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## **Impact Assessment Board**

### **Report for the year 2007**

**COMMISSION STAFF WORKING DOCUMENT**

*Accompanying document to the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Second strategic review of Better Regulation  
in the European Union**

{COM(2008) 32 final}

## 1. Executive summary

The Impact Assessment Board was set up by President Barroso on 14 November 2006 to provide independent quality support and control for impact assessments prepared by Commission services. This report describes the operation of the Board in the first year since its establishment and puts forward some recommendations for the future.

The Commission's **impact assessment system** aims at ensuring evidence-based policy making inside the Commission through an integrated and balanced assessment of problems and alternative courses of action. The Board complements and reinforces this approach, notably by providing an independent and focused perspective on the quality of the analysis carried out by the Commission services in the elaboration of impact assessments.

The Board has taken steps to establish itself as an **independent, impartial** support and control body within the Commission. Nominated by the President *ad personam* and operating under his authority, its members have worked independently from Commission services, members of the College and from lobby groups. The Board members have taken care to fully respect the distinction between their roles as Commission officials and as members of the Board, using the possibility to opt out from decision making whenever there was the risk of a (perceived) conflict of interest. The Board has drawn on additional external expertise whenever necessary and refrained from giving access to lobby groups on individual cases.

The Board has endeavoured to make the results of its work as **transparent** as possible. Its recommendations are **accessible** to all Commission staff and are formally **integrated into the Commission's internal decision-making**, from inter-departmental consultation to the final adoption by the College. Board opinions are also made available to the other institutions and the general public, once the corresponding Commission initiative is adopted. The Board also presented itself and its activities at a public stakeholder conference in June 2007.

The working methods of the Board have proven to be both **efficient and effective**. Since it started normal operations in February 2007, it has scrutinised more than 100 impact assessments, corresponding to virtually all initiatives in the Commission's 2007 work programme. In all cases, it has given detailed recommendations for improvements which were generally met with very constructive feedback from departments. As a result of Board opinions, impact assessments have, in the vast majority of cases, clearly improved. In cases where major improvements were considered necessary, the Board gave a second opinion after requesting departments to resubmit a revised impact assessment.

The Board acknowledges that the overall **quality of impact assessments** is gradually improving. However, it has identified a range of issues common to many impact assessments where improvements could take place. They include:

- a greater consistency of analysis across the key steps of impact assessment;
- a clearer definition of problems, objectives and options;
- more clearly defined baselines for comparison of alternatives; and
- better guidance for determining the level of analytical effort that would be proportionate to the likely impacts or political importance of an initiative.

The Board has contributed to further develop **impact assessment methodology**. Where the Commission's Impact Assessment Guidelines provided insufficient guidance, the Board has sought to propose case-by-case practical solutions, to identify best practices and to set standards where these were not explicit in the Guidelines.

In addition to the concrete recommendations that form part of the Board's core task of quality control, it has progressively started to offer upstream **support** for and **advice** on impact assessment work, either horizontally or on specific cases. In general, the "culture of impact assessment" is already well rooted in most Commission services for the preparation of initiatives, but further improvements are possible and necessary.

**Looking forward**, the Board recommends Commission departments to:

- reinforce, where appropriate, their central impact assessment capacity and ensure that impact assessments elaborated by operational services benefit from more central support;
- start impact assessment work earlier, especially to facilitate adequate data collection; and
- enhance inter-departmental cooperation from the earliest stages of the impact assessment.

In the context of the on-going review of its entire impact assessment system the Board recommends the Commission, *inter alia*, to:

- adjust the coverage of initiatives that should be subject to an impact assessment;
- enhance early quality support for impact assessment work; and
- advance the timing of submission of draft impact assessments to the Board.

Acknowledging that this first year of operation has been a start-up phase, the Board also announces a number of steps it will take itself in order to improve the functioning of the impact assessment system.

## 2. Context and Mandate of the Impact Assessment Board

**The Impact Assessment Board represents a novel approach within the Commission. Its status as an independent body is guaranteed by the President but it also has to fit into the Commission's organisation and administrative procedures in a way which provides value-added and which complements existing quality control systems.**

The Board was created by the President of the Commission on 14 November 2006<sup>1</sup> In doing so, the President delivered on his commitment made in the plenary of the European Parliament in April 2006 to establish under his personal authority a body that would provide independent quality support and control for Commission impact assessments. Members of the Board are appointed *ad personam* by the President and coming from departments with the most direct expertise in the three broad dimensions -economic, social and environmental - of integrated impact assessment<sup>2</sup>. The Board is chaired by the Deputy Secretary-General responsible for Better Regulation. For each Member an alternate is appointed to replace him/her in case of absence.

The Board complements the Commission's existing impact assessment system which aims at ensuring impact assessments of high quality through:

- a *decentralised approach* whereby each Directorate-General is responsible for preparing its own impact assessments to a high quality standard in line with the impact assessment guidelines, supported by an inter-service steering group of Commission services; the lead service is also responsible for timely and adequate consultation of stakeholders;
- a *balanced approach* requiring assessment of economic, social, and environmental impacts, involving internal and external expertise, where appropriate; and
- an approach *integrated* in the Commission's Strategic Planning and Programming cycle.

In its operation, the Board oversees the correct application of Commission guidelines and agreed standards of impact assessment work. The Board complements but does not replace other quality assurance mechanisms and procedures, notably the specialised units in charge of supporting impact assessments in the individual Commission departments, the inter-service steering groups to accompany the elaboration of individual impact assessments, and the formal inter-service consultation on the proposals to which the impact assessments relate.

