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COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMISSION STAFF WORKING DOCUMENT**

**Impact Assessment Board Report for 2008**

*Accompanying the*

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

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

{COM(2009) 15 final}

## **1. EXECUTIVE SUMMARY AND KEY MESSAGES**

The Impact Assessment Board provides independent quality support and control for the impact assessments which are prepared by Commission services. The opinions which it produces on these impact assessments allow the College, legislators and stakeholders at large to form an impression of the quality of the analysis underpinning policy proposals.

In 2008, the Board examined 135 draft impact assessments, compared to 102 in 2007. The number of impact assessments that the Board asked to examine for a second or third time increased even more: from 10 (or 10%) in 2007 to 43 (or 32 %) in 2008. As a result, the Board issued a total of 182 opinions in the course of the year. In spite of the increase in numbers, the Board examined all impact assessments that were submitted to it. It did not need to prioritise the cases to be examined, as it announced might be the case in its report for 2007, although the Board's capacity was at times stretched to the maximum.

When evaluating the quality of impact assessments in 2007, the Board took into account the fact that this centralised quality control was a new element for Commission services, and that a certain time was necessary to allow them to get used to its procedures and requirements. In 2008, the Board has become more stringent in evaluating quality. The increase in the number of resubmissions cannot therefore be interpreted as a sign that the average quality of impact assessments has gone down. On the contrary, the Board observed improvements in the internal coherence of the impact assessments and the extent to which they comply with the structure and approach which is laid out in the Guidelines. The high number of resubmissions is nevertheless a clear indication that further improvements in quality are needed.

The main problems which the Board identified in the impact assessments of 2008 are broadly similar to those in 2007. In order of decreasing importance these are:

- an unclear explanation or incomplete analysis of the problem to be addressed
- an analysis of impacts which is either insufficiently detailed or is unbalanced
- an incomplete or artificial set of alternative policy options

The Board's main conclusion is that two issues in particular need more attention:

First, greater efforts must be made to improve the quality of impact assessments before they are sent to the Board. The Board received impact assessments on several occasions which were clearly sub-standard. Commission services should make better use of the expertise of their impact assessment support units, and reinforce the role that they play in quality control. The role of impact assessment steering groups should also be strengthened to ensure that all relevant expertise within the Commission is exploited in the process of drawing up the impact assessment.

Second, better planning and respect of procedures is also an essential aspect of improving quality. Sufficient time should be allowed not only for the Board to examine the impact assessments, but in particular for services to follow-up on its recommendations. There have been too many cases when the procedures laid out in the Guidelines have not been followed, and the preparation of impact assessments and the examination by the Board have been 'squeezed'. The Board welcomes the fact that the new impact assessment guidelines require services to submit their draft impact assessment to the Board earlier, and to take into account in their planning the possibility that the Board will request a resubmission. The impact assessment support units can also contribute to improving planning.

## **2. CONTEXT, MANDATE, AND PROCEDURES OF THE BOARD**

Annex 1 provides a detailed overview of why the Board was established, how it is part of and contributes to the wider objectives of the Commission's impact assessment system, how the Board's quality control works in practice, and how the resources of the Board and its independent operation are arranged in practical terms. The main features of the Board are:

- The five Members of the Board are appointed by the President of the Commission for a two year term. They act in a personal capacity, not as representatives of their services. They provide independent support and quality control for Commission impact assessments, supported by a secretariat provided by the Secretariat-General of the Commission.
- The results of the quality control are reflected in opinions of the Board, which accompany the corresponding policy proposals throughout the Commission's decision making process and are subsequently made publicly available. Before issuing an opinion, the Board discusses its preliminary findings with the authors of the impact assessment.
- For impact assessments which require substantial improvements, the Board may request a revised version to be submitted on which it issues an additional opinion ("resubmission").

Whereas the Board's functioning in 2008 was essentially the same as in 2007, the following facts are specific for 2008:

- In the course of the year, one Member had to leave the Board and was replaced. The other four Members were re-appointed for another two year term.
- In 2008, the Members of the Board declared a conflict of interest on 6 occasions and abstained from the discussions on these impact assessments.
- Whereas in 2007 the Board occasionally recommended a "voluntary resubmission" as an alternative to a normal resubmission request, in 2008 this practice was rarely used.
- In 2008 the Board on one occasion asked an external expert to contribute to its work, for a case on fixed and mobile termination rates.

## **3. OUTPUT AND RESULTS OF THE BOARD**

### **3.1. Quality support and identification of initiatives in need of an Impact Assessment**

The Board provides quality support in three different ways: a) at the beginning of the impact assessment work and at any time before the author service submits the draft final report (this was done for an impact assessment by DG TAXUD<sup>1</sup> on a tax proposal, for two impact assessments from DG ENV on climate issues, and for an impact assessment from DG SANCO on organ donation); b) in the run-up to a Board meeting through detailed suggestions for improvements in the quality checklists (this was done for almost all impact assessments that the Board examined); and c) as a follow-up to the discussion in a Board meeting where it offers further advice to the author service on how to address the concerns it has raised (this was done inter alia for an impact assessment by DG TREN on the internalisation of external costs of transport and for an impact assessment from the same DG on urban mobility). Furthermore, the Board Secretariat frequently gives advice directly to author services.

