

## The Sisyphus paradox of cutting red tape and managing public risk The Dutch case

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### Abstract

Cutting red tape has been topical in Dutch debates on legislative politics ever since the beginning of the 1990s, but has gained impetus – since 2003 – in the political arena as the combined consequence of the regulatory reform policies of the Balkenende II-IV administrations (2003-2010) to innovate the Dutch economy and efforts to meet the European Lisbon Agenda. The general aim of these policies is to simplify the regulatory environment by cutting red tape and making law more practicable, thus fostering economic growth. The new elements of these policies – compared to the recent pre-2000 past - are the focus on a precise definition of the regulatory administrative burden, the detailed quantification thereof, and the prefixed reduction targets. With these elements the Dutch reform policy aligns with – OECD-inspired – initiatives throughout Europe aiming at the reduction of red tape caused by legislation. Arguably these policies have met with some success: a 20% red tape reduction was achieved by the end of 2007. Encouraged by this success the present Balkenende administration has raised the stakes by fixing a new, additional, reduction target of 25%. This contribution will focus on critical success factors for the Dutch reform policies and the overall effects of these policies for legislation, its implementation and enforcement. It does so from a predominantly legal point of view. The article questions how Dutch success rates of better regulation are affected by tough political choices (is better regulation instrumental to tough political choices, or are the best results yielded by avoiding political choices?). A second critical success factor discussed is the question whether the law of diminishing returns will apply to the most recent episode of Dutch reform policies. The contribution concludes with the hypothesis of the Sisyphus paradox, according to which risk management (Better Regulation Commission 2006) and legal protection, on the one hand, and the desire for business enabling legislation, on the other, lead to a perpetual cycle resulting in the constant production of red tape and the parallel need to reduce this.

### Keywords

better regulation; regulatory quality; cutting red tape; reducing administrative burden; simplification; public risk; better law-making

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