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<sup>1</sup> Cf. Information note from the President to the Commission: "Enhancing quality support and control for Commission Impact Assessments - The Impact Assessment Board" - SEC(2006) 1457. See also: [http://ec.europa.eu/governance/impact/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab_en.htm).

<sup>2</sup> Current composition of the Board: Alexander Italianer (Chair, SG), Jan Höst Schmidt (DG ECFIN), Xavier Prats Monne (DG EMPL), Gert-Jan Koopman (DG ENTR) and Timo Mäkela (DG ENV).

### 3. Procedures, output and results of the Board's work

#### 3.1. Operation of the Board's quality control

The Board has organised its work so as to provide impartial quality support and control on the basis of the Commission's Impact Assessment Guidelines to improve the overall quality of impact assessments. Although faced with a significant work load, the Board managed, in all cases and within agreed deadlines, to comment on positive aspects and to give detailed recommendations for improvements. In the scrutiny process, it has opted for an interactive approach with drafting departments, drawing also on additional external expertise where necessary. Survey feedback received from Commission departments indicates that the Board has been successful in acting independently, constructively and timely in organising its work and in delivering useful and impartial recommendations.

#### *Functioning of the Board*

The Board was constituted quickly and held its first two meetings already in December 2006. Its procedures were tested on four pilot cases. Since February 2007, the Board has been fully operational. The Board has held 24 meetings since it was established and scrutinized 102 impact assessments. This constituted about 75 % of all impact assessments produced by Commission services in 2007 and about 95% of impact assessments finalised after the Board had become fully operational. Including second opinions on resubmitted reports, the Board issued 112 opinions on the quality of the impact assessment reports and in all cases gave recommendations for their further improvement.

#### *Control of individual impact assessments*

Currently, the Board carries out quality control mainly in the final phase of producing an impact assessment. Departments must submit their draft final impact assessment report at least one month before the envisaged start of the inter-service consultation on the proposal to which the impact assessment relates. This means that Board scrutiny of a draft impact assessment has to be finalised within an average of 3-4 weeks. In case of great urgency, this has in a few cases been shortened to 5-7 working days.

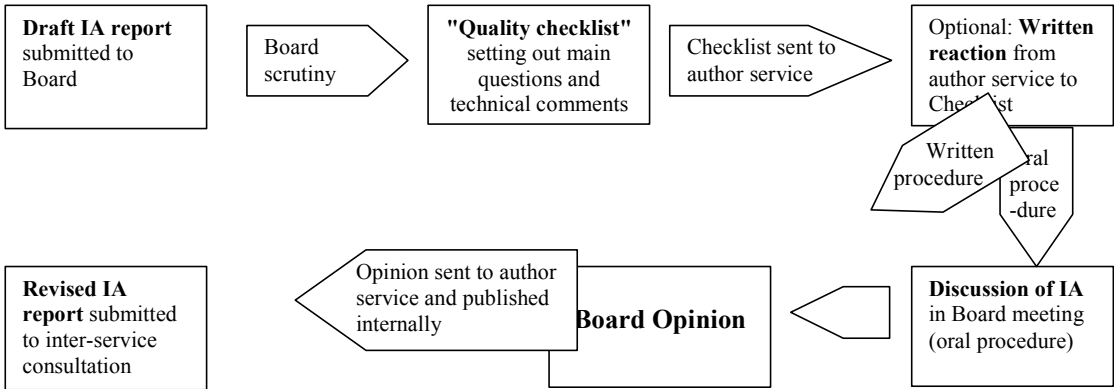
The Board examines a case either in oral or in written procedure. The only difference between the two procedures is that in oral procedure, the author service is invited to discuss the file with the Board Members in a meeting, while in written procedure it interacts with the Board in writing. Of the 112 impact assessment reports the Board scrutinised in 2007 (including resubmissions), it processed 61 in oral procedure and 51 in written procedure.

For each impact assessment, the Board transmits to the author service a "quality checklist", assessing the impact assessment with regard to the steps foreseen in the Guidelines, as well as major horizontal issues (for example subsidiarity and proportionality, administrative burden, simplification). The quality checklist is part of the routine quality support offered to the author service. It also contains questions on issues that are likely to figure as central elements of the opinion to be issued.<sup>3</sup>

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<sup>3</sup> See template in the annex.

Table 1: Workflow of Board quality control of draft impact assessment reports



On the basis of the comments and explanations received from the author service on the quality checklist and/or during the Board meeting, the Board produces its final opinion. The opinion does not repeat all comments made in the quality checklist but focuses on the 3-7 key problems and lists the recommendations for improvements in the order of their importance.

In some cases, the Board may consider that the improvements needed for a draft impact assessment are so comprehensive that it recommends resubmission of a revised report for a second reading. In 2007, the Board has in 10 cases requested such a resubmission, and in a further 11 cases invited author services to do so voluntarily. In 10 of these cases, the author services revised and resubmitted the impact assessment, and the Board issued a second opinion on its quality.<sup>4</sup> Although its rules of Procedure foresee that the Board takes its decisions by majority voting, in 2007 it was almost always able to reach consensus among its Members.

***Own resources of the Board***

Board members are supported in their work by the Board's Secretariat, provided by the Secretariat-General of the Commission, by their alternates, and by dedicated support staff from the Members' departments. In total, the equivalent of an estimated 15 full-time posts assures the daily operation of the Board. Dedicated financial resources from the Secretariat-General are made available to the Board to fund external experts contributing to its opinions and studies to be commissioned in its quality support function.

