



## **A PROCESS FOR CLEANING UP FEDERAL REGULATIONS: Insights from BRAC and the Dutch Administrative Burden Reduction Programme**

BY JOSHUA HALL AND MICHAEL WILLIAMS

### **INTRODUCTION**

The concern that American businesses are overly burdened by regulations has legitimate grounds. In 2011, American companies had to comply with over 1 million federal regulatory restrictions, compared with about 860,000 a decade earlier.<sup>1</sup> However, to truly address concerns about overregulation, policy makers cannot focus exclusively on the growth of new regulations. Attention must also be paid to the lack of an efficient and effective regulatory review process for preexisting rules.

In this paper, authors Joshua Hall and Michael Williams offer a detailed process to identify, evaluate, and eliminate unnecessary, inefficient regulations. Combining lessons from two successful government reform programs—the Administrative Burden Reduction Programme in the Netherlands and the Base Realignment and Closure (BRAC) Act in the United States—the proposed framework would identify the regulatory costs associated with an existing piece of legislation and create a target for reducing regulatory costs.

### **LESSONS FROM THE NETHERLANDS: THE DUTCH ADMINISTRATIVE BURDEN REDUCTION PROGRAMME**

In 2003, the Dutch government made significant additions and changes to earlier regulatory reforms aimed at eliminating regulations that burdened businesses with unnecessary costs and created societal waste.

The methodology underpinning the Dutch program is designed to continually measure administrative burdens and then enforce the elimination of unnecessary regulation. While this program is built to function within the Dutch government's structure, its essential features are adaptable to the needs of the United States. Many factors contribute to the success of the Dutch program, including a clear, consistent methodology to measure regulatory burdens, an independent monitor that tracks the progress of reducing regulatory costs, and a politically backed target of reducing the cost of regulatory burdens on businesses by 25 percent within four years.

These reforms included several key attributes that can be adopted in the United States:

- *A consistent, transparent methodology for measuring administrative costs and burdens.* The standard cost model was developed in the Netherlands as a consistent methodology for measuring both past and

1. Patrick A. McLaughlin and Omar Al-Ubaydli, *RegData*, Mercatus Center at George Mason University, <http://regdata.mercatus.org/>.

future administrative costs and burdens resulting from business regulations. The model is designed to break down administrative burdens and costs to businesses, ensuring that even obligations not imposed by regulation (for example, voluntary information obligations) are measured, allowing for a complete overview of all information obligations and simplifying the identification of unnecessary regulation.

- *An independent monitor to track progress in reducing regulatory burdens.* The Dutch reforms vested a new independent agency with the responsibility of monitoring the accuracy of measurements and the progress of reforms within individual bureaus, keeping them on task and moving toward their reduction goals.
- *A specific, quantitative target for reducing regulatory costs.* There was widespread political support for reducing the cost of regulatory burdens on business by 25 percent within four years, and consistent pressure from elected officials ensured that this target was met.

## LESSONS FROM BRAC: THE AMERICAN BASE REALIGNMENT AND CLOSURE PROCESS

One of the great government reform success stories of the past thirty years is the BRAC Act of 1988. The act created a multiple-stage process to help facilitate base closure and realignment.

Prior to 1988, the base closure process was hampered by legislative wrangling, as individual legislators held effective veto power over the closure or realignment of military installations in their congressional districts or states.

BRAC is a case study of a streamlining process that can minimize the adverse effects of political pressure while still allowing ample transparency and public input. The BRAC process has two primary attributes:

- *An independent commission to evaluate the list of bases to be closed or realigned.* The Department of Defense creates a list of base closures and realignments based primarily on military factors. Then an independent commission assesses whether the recommendations made by the Department of Defense adhere to the criteria that Congress laid out to consider in determining the value of each military installation.
- *A requirement that Congress take an “up or down” vote (with no amendments) on the entire package of recommendations.* If the president approves the commission’s recommendations (he cannot make any changes to them), they are sent to Congress. Congress has 45 days to pass a resolution of disapproval. If Congress does not pass such a resolution on the entire list of recommendations, then the BRAC commission’s recommendations become final.

Since 1988, there have been five BRAC commissions, and, according to the Department of Defense, these five BRAC rounds have resulted in the closure of 125 major facilities and 225 minor ones, and the realignment of over a hundred bases—saving taxpayers in excess of \$24 billion.

## RECOMMENDATIONS

The authors propose a framework that combines the most effective features of the Dutch and BRAC models:

- *Designate an independent monitor dedicated exclusively to the consistent measurement of regulatory costs.* The authors suggest the establishment of a new agency that would create and maintain a standard method for measurement to be used in all its measurement duties to ensure consistency in analyzing costs, as in the Dutch standard cost model. The new agency would be in charge of carrying out the actual regulatory cost measurement process, and it would be insulated from the influence of the federal agencies that it is scrutinizing.
- *Establish independent commissions to evaluate the costs and benefits of current regulations created by major legislation.* A nine-person commission would be constituted to review major pieces of legislation and the regulations generated under the defined statutory authority.

Each commission would use the independent monitor's measurements in its assessment. After public hearings and testimony, the nine-person commission would send Congress a list of regulatory reforms equal to a specific reduction in the total regulatory cost generated by the legislation (e.g., 25 percent), as estimated by the independent agency. The strict and specific quantitative goal of reducing costs would force the commissioners to decide which regulations provide the most value.

- *Finally, just as during the BRAC process, require Congress to vote on the regulatory reforms in an “up or down” vote (with no amendments).* Related regulations to be modified or eliminated would be consolidated into one piece of legislation, and Congress would be required to accept or the reject the entire package. Sending the entire package to Congress for an up or down vote would minimize the opportunity for special interests to prevent the consideration of regulatory changes, while ensuring that members of Congress can vote for or against reform recommendations based on the constituencies they represent.

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#### ABOUT THE AUTHOR

Joshua Hall is the Elbert H. Neese, Jr. professor of economics at Beloit College in Beloit, Wisconsin. He earned his bachelor's and master's degrees in economics from Ohio University and his PhD from West Virginia University. Formerly an economist for the Joint Economic Committee of the US Congress, he is a coauthor of the widely cited Economic Freedom of the World reports.

Michael Williams is a 2012 graduate of Beloit College with degrees in anthropology and economics. Michael's research interests lie primarily in the intersections between technology, economics, and culture.