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<sup>1</sup> Abbreviations of Commission directorates-general and services are explained in Annex 2.

As part of its support at the beginning of the impact assessment work, the Board has reviewed all the Roadmaps<sup>2</sup> for initiatives which were included in the Commission's Legislative and Work Programme (CLWP) for 2009. These comments are intended to help services to correct at an early stage mistakes in the framing of the impact assessments which would be more difficult to address later in the process when the Board examines the draft impact assessment. This advice can cover for instance the identification of policy options that are assessed.

While impact assessments are generally required for initiatives which are part of the CLWP, for all other initiatives this is decided on a case-by-case basis. There are two relevant factors in this respect: the significance of the expected impacts and the political sensitivity of the initiative. The Board was involved in this process by the Secretariat-General which asked for its advice on certain cases which seemed to warrant an impact assessment. At any stage, the Board may also decide to send 'prompt letters' to services, recommending that an impact assessment be carried out on a planned proposal.

As part of upstream support, but also to take stock of how the Board's work is perceived in the Commission services, the Chair of the Board visited the management teams of the 4 Commission services that produce the largest numbers of impact assessments in early 2008. These meetings were a useful opportunity to discuss whether and how the Board's operation improves the attention to and quality of impact assessments, but also to discuss various constraints (e.g. timing, resources, political commitments, unquantifiable impacts) which services face when preparing their impact assessments.

The Chair also attended a number of meetings of the High Level Group of Independent Stakeholders on Administrative Burdens. This Group examines draft measures aimed at reducing administrative burdens in a number of existing pieces of legislation. Some of these measures are also subject to an impact assessment which is examined by the Impact Assessment Board, and the participation by the Chair has helped to ensure good contacts.

### **3.2. Quality control**

In 2008 the Board examined and issued an opinion on 135 impact assessments. It discussed 101 (or 75%) of these with the author service in the 26 meetings it held in the course of the year. The Board examined the remaining 34 impact assessments in written procedure. This marks an increase both in the overall number of impact assessments the Board examined (up from 102 in 2007) and in the use of the oral procedure (up from 56% in 2007). In spite of this increase, the Board was able to continue its practice of examining all impact assessments produced by the Commission, rather than examining only a selection of them as it announced might be necessary in its report for 2007. The Board's capacity was, however, at times stretched to the maximum. This was not so much due to the total number of impact assessments that the Board had to examine, but rather to the irregular 'flow' of impact assessments which resulted in a number of peaks. This flow is partly a function of the Commission's annual working rhythm, but it was exacerbated by the unstable planning of submission dates by many of the author services, which often lead to unexpected last-minute shifts.

There was also an increase in the number of impact assessments resubmitted to the Board for a second or third examination following an earlier critical opinion: whereas the resubmission rate was 10% (or 10 out of 102) in 2007, in 2008 this has gone up to 32% (or 43 out of 135; 4

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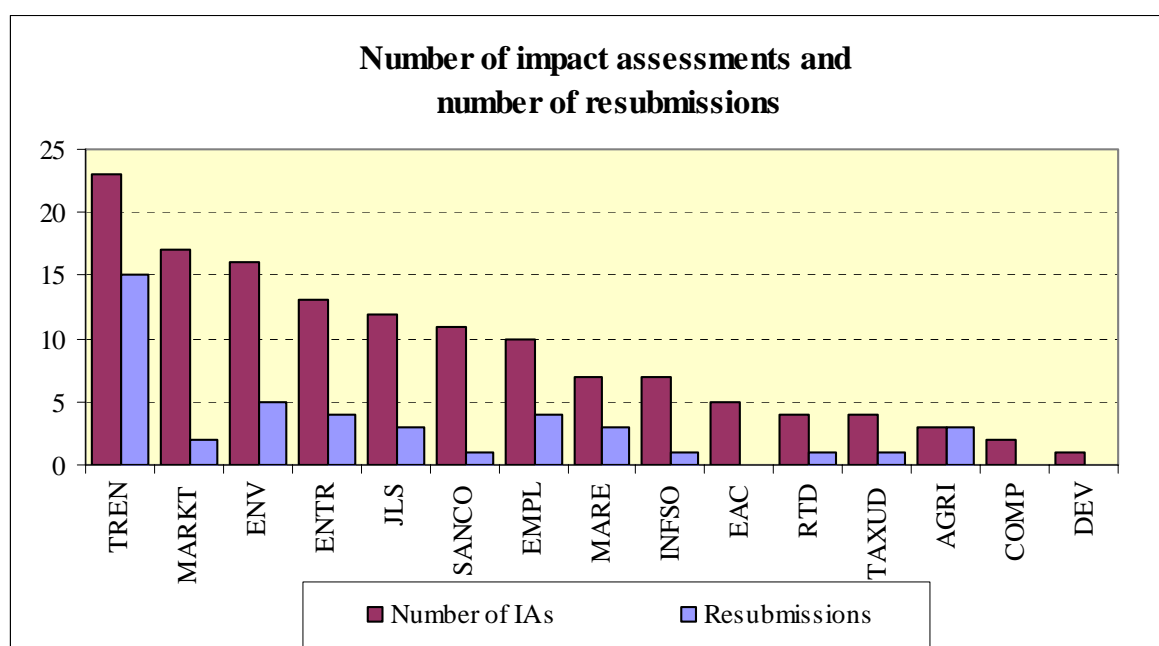
<sup>2</sup> Roadmaps are drafted by the services which will be responsible for preparing the impact assessment and policy proposal, and can be regarded as a sort of "mini impact assessment": they set out the problem, objectives, policy options, an initial assessment of impacts and of subsidiarity, describe the state of preparation and the plans for further impact assessment work.