***Use of internal or external expertise***

In preparation of the Board opinions, the Chair can ask any Commission service to be associated to the scrutiny of an impact assessment and provide its expertise on specific issues. If internal expertise is not present or not readily available, or for any other reason, the Chair may on an ad-hoc basis also call in external expertise. However, the Board's experience showed that the extensive use of external expertise by Commission departments in preparation of their impact assessment reports reduces the necessity and added value of the Board taking recourse to additional external experts when scrutinizing the initiative. Furthermore, identifying the need for external expertise and calling it in within the short lead

<sup>4</sup> For three impact assessments, the requests for resubmission of the report were expressed in November and December 2007. Resubmissions are expected in early 2008.

time between submission of the impact assessment and discussion of the file in a Board meeting has until now been difficult for practical reasons.

In 2007, the Board therefore mobilised additional external expertise in only a few cases (including one test case), either by participating in the Board meeting or providing expertise in an interview with Board Members. When recourse is made to such additional external expert(s), their contribution is referred to in the Board's opinion.

In the context of the external evaluation of the Commission's Impact Assessment system that was completed in early 2007<sup>5</sup>, a number of options for change were identified by the evaluators. One of these suggestions was to consider a more permanent involvement of external experts in the Board's work. The Board has reflected on this possibility but, given the large use of external experts that is already made by departments, it considers that a potential for added value resides rather in having more targeted recourse to experts with a specific knowledge on a case by case basis, possibly drawing from a pool of internal and external experts.

### ***Independence of Board operation***

The Members of the Board (and alternates) are appointed by the President in their personal capacity and on the basis of professional expertise. They do not commit their home department concerning individual impact assessments, nor may their department give instructions to members of the Board. Their role is to provide expertise on the quality of the impact assessments independently of the Commission department preparing the proposal. Members are obliged to inform the Chair of any interest which might be considered prejudicial to their independence in relation to individual impact assessments and transfer his/her vote to the alternate, if appropriate.<sup>6</sup> This rule was interpreted by the Board as referring in principle to impact assessments carried out or supported by services under the direct responsibility of a Member. Hence, such a conflict of interest was not automatically presumed to be present if the impact assessments under consideration were submitted by a different directorate within a Member's own Directorate-General.

In 2007, Members declared in 6 cases to have a conflict of interest and abstained from the discussion on an impact assessment. Of 21 files where a resubmission of the impact assessment report was requested (10 cases) or recommended (11 cases), 7 concerned the Directorates-General of Members of the Board.

The Board also interprets independence in the sense that it does not discuss individual impact assessments or its opinions with external lobby groups, with the exception of experts that are invited by the Board to provide advice in confidentiality. However, to ensure that the Board's role and working practices would become more transparent to stakeholders, it presented itself in June 2007 at a large stakeholder event.<sup>7</sup>

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<sup>5</sup> The Evaluation Partnership: Evaluation of the Commission's impact Assessment System, April 2007; available at: [http://ec.europa.eu/governance/impact/key\\_en.htm](http://ec.europa.eu/governance/impact/key_en.htm).

<sup>6</sup> Cf. Rules of Procedure of the Impact Assessment Board, Art. 3(2); available at: [http://ec.europa.eu/governance/impact/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab_en.htm).

<sup>7</sup> See [http://ec.europa.eu/governance/better\\_regulation/iase.htm](http://ec.europa.eu/governance/better_regulation/iase.htm).

### 3.2. Quality of IAs

**The Board's systematic screening of 102 impact assessments in 2007 has revealed not only general strengths but also a number of recurrent issues that could be improved across the board.**

In exercising quality control of Commission impact assessments, the Board applies the standards and rules established in Commission decisions, above all the Guidelines for Impact Assessment<sup>8</sup>. In particular, the Board assists Commission services in defining how the Guidelines are best implemented for each individual impact assessment. The Board may also give additional guidance on aspects for which the current Guidelines do not yet provide sufficient clarity, but it has no mandate to impose new impact assessment rules.

From a retrospective analysis of the Board's recommendations on 112 draft impact assessment reports (including resubmissions) and in spite of significant variations, some conclusions can be drawn about general strengths as well as a number of recurrent issues in need of improvement.

On the positive side, most impact assessments have been elaborated in respect of existing procedural requirements. In particular, nearly all impact assessments met the minimum standards for external consultations, through targeted or public consultations. In some cases, however, the results of such consultations were not well integrated into the analysis, while in others they tended to substitute for analysis. Other procedural requirements such as the mandatory inter-departmental coordination in developing the impact assessment and publication of Roadmaps<sup>9</sup> etc. were generally fulfilled. In relation to the balanced assessment of economic, social and environmental impacts, the Board verified in each case whether the proposing department clearly demonstrated awareness and whether impacts were sufficiently analysed.

The Board's opinions frequently recommended substantial improvements for core elements of the submitted impact assessments. Its detailed recommendations have focussed on the following issues:

- The need for better coherence of the analysis across the key steps of impact assessment: problem definition, definition of objectives, definition of options, impact assessment and comparison of options. In many cases, a clearer definition of baselines could help strengthening consistency across the different steps.
- Determining the proportionate level of analysis. In some cases of initiatives with potentially significant impacts, impact assessments were lacking in scope and depth of analysis. In general, more thorough analysis should be carried out for options according to the degree that they are a) binding b) have potentially significant economic, social or environmental impacts or administrative burden impacts or c) may be challenged as excessive or as less efficient than alternative approaches. In other cases, for initiatives with rather limited impacts, the analysis was either excessively broad or too detailed.

