulation Council.

The Swedish Better Regulation Council's gathering and analysis of statistics

One of the tasks that the Swedish Better Regulation Council is charged with is to monitor developments in the area of better regulation and provide information and advice that can promote cost-conscious and effective regulation. The Council is also to specify in writing the results that have been achieved in the Council's work. In the future, the Swedish Better Regulation Council is also to analyse the statistics that the Council gathers. This analysis is to serve as the basis for developing work with impact assessments, contributing to better regulation for businesses becoming more effective. In cases where the Council has delivered an opinion, and the following items are stated in the impact assessment, the Swedish Better Regulation Council is to report:

- The amount that administrative costs have increased or decreased, where administrative costs are quantified in monetary terms; and
- If the administrative costs are specified as either increasing or decreasing, where the administrative costs are not quantified in monetary terms.

In particular the Swedish Better Regulation Council is also to analyse:

- Secretariat responses that contain an assessment that the impacts are limited for businesses, in order to obtain an evidence base that can be used for adopting a position on whether an impact assessment needs to be prepared or not;
- Impact assessments where the Council has delivered an opinion, in order to obtain an evidence base for adopting a position on whether to introduce a threshold/threshold value for costs above which a full impact assessment is to be carried out.

This part of the Council's remit is to be carried out in close dialogue with the Government Offices of Sweden.

(Ministry of Enterprise, Energy and Communications)

Glossary

SOU	Official Government Reports
DS	Ministerial memoranda from the Ministry publication series
SFS	Swedish Code of Statutes
SFS 2007:1244	The Ordinance on Regulatory Impact Assessment
SFS 1998:1474	The Committees Ordinance

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