impact assessment were resubmitted twice). The total number of opinions issued in 2008 is therefore 182.

### ***Overall quality of impact assessments***

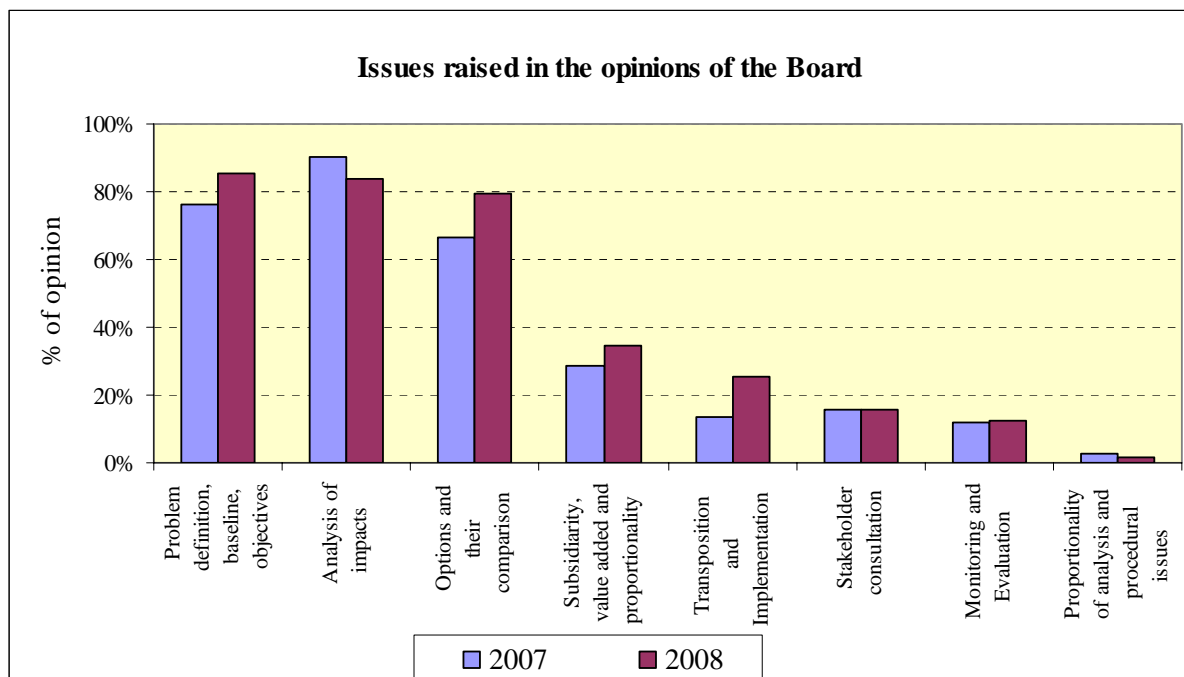
On average, the Board observed an improvement in the internal coherence of the impact assessment and in the extent to which they comply with the structure and approach which is laid out in the Guidelines. This took place against a backdrop of Commission services gaining more experience and investing more in background analysis. As a result, the discussions between the Board and the author services have moved on from these structural issues to more advanced issues such as the level of detail that is needed in the assessment of various impacts.

It is not straightforward, however, to illustrate this general observation on the quality of impact assessments with objective indicators. One indicator would be the percentage of impact assessments which the Board requests to examine again. However, the rate of resubmissions is not only influenced by the average quality of impact assessments, but also by the stringency with which the Board applies the agreed quality standards. The Board has become more stringent in applying these standards, after having given Commission services the opportunity during of 2007 to get used to its procedures and requirements. For that reason it is not possible to conclude from the increased number of resubmissions that the average quality of impact assessments has either gone up or down. Nonetheless the high rate of resubmissions is a clear sign that more needs to be done to improve the quality of impact assessments. The following graph on resubmissions shows that some Commission services have in this respect more ground to cover than others.