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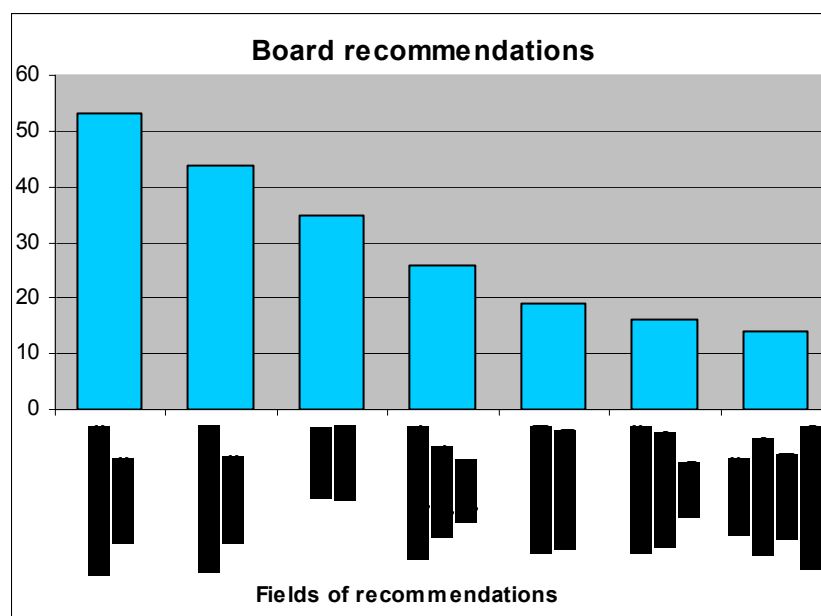
<sup>8</sup> See [http://ec.europa.eu/governance/impact/docs\\_en.htm](http://ec.europa.eu/governance/impact/docs_en.htm).

<sup>9</sup> The Roadmap for impact assessment has to be elaborated when an initiative is proposed to be included in the Commission's Work program. It explains the rationale of the proposal, its state of preparation, the options for action and provides information about the planned further impact assessment work.



- Within the five key steps of impact assessment<sup>10</sup>, the most common recommendations referred to the selection and/or analysis of the policy options. While the scope for improvement varied greatly between individual files, recurrent remarks from the Board related to the clarity of the link between the objectives and the options presented. In a number of cases, there was a bias in the definition of options towards the preferred option, often leading to an analysis of options that was too much focussed on the preferred option while other options should have been explored in greater detail.
- The need for reinforcement of the analysis of social impacts and distributional impacts, as part of a more balanced approach to the three pillars of impact assessment (economic, social, environmental);
- The need to substantiate the tests of whether the principles of subsidiarity and proportionality are respected;
- The need for analysis of simplification potential, presentation of corresponding benefits and calculation of impact on administrative burden (including measurement with the EU Standard Cost Model, whenever administrative burden impacts are likely to be significant)
- The fact that many impact assessment reports are excessively long (more than the recommended 30 pages, excl. annexes).

Table 2: Main fields of recommendations in Board opinions<sup>11</sup>



<sup>10</sup> According to the Commission's IA Guidelines, the five fundamental steps are: 1. Problem definition; 2. Objectives setting; 3. Identification of policy options; 4. Assessing the impacts of the most relevant options; 5. Comparing the options.

<sup>11</sup> These figures and the analysis of implemented Board recommendations are based on the analysis of about 80 Board opinions covering impact assessments for both legislative and non-legislative initiatives for which inter-service consultations had been completed before December 2007.

### **3.3. Use of Board opinions**

**The mandate of the Board does not foresee any formal role in the Commission's decision-making process beyond the delivery of opinions on the quality of individual impact assessments. The Board is not responsible for the quality of the final impact assessment, nor can it block a proposal from being submitted to political examination on grounds of a lack of quality of the impact assessment. However, the Commission is fully informed about Board opinions. Transparency on the Board's opinions and their formal integration into Commission decision-making procedures are likely to result in significant improvements of the final impact assessment. While there seems to be already some positive impact of the Board's recommendations on the quality of final impact assessments, there is potential for further improvements.**

#### ***Internal and external transparency of Board operation***

Transparency of the Board's opinions is potentially a powerful element for the quality control of the Board to be effective, as it creates clear incentives for the author department to improve its impact assessment in line with Board recommendations.

Within the Commission, Board opinions are circulated together with the revised impact assessment and the corresponding initiative as part of the inter-service consultation and subsequent decision process by the College. The proceedings of Board meetings are also published on a dedicated internal Commission website accessible to all its departments. To highlight how the final impact assessment has been revised following the Board's opinion, services are asked to include in their final impact assessment reports a paragraph clearly identifying the improvements carried out after the Board's scrutiny of the draft report. This ensures that the Board opinion and the changes implemented thereafter can be taken into account by all Commission departments when formulating their positions on an initiative in inter-service consultation or in the discussion of the proposal at political level.

Externally, Board opinions are published after the adoption of the related proposal by the Commission, which may take up to several months. By the end of 2007, 55 out of 112 opinions issued had thus already been published on the Europa website.<sup>12</sup> By way of exception, a department may request that an opinion should be withheld, in which case the Board decides on the matter.

#### ***Impacts of the Board's work***

Anecdotal evidence suggests that a significant impact may occur already before an impact assessment is submitted to the Board, notably when departments postpone submission in order to introduce further quality improvements, particularly in the case of oral examination of their case by the Board.

Board recommendations as set out in its opinions and -at a more technical level- in the quality checklists have in almost all cases led to revisions of the impact assessment reports. These findings complement the perception of a generally positive and co-operative attitude of Commission services vis-à-vis the Board's work, generally welcoming its opinions and quality support. This assessment was underpinned by a survey to collect departments' feedback on their direct experiences with the Board, carried out by the Board's secretariat.