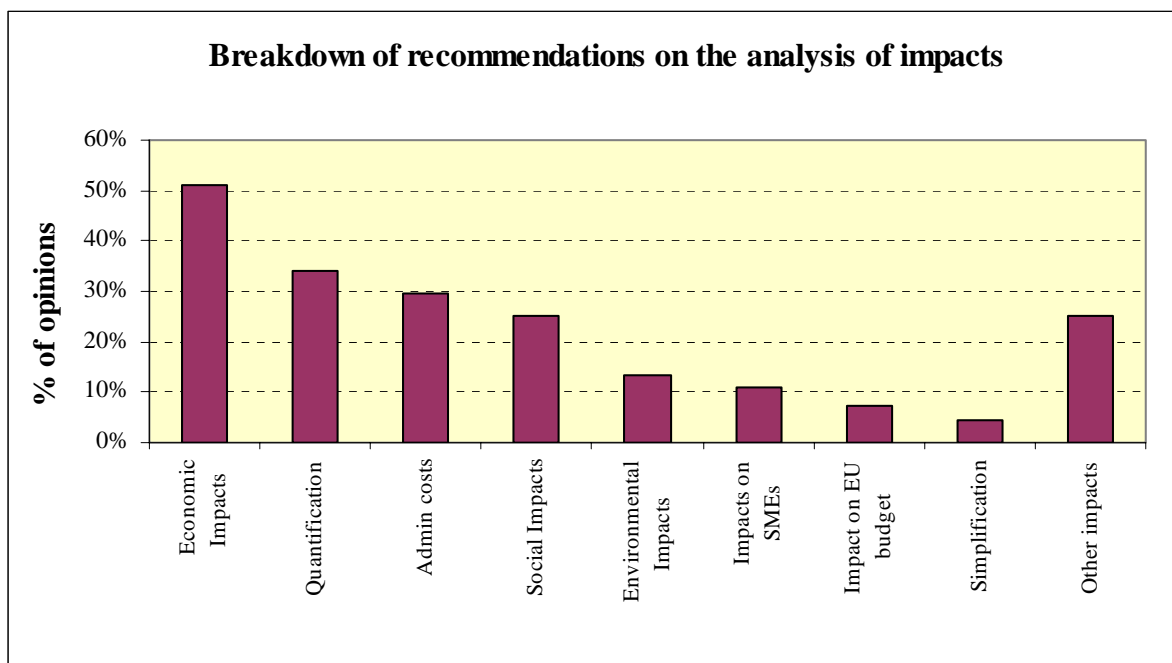
Each opinion of the Board contains various recommendations for improvements. An analysis of these recommendations, and a comparison with the recommendations issued in 2007, is presented in the following graph<sup>3</sup>:

<sup>3</sup> The appearance of this graph is different from table 2 in the Board's report for the year 2007 because of a refinement in the labels that are used to categorise the opinions and due to the fact that the 2007 report did not analyse all opinions issued that year. In order to ensure comparability, the opinions issued in 2007 have been re-analysed and are also presented in this table.



Graphs 2 shows that the pattern of Board recommendations remained broadly unchanged: the analysis of impacts, the definition and description of problems and objectives, and the identification and description of policy options continue to be the main issues in the opinions. There was an increase in the number of recommendations on the assessment of subsidiarity and proportionality, and on the assessment of transposition and implementation issues. These are all fundamental aspects of policy making that should be analysed appropriately in any impact assessment.

The following graph shows a breakdown of the column "analysis of impacts". This shows that most recommendations relate to economic impacts. This may however (partly) be due to the nature of the initiatives that were subject to impact assessments and submitted to the Board. The need to quantify impacts was the second most frequently issued recommendation in this category, followed by the assessment or measurement of administrative burdens and of social impacts.



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

A key aspect of the Board's work is that its opinions are available to decision makers. This creates clear incentives for the author service to improve its impact assessment in line with the Board's recommendations.

Within the Commission, Board opinions are published on a website on the same day that they are transmitted to the Director-General of the author service. Once the impact assessments have been revised to reflect the Board's recommendations they are circulated together with the Board's opinion(s) on the earlier draft impact assessment(s) to other Commission services for the inter-service consultation on the corresponding (possibly adjusted) proposal and subsequent decision making by the College.

Externally, all Board opinions are published after the Commission adopts the related policy proposal.<sup>4</sup>

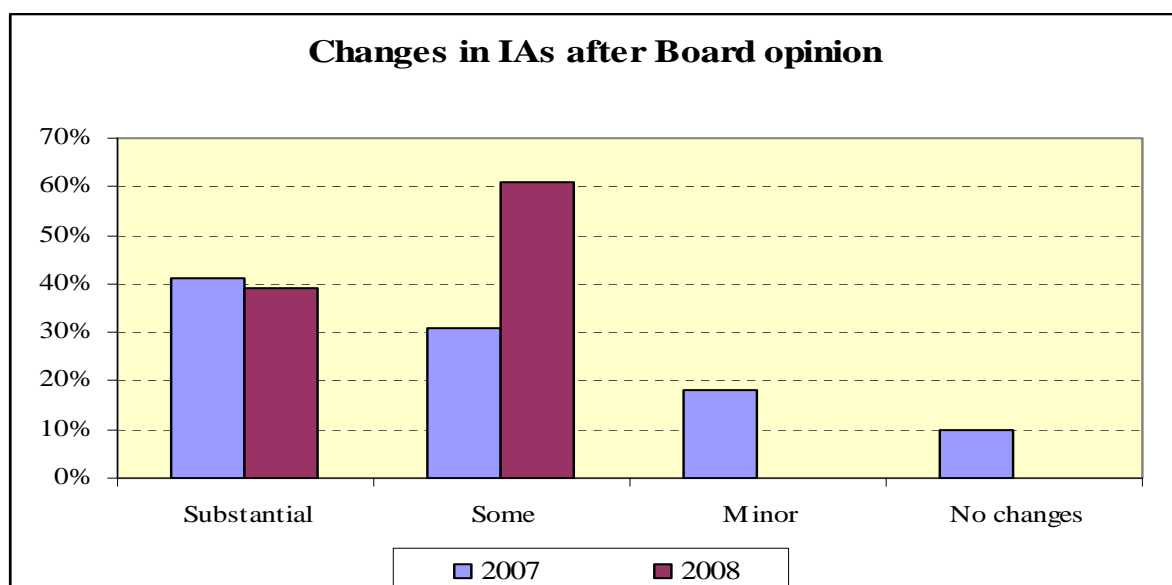
### ***3.3. Impact of the Board's opinions***