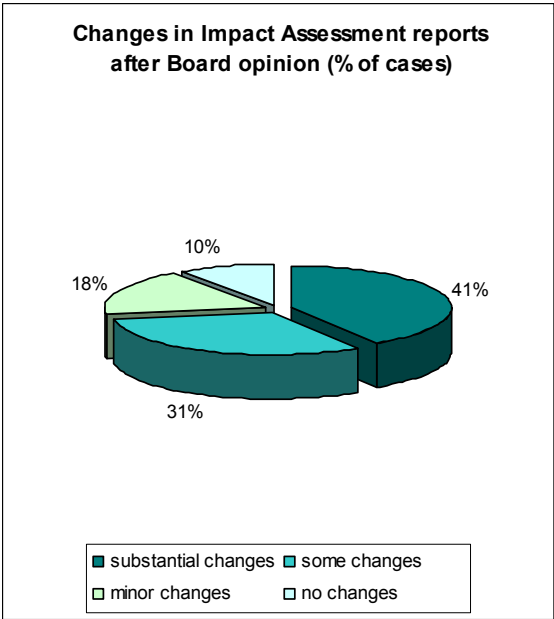
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<sup>12</sup> See [http://ec.europa.eu/governance/impact/practice\\_en.htm](http://ec.europa.eu/governance/impact/practice_en.htm).

Several Commission departments also confirmed that they systematically analyse Board opinions for "their" impact assessments to identify recurrent problems that need to be given more attention.

In the majority of cases, changes implemented can be considered as significant, meaning that they went beyond mere presentational changes, and that new information was given and additional analysis was carried out. The extent and quality of these changes varied and seemed to depend on the nature of recommendations and the time available between adoption of the Board's opinion and start of the inter-service consultation. The most significant follow-up was observed for recommendations relating to the problem definition and the assessment of other than the preferred options. Lesser improvements were noted for recommendations to examine the full range of feasible options or to better quantify impacts.

Table 3: Changes implemented after Board opinion<sup>13</sup>



With few exceptions, Board opinions were issued and revised impact assessments finalized before the start of the inter-service consultation on the related proposal. The lead time between a Board opinion and the start of the corresponding inter-service consultation ranged from 1 to 63 days. In a very few urgent cases, the revised impact assessments and the Board's opinions were included in the inter-service consultation only after its start, but still sufficiently before its finalisation so that departments could take these documents into account for the formulation of their opinion in the consultation.

At the stage of the formal written inter-service consultation, Board opinions have been extensively used to feed into the opinions of Commission departments on the related proposal or its impact assessment. In nearly one third of inter-service consultations, explicit reference to Board opinions was made in one or several opinions from departments, and in a significant number of further cases, comments on the proposal or on the impact assessment seem to have

<sup>13</sup> **Substantial changes** - a reply to each recommendation given in the Board's opinion and explanation of what precisely has been changed in the revised IA. New information was given and additional analysis was carried out.  
**Some changes** – a reply to most recommendations given in the Board's opinion.  
**Minor changes** - presentational changes.

been triggered by Board opinions or raise issues that are also covered in the opinion. There appears to be a tendency among Commission services to use Board opinions more intensively when they concern politically important (legislative) initiatives.

While the use of the Board's opinions in inter-service consultation seems to be already well developed and gaining ground, it is not possible for the Board to reliably document their use at the political level in preparation of College decisions. There are only a limited number of cases in which the records of Commission discussions explicitly refer to the Board's opinion. However, it seems a reasonable assumption that the more the recommendations in the Board's opinion have been used to improve the final impact assessment, the less its *quality* needs to be discussed at political level.<sup>14</sup>

### **3.4. Quality support by the Board**

**In addition to its core task of quality control, the Board's mandate also foresees that it undertakes quality support. The Board seeks to draw up its opinions in a way that provides guidance also to other departments faced with similar issues in their impact assessment work. However, the Board has also progressively engaged in activities to develop methodology and to give early assistance to departments in their work.**

The Board gives quality support in four different ways: a) on its own initiative, or at the request of the author department, at the beginning of the impact assessment work and at any time before the submission of the draft final report; b) in the run-up to a Board meeting through detailed suggestions for improvements in the quality checklists; c) as a follow-up to the discussion of an impact assessment in a Board meeting where further support, drawing on the special expertise of the Board Members and their departments, is offered to the author department; and d) on horizontal issues in the form of studies commissioned directly by the Board. Furthermore, the Board Secretariat frequently gives advice directly to departments.

For example, in 2007, the Board has given quality support to DG TREN in its preparatory work on an impact assessment on internalisation of external costs of transport services.

The Board also carried out a review of all "Roadmaps", which are produced by Commission services to explain the rationale, state of preparation, options for action and planned further impact assessment work for all initiatives to be included in the Commission legislative and work programme. The Board provided detailed comments in relation to the organisation and content of planned impact assessment work for around 100 planned initiatives in 2008.

Following identification of needs for quality support in Board meetings, individual Members have in several cases supported the author department in the revision of their impact assessments in line with the recommendations of the corresponding Board opinions.

### **3.5. Contribution to selecting initiatives subject to impact assessment**

**The Board has also assisted in the selection of Commission initiatives that need to be prepared with impact assessment.**

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<sup>14</sup> The extent to which impact assessments as such contribute to the decision-making process is outside the scope of this report.