When the Chair of the Board sends the opinion to the Director-General of the author service, he requests that a paragraph summarising the changes made in response to the recommendations is included in the revised version of the impact assessment. Responsibility for monitoring the follow-up to the Board's recommendations lies with the Secretariat-General and the other Commission services which participate in the inter-service consultation. (When the Board asks to see an impact assessment a second time, it follows-up on its original recommendations itself). However, for the purpose of this report a random<sup>5</sup> sample of 18 impact assessments has been selected, and an analysis made of how well the Board's opinion was followed up. This leads to the following result.

<sup>4</sup> [http://ec.europa.eu/governance/impact/practice\\_en.htm](http://ec.europa.eu/governance/impact/practice_en.htm). In exceptional cases and only on the grounds provided for in Regulation (EC) n° 1049/2001 regarding public access to documents, a service may request that an opinion should not be published on the external website, in which case the Board decides on the matter. In 2008 no such requests were received.

<sup>5</sup> The random sample was made by selecting every 3<sup>rd</sup> impact assessment examined by the Board when listed in chronological order. The analysis for 2007 was based on a sample of 80 impact assessments.

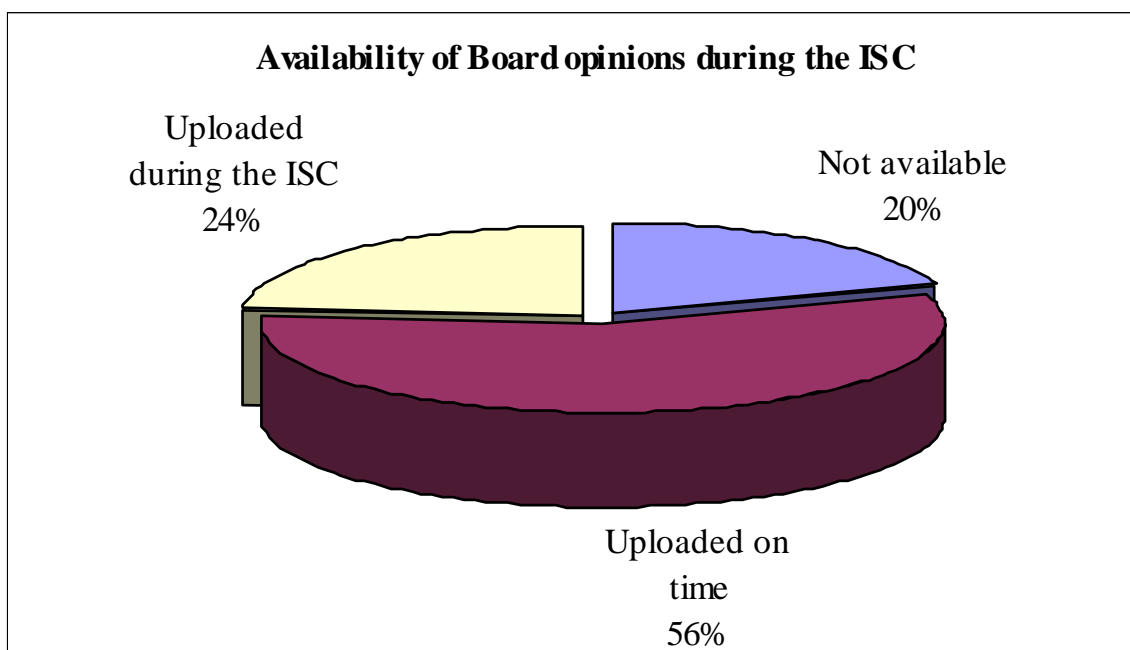




In all cases the impact assessment was improved, which confirms that the Board's opinions have an impact on the quality of impact assessments.

Nevertheless, there were still many cases where only some recommendations were followed up. The Board believes that this situation can and must be improved. The Board always provides an opportunity for the author service to indicate whether the concerns it has raised are relevant and whether it is possible with reasonable effort to make the necessary improvements. It should therefore be possible to follow-up fully all the recommendations made. The main reason why this is not always the case appears to be poor planning and time constraints: services sometimes do not allow sufficient time for the Board's examination, or do not allow sufficient time to make the changes that the Board recommends. Time squeezes occur especially for cases where the Board requests a resubmission, and where too often the services have not planned sufficient time to allow them to wait for the second opinion before launching the inter-service consultation.