The mandate foresees that the Board can ask a Commission service to carry out an impact assessment on any proposal, even if not originally planned (by issuing 'prompt letters'). In early 2007, the Board, in co-operation with the Secretariat-General and after consultation of the departments concerned, identified about 20 such initiatives for which it asked departments to carry out impact assessments. In line with the Commission's decision to review the scope of application of the obligation for impact assessment for its 2008 initiatives<sup>15</sup>, the Board is currently again contributing to the identification of forthcoming initiatives that merit impact assessment, including initiatives under comitology procedure.

## 4. Looking forward

**Based on the first year of operation of the Board, there remains considerable scope for improving Commission impact assessments. Current Commission rules and guidance in general provide already a comprehensive approach for developing quality impact assessments, even if some adjustments would be welcome. The main challenge therefore is to further strengthen the role of impact assessment in the culture and practice of preparing Commission initiatives. That challenge should first and foremost be met by Commission departments and by continued practical guidance and quality control on individual impact assessments, as the Board has sought to provide.**

### 4.1. Good practices for Commission departments

The main contribution to further improve impact assessments must come from Commission departments through a process of 'learning by doing', based on their own experiences and those from other departments. To this end, the Board recommends the following 'good practices':

- Some departments could usefully reinforce their central impact assessment capacity and/or ensure that impact assessments elaborated by operational services benefit from more central support.
- According to the mandate of the Board, impact assessments must be submitted to the Board at the latest 1 month before the start of the formal written inter-service coordination. However, nothing prevents departments from making an earlier submission, and a submission 2 months before the start of inter-service consultation would greatly facilitate quality support for the impact assessments.
- Data availability and reliability is often a major handicap and should be addressed early on and with more effort, especially as regards national/regional and sectoral impacts or impacts for certain categories of the population.
- Inter-service steering groups should be fully involved in the early phases of impact assessments and be proactively used to improve their quality.

### 4.2. Priorities for the Board's work

In preparation of its work in 2008, within the current framework of impact assessment rules and procedures and within its mandate, the Board will:

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<sup>15</sup> Cf. Commission Legislative and Work Programme 2008 - COM(2007) 640.

- In view of an expected increase in the number of impact assessments by up to 50% to more than 160, be obliged to prioritise its work on a selection of impact assessments in function of their political importance or the significance and nature of likely impacts.
- Improve, in co-operation with the Secretariat-General, its capacity for early identification of impact assessments for which recourse to external expertise can offer added value in preparing the Board's opinion and ensure that calling in external expertise can be organised on a case-by-case basis within the tight deadlines available.
- Improve operational guidance on Impact Assessment for the services, including in particular by commissioning a study on the assessment of social impacts (in cooperation with DG EMPL and other services).
- Give more feedback, on a bilateral basis, to individual services whose impact assessments are frequently found to require extensive improvements.
- Publish guidance and examples of good practice for issues where it has identified frequent quality problems and reinforce the use of existing internal expert networks such as the Impact Assessment Working Group (consisting of representatives of impact assessment support units and/or evaluation and planning units of Commission services) and the informal Economists Network of Commission officials.

#### ***4.3. Options for change to enhance the system for quality assurance***

Some of the identified problems in the quality of impact assessment could be addressed by adjusting the Commission's general rules and guidance. In the context of the on-going review of the Commission's impact assessment system, the following options could be considered:

##### ***Facilitating early quality support***

It could be argued that Board opinions come too late in the policy development process to ensure significant improvements in the impact assessment and hence the related policy initiative.

Several measures, that would however require amendment of internal procedures and impact assessment rules, could be envisaged:

- A requirement for earlier submission of the draft impact assessment to the Board, for example two months before the planned start of inter-service consultation. This increased lead time would enable the Board Members to better advise the author service in the Board's opinions, including the recourse to external expertise, and most importantly, give sufficient time to these services to carry out the necessary additional work to improve both impact assessment and the corresponding initiative.
- This could be complemented by reinforced upstream guidance on the basis of the Roadmaps. For this purpose more explicit requirements should be introduced to ensure that Roadmaps present detailed, up-to-date information on the need for EU action, objectives of the initiative, options for action, provisions for appropriate data collection and stakeholder consultation. On the basis of this information, the Board

could for instance comment on the choice of options and ask departments to develop alternative options, without prejudice to any opinion it will issue at a later stage.

- For key initiatives, an "intermediate" discussion with the Board could be foreseen sufficiently in advance of formal scrutiny, focusing on problem definition, objectives and identification of options. That would allow the Board's recommendations to be taken better into account in the further analysis of policy options.

### ***Adapting the scope of application of impact assessment***

The Board has had to review a number of impact assessments where a separate impact assessment did not seem justified by the limited impact of the corresponding initiative. In these cases, mostly concerning non-legislative initiatives, a proportionate analysis could have been incorporated in the initiative itself. Full impact assessment should be carried out only for those items where it adds real value. This could include initiatives outside the Commission's work programme or comitology decisions with significant impacts, particularly those of a quasi-legislative nature.

The Board takes the view that in the mid-term perspective, the blanket obligation to carry out impact assessments also for non-legislative initiatives in the Commission's work programme could be replaced by a more qualitative selection of initiatives for impact assessment at the time of the adoption of the Commission's work programme. This selection could be adjusted in the light of the evolution of these initiatives in the course of the year.

### ***Strengthening the synergy between the Board and Commission departments***

Commission departments need clear, unanimous and consistent advice and guidance for their work. Given the involvement of many actors within the Commission departments in developing good quality impact assessments, efforts should be made to ensure more concerted advice between the Board, the impact assessment units in the services and the Secretariat-General to develop an early and common understanding of what constitutes in each case a quality impact assessment.

## Annex: Impact Assessments scrutinized by the Board in 2007

<b>Author DG</b>	<b>Commission Initiative</b>	<b>Date of Board opinion</b>
FISH	Conservation of fisheries resources through technical measures	17/12/2007
ENV/ENTR	Action plans "Sustainable consumption and production" and "Towards sustainable industrial policy"	4/12/2007
JLS	Creation of an European border surveillance system (EUROSUR)	4/12/2007
JLS	Entry/exit system at the external borders of the EU	4/12/2007
	Entry/exit system at the external borders of the EU - RESUBMISSION	14/12/2007
JLS	Evaluation and future development of FRONTEX	3/12/2007
ENTR	Directive amending marketing authorisations for medicinal products	3/12/2007
ENV/TREN	Review GHG burden sharing Directive, 2003/87/Directive on renewables (joint IA)	28/11/2007
INFSO	Protecting children using the internet and new media	28/11/2007
TREN	Community guidelines on state aids to railway undertakings	16/11/2007
MARKT	Proportionality between capital and control in companies	9/11/2007
ENV	Proposal to amend the European Trading System	9/11/2007
ENTR	Restrictions on the marketing and use of dichloromethane	9/11/2007
ENTR	Restrictions on the marketing and use of acrylamide	9/11/2007
ENV	Development of the shared environmental information system (SEIS)	9/11/2007
MARKT	Cross-border transfer of registered office	8/11/2007
TREN	Passenger rights in international bus and coach transport	7/11/2007
TREN	Communication supporting early demonstration of sustainable power generation from fossil fuels	29/10/2007
TREN	Communication on the strategic energy technology plan (SET Plan)	25/10/2007
ENTR	Revision of Directive 88/378/EEC on the safety of toys	22/10/2007
	Revision of Directive 88/378/EEC on the safety of toys RESUBMISSION	6/12/2007
ENV ENTR	Proposal for a regulation to reduce CO2 emissions from passenger cars	22/10/2007
	Proposal for a regulation to reduce CO2 emissions from passenger cars - RESUBMISSION	5/12/2007
MARKT	Legislative proposal amending the UCITS Directive	22/10/2007
MARKT	White Paper on the Integration of EU Mortgage Credit Markets	22/10/2007
TRADE	Regulation on applying a scheme of generalised tariff preferences for the years 2009-2011	22/10/2007
TRADE	Communication on Europe's Trade Defence Instruments in a changing Global Economy	22/10/2007
	Communication on Europe's Trade Defence Instruments in a changing Global Economy - RESUBMISSION	6/11/2007
ENTR	Simplification EURO VI heavy duty vehicles	19/10/2007
SG	Communication on delivering the Single Market for the 21st century	19/10/2007
FISH	Proposal for a Council Regulation on long-term management of West of Scotland herring	12/10/2007
ENV	Communication on Green Public Procurement (GPP)	10/10/2007
EMPL	Communication on an EU strategy for Social Services of General Interest (SSGI)	8/10/2007
ENV	Proposal for a directive reviewing existing legislation on industrial emissions - IPPC	8/10/2007
ENV	Proposal for a directive concerning carbon capture and storage	8/10/2007
TREN	Proposals to modernise and reinforce the organisational framework for inland waterway transport in Europe	1/10/2007



SANCO	Regulation 1774/2002 on animal by-products	27/09/2007
ENTR	Recast of Directive 89/106/EEC on construction products	10/09/2007
AGRI	Review of the support scheme in the cotton sector	7/09/2007
JLS	Use of passenger name record (PNR) data for law enforcement purposes	7/09/2007
JLS	Proposed measures in the area of consular protection of European citizens in third countries	7/09/2007
	Proposed measures in the area of consular protection of European citizens in third countries - RESUBMISSION	28/09/2007
TREN	Communication on a European port policy	7/09/2007
	Communication on a European port policy - RESUBMISSION	1/10/2007
SANCO	Directive on safe, high-quality and efficient healthcare in the European Union	5/09/2007
INFSO	Communication on i2010 European initiative on e-inclusion	4/09/2007
JLS	Action plan on enhancing the security of explosives	3/09/2007
TREN	Code of conduct for computerised reservation systems (CRS)	3/09/2007
ENTR	Simplification of the "cosmetic directive" - directive 76/768/EEC	31/08/2007
FISH	Action plan for the integrated EU maritime policy	31/08/2007
TAXUD	Rules of origin for the generalised system of preferences (GSP)	31/08/2007
RTD	Joint Technology Initiative on Fuel Cell and Hydrogen Technologies	27/07/2007
INFSO	Revision of the regulatory framework for electronic communications and services	26/07/2007
RELEX	Horizontal security framework in external assistance	26/07/2007
TREN	Communication on rail freight oriented network	26/07/2007
TREN	Action plan on freight transport logistics	23/07/2007
ENTR	Regulation on intra-community transfers of defence products	20/07/2007
FISH	Protection of vulnerable deep sea ecosystems	20/07/2007
JLS	Revision of the Council Framework Decision of 13 June 2002 on combating terrorism	20/07/2007
SANCO	Regulation on horizontal food labelling	20/07/2007
SANCO	Regulation on nutrition labelling and foodstuff	20/07/2007
TREN	Communication on enhancing urban transport security	18/07/2007
ENTR	Regulation relating to the type-approval of hydrogen powered motor vehicles	17/07/2007
TAXUD	Modernisation of VAT provisions relating to financial services including insurance	17/07/2007
ENTR	Revision of the units of measurement directive (80/181/EEC)	16/07/2007
TREN	Legislative package on the internal market for electricity and gas	16/07/2007
	Legislative package on the internal market for electricity and gas - RESUBMISSION	4/09/2007
JLS	Directive on the conditions of entry and residence of highly skilled workers	13/07/2007
JLS	Framework directive addressing labour immigration	13/07/2007
ENV	Revision of Regulation on a Community Eco-management and audit scheme (EMAS)	4/07/2007
ENTR	European Industrial Policy for a European Defence and Security Industry	3/07/2007
FISH	Community Strategy against Illegal, Unreported and Unregulated (IUU) fishing	3/07/2007
MARKT	Directive on defence procurement	3/07/2007
ENTR	Directive relating to restrictions on the marketing and use of certain dangerous substances	15/06/2007
SANCO	Modernisation and simplification of the legislation on the circulation of feed	15/06/2007
DEV	Joint EU-Africa strategy and the roadmap to the Lisbon summit	5/06/2007