The impact of the time squeezes can be illustrated in two ways. In 2008 the Board had less than 3 weeks in which to complete its analysis and issue its opinion in 16% of cases, whereas the normal time foreseen in its procedures is 4 weeks. For opinions on resubmitted impact assessments the situation was even more problematic: in 25% of cases the Board had to analyse the revised impact assessment and issue its opinion in one week or less, whereas normally this takes 2-3 weeks. Although the Board is careful to ensure that the quality of its examination does not suffer from a time squeeze, the effectiveness and value added of the impact assessment system as a whole is affected by this. This is also visible from the following graph, which shows that in just over half of all cases the Board's opinion was part of the inter-service consultation (ISC) from the beginning; it should be available in all cases.



The potential contribution of impact assessments and of the Board's opinions to the quality of EU policies is not limited to the preparation inside the Commission. The impact assessments and opinions are made publicly available to the Council and the European Parliament, and can play a role in their decisions on policies. The Board has observed that over the past year the European Parliament and the Council have paid increasing attention to impact assessments, even though more progress could be made in making this a standard and integral part of their work. Although this is not necessarily the objective, the opinions of the Board are not as well-known and are not referred to as frequently as the impact assessments to which they relate.

#### ***Impact assessments as part of the working culture***

It is obvious from the majority of impact assessments examined by the Board that a significant amount of work was put into them. The author services almost always prepare well their discussions with the Board, and from the level of representation it is clear that they take this work seriously. The Board believes that a key role in consolidating and further expanding this positive standing of impact assessment in the Commission lies with the impact assessment coordination units within the services. The Board welcomes the fact that several services (DGs EMPL, ENV, MARKT, INFSO, JLS) have increased the staffing of their impact assessment coordination units in the course of 2008, while DG EMPL has gone a step further by making its impact assessment support unit report directly to the director-general. The Board encourages all other services that produce a significant number of impact assessments to follow this example. Reinforcing the position of these units will help to ensure that the draft impact assessments that are submitted to the Board are already of good quality.

It should also be noted that impact assessments are a means to an end – the aim is not just to improve the quality of impact assessments, but to ensure that these impact assessments help to improve the quality of the policy proposals. Assessing the extent to which this is the case is not straightforward. It is worth recalling, however, that the external evaluation of the Commission's impact assessment system<sup>6</sup> in 2007 examined how impact assessments are carried out and used by the Commission services, whether they are of sufficient quality, and

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<sup>6</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).

what their role is in the policy or legislative process that follows once the Commission has adopted the related legislative proposal. It concluded that around two-thirds of Impact Assessments improved the quality of the proposals they accompanied as well playing an important role in increasing transparency. On this basis it is reasonable to assume that the increased attention paid to impact assessments throughout 2007 and 2008 is continuing to improve the quality of proposals. However, as it is not known what the proposal would have looked like in the absence of impact assessments and scrutiny by the Board, there is no way to prove this hypothesis.

#### **4. LOOKING FORWARD**

##### **4.1. Recommendations from the 2007 report**

In its report for 2007 the Board suggested several changes and improvements, targeted at Commission services, at the Board's own work, and at the impact assessment system. A stocktaking of these recommendations leads to the following overview:

<b>Recommendation</b>	<b>Progress</b>
Strengthen IA units in services	This has been done in a small number of services, but can be taken further.
Submit IAs to the Board earlier than the minimum deadline	This happened in some cases, but too often the time for the Board's examination was squeezed
Data availability and reliability should be addressed earlier	New guidelines contain improved guidance on how to collect and use data
Impact Assessment Steering Groups should be involved earlier	New guidelines urge author services to give these groups a bigger role.
Prioritise the Board's work by examining a selection of IAs	Prioritisation was not necessary: the Board was able to examine all IAs submitted to it
Early identification by the Board of IAs that could benefit from external expertise	This continues to be hard in practice, but has not affected negatively the Board's operation
Improved guidance to services, incl. a study on assessing social impacts	DG JLS and DG EMPL both launched studies on how to improve the assessment of social impacts
Give more feedback to those services with poorest quality IAs	The Chair visited the management teams of 4 services to discuss the quality of their IAs and the internal organisation of their IA work.
Publish guidance and examples of good practice IAs	New guidelines contain a list of examples which the Board considers good practice
Reinforced guidance based on Roadmaps, explicit requirements for Roadmaps	The Board gave guidance by issuing advice on the Roadmaps for 2009. The template for Roadmaps however remained unchanged.
"Intermediate" discussions with services for key initiatives	Intermediate discussions were held with services by the Board's secretariat

Remove blanket obligation to carry out IAs on all Work Programme initiatives	New guidelines put the emphasis more clearly on impact assessments for legislative proposals.
Ensure more concerted advice to author services on what constitutes a good IA	Coordination between Board Secretariat and services in the Secretariat-General was improved to ensure that there are no parallel channels of communication.