ENV	Communication addressing the challenge of water scarcity and droughts	16/05/2007
	Communication addressing the challenge of water scarcity and droughts - RESUBMISSION	4/06/2007
ENV	Revised community eco-label award scheme	30/05/2007
INFSO	Joint Technology Initiative in the area of nanoelectronics	30/05/2007
RTD	Joint Technology Initiative (JTI) in the area of aeronautics and air transport ('Clean Sky')	30/05/2007
SANCO	Communication on improving the mental health of the population	24/05/2007
EMPL	Communication on flexicurity	23/05/2007
INFSO	Communication on strengthening the internal market for mobile television	23/05/2007
SANCO	White Paper "Together for Health: Strategic Approach for the EU 2008-17"	23/05/2007
	White Paper "Together for Health: Strategic Approach for the EU 2008-17" - RESUBMISSION	29/06/2007
COMM	White Paper on a European Communication Policy "Communicating Europe"	15/05/2007
ENTR/JLS	Public-private dialogue in security research	11/05/2007
EAC	Erasmus Mundus action programme (2009-2013)	10/05/2007
EAC	White Paper on Sport	7/05/2007
SANCO	New Animal Health Strategy (2007-2013)	7/05/2007
TREN	Road safety enforcement	7/05/2007
AGRI	Council Regulation on common market organisation of wine	4/05/2007
MARKT	Solvency of insurance companies (Solvency II)	24/04/2007
JLS	Sanctions of employers of illegally resident third-country nationals	27/03/2007
	Sanctions of employers of illegally resident third-country nationals - RESUBMISSION	18/04/2007
SANCO	Strategy on nutrition and physical activity	11/04/2007
EAC	Quality of Teacher Education in the European Union	4/04/2007
ENV	Directive on protection of laboratory animals	16/03/2007
JLS	Developing the General Policy for the fight against Cyber Crime	9/03/2007
TRADE	Renewed Market Access Strategy	9/03/2007
SANCO	Communication on organ donation and transplantation	28/02/2007
ENTR	European Space Policy	19/02/2007
	Administrative Burden Reduction 'omnibus'	
ENTR	Part 1 - HACCP - Food hygiene	19/02/2007
	Part 2 - Company Law - Mergers	19/02/2007
	Part 3 - Regulation 11 Transport	19/02/2007
SANCO	Revision of the novel food regulation	19/02/2007
SANCO	Revision of the Timeshare directive	19/02/2007
ENTR	Pedestrian Protection Regulation (test case) *	28/02/2007
EMPL	Health and safety at work 2007-2012 (test case) *	16/02/2007
TREN	Renewable energy roadmap, renewable energies in the 21st century: building a more sustainable future (test case) *	16/02/2007
TREN	Sustainable power generation from fossil fuels (test case) *	16/02/2007

\* Test case opinions are not published.

## Annex: Model quality checklist

Brussels, xx 2007 XX

### Impact Assessment Quality Checklist for Board opinion

Title:

Date of draft IA:

Lead DG:

Reference number: 2007/DG/0000 (catalogue/priority/strategic, simplification)

#### 1. Questions to the author DG

1. ...?

2. ...?

3. ...?

#### 2. Context and Problem definition

2.1. What are the political context and the legal basis of the initiative?

2.2. Are the problems and the underlying drivers clearly demonstrated and the most affected groups or regions identified? Is the baseline scenario sufficiently robust?

#### 3. Objectives

3.1. Do the objectives correspond to the problems?

3.2. Are the objectives consistent with horizontal EU strategies such as Sustainable Development Strategy or Strategy for Growth and Jobs?

#### 4. Policy options

4.1. Is the range of the policy options examined appropriate?

4.2. Subsidiarity: are necessity, value added and proportionality tested for the initiative and/or individual options?

## **5. Analysis of impacts and comparison of options**

**5.1. Is the analysis proportionate and balanced across the 3 pillars?**

**5.2. Has appropriate methodology been used?**

**5.3. Is the impact on the EU budget sufficiently addressed?**

**5.4. Is the impact on simplification and administrative burden sufficiently analysed?**

**5.5. Are transposition and compliance aspects examined?**

**5.6. Are third country impacts given sufficient attention?**

**5.7. Are the options compared against a baseline scenario and/or a clear set of criteria?**

## **6. Process and presentation of the Impact Assessment work**

**6.1. Has the roadmap been produced and made publicly available?**

**6.2. Have stakeholders been appropriately consulted and are the results reflected in the IA report?**

**6.3. Has internal consultation been appropriate?**

**6.4. Can the IA report be read as a stand alone document and does it respect the standards set out in the IA guidelines?**

**6.5. Are monitoring and evaluation arrangements made?**