#### **4.2. Priorities for the Board in 2009**

The Board will continue its work in 2009 on the same basis as it has in the past 2 years. Based on its experience so far, the Board will give particular attention to the following issues which build on the recommendations in the report on 2007:

##### *On better planning*

- Impact assessments must be of better quality before they are sent to the Board. The impact assessment support units in the services have a key role to play in ensuring this, as do the impact assessment steering groups. These should both be involved at an earlier stage and more systematically throughout the preparation process. In important cases, as has already happened a few times, there could be an "orientation debate" with the Board before submitting formally a draft report.
- The Board will step up its existing practice of returning impact assessments without issuing an opinion if they are clearly sub-standard and not ready to be examined. This also applies to impact assessments which, without justification, exceed the recommended maximum length of 30 pages (excl. annexes). The Board is ready to provide upstream support in selected cases, but it does not want to and cannot take over the role that the impact assessment support units and the impact assessment steering groups should play.
- Author services must plan better to avoid time squeezes, both in the submission of documents to the Board and in the follow-up to the Board's opinions. Author services should allow sufficient time for the Board to examine the impact assessments, and to incorporate the recommendations it makes. They should always take into account the possibility that the Board may request a resubmission. Also here, the impact assessment support units have a key role to play in advising the authors of impact assessments.<sup>7</sup>

##### *On publicity and follow-up*

- Commission services should avoid launching inter-service consultations before the Board has concluded its examination of the impact assessment. The Secretariat-General of the Commission should check more closely that the impact assessment and the Board's opinion are part of the inter-service file.
- Awareness and use of Board opinions outside the Commission should be increased. The Board secretariat will ensure that impact assessments and the corresponding opinion(s) are added to the Europa website immediately after adoption.

<sup>7</sup>

It should be noted that time squeezes are not always the result of poor planning by DGs but are at times also dictated by political constraints, such as the need to respond at short notice to requests from the Council and the European Parliament.

- There is a need to ensure that impact assessments fully cover the issues addressed in the corresponding policy proposal. Proposals are sometimes changed during the adoption process inside the Commission. The Secretariat-General should develop a procedure to keep track of these changes and verify whether the analysis in the impact assessment still covers the proposal. If this is not the case then the impact assessment should be updated whenever possible.<sup>8</sup>

#### **4.3. *The new impact assessment guidelines***

The new guidelines which will come into force at the beginning of 2009 improve the guidance on several issues which were found to be insufficiently clear or difficult to apply, and address several of the recommendations that the Board made in its report for 2007 and in the present report for 2008.

The opinions of the Board contributed to identifying which parts of the guidelines needed to be strengthened. This is for instance the case for the assessment of subsidiarity, for making the principle of proportionate analysis operational in practice, and for the role of the impact assessment steering groups and of public consultations in preparing impact assessments. A key innovation which is especially welcomed by the Board and which it recommended in its report on 2007 is to make the guidance more operational by publishing a list of concrete examples of good impact assessment practice. This list was largely drawn up by analysing the section in the opinions of the Board that is dedicated to highlighting positive aspects.

Another important improvement which is directly relevant for the work of the Board is that the deadline for submitting impact assessments to the Board will be changed from 4 weeks before the launch of inter-service consultation to 4 weeks before the envisaged meeting with the Board. This effectively extends the time available for the Board's examination. It will help to avoid situations where the author services plan the launch of inter-service consultation too quickly after the meeting with the Board, do not allow themselves enough time to make the necessary changes, and do not factor in the possibility that the Board may request a resubmission.

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<sup>8</sup> A similar situation occurs when legislative proposals are amended in the European Parliament or in the Council in ways that are not covered in the impact assessment. This situation is however outside the scope of the Commission (and the IAB) and is the subject of the Inter-Institutional Agreement on Better Lawmaking (2003) and the Common Approach on Impact Assessments (2005).

## Annex 1: Context, Mandate, and Procedures of the Board

The President of the Commission created the Board on 14 November 2006.<sup>9</sup> In doing so, he delivered on the commitment he made to the European Parliament in the plenary session of April 2006 to establish a body under his personal authority that would provide independent quality support and control for Commission impact assessments. The President appoints the Members of the Board, *ad personam*, from the Commission services with the most direct expertise in the three dimensions (economic, social and environmental) of integrated impact assessment<sup>10</sup>. The Board is chaired by the Deputy Secretary-General responsible for Better Regulation. An alternate is appointed for each Member 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 in line with the impact assessment guidelines,
- early cooperation and consultation, both within the Commission through an impact assessment steering group, and with stakeholders outside the Commission;
- 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.

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 because the impact assessment is of insufficient quality. The Commission is, however, fully informed about Board opinions. The fact that the Board's opinions are formally part of Commission decision-making procedures and are published, provides an incentive for services to make the improvements to the impact assessments that the Board recommends.

### *How the Board's quality control works*

The Board examines each impact assessment before the author service launches the inter-service consultation on the related policy proposal. This examination generally takes place in a timeframe of 4 weeks and follows a number of standardised steps. Approximately two weeks after it receives an impact assessment, the Board sends the author service a "quality checklist" of 3-5 pages.<sup>11</sup> This contains a detailed analysis of the impact assessment on all key elements which are required in the guidelines. On the basis of the preliminary findings in the quality checklist, the Chair decides whether to continue the examination in oral or in written procedure. In oral procedure the author service discusses the quality checklist with the Board during one of its meetings. These meetings are held every other week, and 50 minutes is

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<sup>9</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>10</sup> The composition of the Board changed on 1 May 2008: Jan Host Schmidt (DG ECFIN) left the Board, John Farnell (DG ENTR) joined the Board, and Gert-Jan Koopman, previously the Member from DG ENTR, was appointed as the Member of DG ECFIN. In November 2008, Timo Mäkelä (DG ENV) and Xavier Prats Monne (DG EMPL) were reappointed as Members for a second term of two years. Alexander Italianer (SG) stayed on as statutory Chair.

<sup>11</sup> Annex 2 to the Impact Assessment Board Report for the year 2007 contains a model quality checklist. SEC(2008) 120 of 30.01.2008

usually reserved for each impact assessment. In written procedure there is no meeting, and the author service responds to the quality checklist in writing.

The Board produces its opinion on the basis of the comments and clarifications which the author service provides in response to the quality checklist. The opinion focuses on the 3-5 key issues which have been raised in the quality checklist or during the meeting, and lists the recommendations for improvements in the order of their importance. In some cases, the Board may conclude that the draft impact assessment needs such substantial improvements that the author service should submit a revised version. The Board issues a second opinion on this revised text.<sup>12</sup> These resubmissions are generally dealt with in written procedure, and the Board examines whether the service has incorporated satisfactorily the recommendations in the first opinion. In rare cases the Board may request a second resubmission.

### ***Independence of the Board***

The President appoints the Members of the Board and their alternates in a personal capacity. They do not represent the views of their home services on the impact assessments they examine, and their services cannot give them instructions on the position to take. Their role is to provide expertise on the quality of the impact assessments independently of the Commission service preparing the proposal. Members must inform the Chair of any interest which might affect their independence in relation to an impact assessment and if appropriate transfer his/her vote to the alternate.<sup>13</sup>

The Board interprets this rule as applying in principle to impact assessments which have been carried out or supported by the services under the direct responsibility of a Board Member. A conflict of interest is therefore not automatically presumed to be present if the impact assessment has been prepared by a different directorate in the Member's Directorate-General. In 2008, Board Members declared a conflict of interest in 6 cases and abstained from the discussions on these impact assessments. An analysis of the cases where the Board requested a resubmission shows that the Board applies similar standards to impact assessments that are produced by the services of the Board Members to those produced by all Commission services: the resubmission rate is 33% and 32% respectively. The Board also interprets independence in the sense that it does not discuss individual impact assessments or its opinions with external stakeholders, with the exception of experts who are invited by the Board to provide advice in confidentiality.

### ***Resources of the Board***

The Board is supported in its work by a secretariat which is provided by the Secretariat-General of the Commission. Members also receive support from their alternates and from staff within their own services. In total, the equivalent of an estimated 15 full-time posts support the Members and assure the daily operation of the Board. The Secretariat-General provides the Board with financial resources to fund external experts to contribute to its opinions and studies to be commissioned in its quality support function.

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<sup>12</sup> In 2007 the Board occasionally recommended a "voluntary resubmission", but in 2008 this practice was rarely used in order to avoid ambiguity about whether or not a resubmission was needed.

<sup>13</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).

The Chair can ask any Commission service to provide expertise on specific issues as input to the Board's examination of an impact assessment. He may also call on external expertise if internal expertise is not readily available, or for any other reason. This is difficult in practice: the short lead-time between submission of the impact assessment and discussion of the file in a Board meeting means that experts have to be found at short notice; and there is always a need to ensure that they are independent and not involved in some way with the issue, for example through advising stakeholders. Nonetheless, in 2008 the Board asked an external expert to contribute to its work on one occasion, when it examined a case on fixed and mobile termination rates. The Board referred to the expert's contribution in its opinion.



**1. Annex 2: Commission directorates-general and services: official titles and abbreviations**

<b>Full name</b>	<b>Letter code</b>
Secretariat-General	SG
Directorate-General for Communication	COMM
Directorate-General for Economic and Financial Affairs	ECFIN
Directorate-General for Enterprise and Industry	ENTR
Directorate-General for Competition	COMP
Directorate-General for Employment, Social Affairs and Equal Opportunities	EMPL
Directorate-General for Agriculture and Rural Development	AGRI
Directorate-General for Energy and Transport	TREN
Directorate-General for the Environment	ENV
Directorate-General for Research	RTD
Directorate-General for the Information Society and Media	INFSO
Directorate-General for Maritime Affairs and Fisheries	MARE
Directorate-General for the Internal Market and Services	MARKT
Directorate-General for Taxation and Customs Union	TAXUD
Directorate-General for Education and Culture	EAC
Directorate-General for Health and Consumers	SANCO
Directorate-General for Justice, Freedom and Security	JLS
Directorate-General for Trade	TRADE
Directorate-General for Development	DEV