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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.01.2010  
SEC(2009) 1728 final

**COMMISSION STAFF WORKING DOCUMENT**

**Impact Assessment Board Report for 2009**

## 1. EXECUTIVE SUMMARY

The Impact Assessment Board is a central quality control and support function working under the authority of the Commission President. It is independent of the policy making departments. The Board examines and issues opinions on all the Commission's impact assessments and hence on the quality of the analysis underpinning the policy proposals the Commission puts forward. It also provides advice to Commission services on methodology at the early stages of preparation of the impact assessments.

The main developments in the Board's work in 2009 are as follows:

- The standards applied by the Board in 2009 were based on new Impact Assessment Guidelines which address several concerns raised by the Board in its 2007 and 2008 reports.
- In 2009, the Board examined 79 impact assessments, compared to 135 in 2008 and 102 in 2007. The lower number is explained by the fact that 2009 was a transition year in the European Parliament and the Commission. The Board expects the numbers to be higher again in 2010.
- In line with the trend perceived in 2008, the Board noted a further shift in the main quality issues from the basic structural elements of the impact assessments, which continue to improve, to more substantial analytical issues. The number of impact assessments that the Board asked to examine for a second time was 37% compared to 33% in 2008.
- In terms of embedding the impact assessment culture in the Commission's policy development process, the Board welcomes the measures taken by Commission services, such as strengthened training and internal impact assessment support.

The Board's main messages for the future are as follows:

- Transparency is a key strength of the Commission's approach to impact assessment and can be further enhanced. The Board welcomes the intention to publish a list of planned impact assessments starting in 2010, and to prepare roadmaps not only for initiatives included in the Commission Legislative and Work Programme (CLWP)<sup>1</sup>, but for all initiatives with significant impacts. The Board has identified two additional measures to promote transparency:

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<sup>1</sup> Subject to a decision from the new College on the name of its work programme.

- The follow-up of Board opinions can be improved further. Commission services should ensure that their final impact assessment reports include a more explicit indication of how each of the Board's recommendations has been dealt with.
  - The Board would welcome a more standardised format for executive summaries.
- Better planning is essential to improving the quality of impact assessments. In 2009, the need to respond in a timely fashion to the economic and financial crisis and the transition to the new Commission both had an impact on planning. While there will always be unexpected or urgent issues which cannot be anticipated, the Board would nevertheless welcome:
    - Further efforts by Commission services to improve the overall planning of impact assessment and policy development work.
    - Greater awareness from the other EU institutions, and in particular of Council Presidencies, of the importance of allowing sufficient time for the underlying analysis when suggesting timetables for Commission initiatives.

## 2. CONTEXT, MANDATE, AND PROCEDURES OF THE BOARD<sup>2</sup>

The main features of the Impact Assessment Board are:

- The Board provides independent support and quality control for Commission impact assessments. It is supported by a secretariat provided by the Secretariat-General of the Commission.
- The five Members of the Board are appointed by the President of the Commission for a two year term<sup>3</sup>. They act in a personal capacity, not as representatives of their services.
- 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 then made publicly available.
- The Board discusses its preliminary findings with the authors of the impact assessment before issuing an opinion.
- For impact assessments which require substantial improvements, the Board requests a revised version to be submitted on which it issues an additional opinion ("resubmission").

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<sup>2</sup> Annex 1 provides a detailed overview of these issues.  
[http://ec.europa.eu/governance/impact/index\\_en.htm](http://ec.europa.eu/governance/impact/index_en.htm)

<sup>3</sup> The composition of the Board in 2009: John Farnell (DG ENTR), Gert-Jan Koopman (DG ECFIN), Timo Mäkelä (DG ENV), Xavier Prats Monne (DG EMPL), and Alexander Italianer (SG) as Chair.

While there were no changes in the Board's functioning or membership in 2009 compared to 2008, the following facts can be mentioned:

- New Impact Assessment Guidelines were adopted at the beginning of 2009. They introduce changes which address concerns that the Board expressed in its reports in 2007 and 2008, including better planning and better stakeholder consultation<sup>4</sup>. While the Board took account of the fact that the impact assessments it received in early 2009 were prepared on the basis of the previous Guidelines, the new requirements were quickly applied.
- The Board reacted flexibly to urgent political developments. In particular, the need to provide a timely response to the financial crisis imposed a tight schedule for six impact assessments carried out by DG MARKT<sup>5</sup>. These were submitted to the Board with a shorter delay than usual, and the revised impact assessments were available at a later stage of the remaining policy-making process than usual. Nevertheless, revised impact assessments were produced for the two cases for which the Board asked for a resubmission and second opinions issued before the completion of the decision-making process.
- In 2009, the Members of the Board declared a conflict of interest on five occasions and abstained from the discussions on these impact assessments.
- In 2009 the Board has not used the services of external experts. However, on one occasion it asked for the opinion of the Commission's Legal Service for a case on access to EURODAC for law enforcement authorities.

### **3. ACTIVITIES OF THE BOARD**

#### **3.1. Quality support**

The Board provides quality support in different ways and at different levels:

- a) Up-stream quality support at the early stages of preparation for particularly challenging assessments.

#### Box 1– Example of up-stream quality support.

In 2009 DG ENV prepared the European Union position for the international agreement to be concluded in the United Nations climate change conference in Copenhagen in December 2009. While an impact assessment was not necessary given the nature of the initiative, the Board provided methodological support for the analysis.

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<sup>4</sup> A detailed overview of the changes can be found at:  
[http://ec.europa.eu/governance/impact/commission\\_guidelines/commission\\_guidelines\\_en.htm](http://ec.europa.eu/governance/impact/commission_guidelines/commission_guidelines_en.htm)

<sup>5</sup> Abbreviations of Commission directorates-general and services are explained in Annex 2.

- b) Review of roadmaps<sup>6</sup>, as part of the Board's support at the beginning of the impact assessment work. The Board's comments are intended to help Commission services to make early improvements in the framing of the impact assessments which would be difficult to introduce later in the process. As in 2008, the Board reviewed all the roadmaps for initiatives which were included in the CLWP for 2009. The Board welcomes the fact that from 2010 on services will prepare roadmaps for all initiatives which may have significant impacts (not only for CLWP items, but also for Catalogue<sup>7</sup> and Comitology items<sup>8</sup>).
- c) Detailed suggestions for improvements in the form of a quality checklist produced for all impact assessments in the run up to a Board meeting<sup>9</sup>.
- d) Further advice to the author service on how to address the concerns raised by the Board after the meeting.

As part of upstream support, but also to raise awareness and take stock of how Commission services perceive the Board's work, the Chair of the Board visited the management teams of three services in 2009 (DGs RTD, EAC, MARKT), having visited four services in 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, training needs, political commitments, cooperation with stakeholders).

The Chair also attended a number of meetings of the High Level Group of Independent Stakeholders on Administrative Burdens<sup>10</sup>. The participation by the Chair has helped to ensure good contacts and methodological consistency in assessing administrative burdens.

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<sup>6</sup> Roadmaps are drafted by the Commission services which are responsible for preparing the impact assessment and policy proposal. 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. Roadmaps increase the internal and external transparency of the policy preparation process, and allow all actors interested in impact assessment work to prepare their contributions in a timely manner.

[http://ec.europa.eu/governance/impact/ia\\_carried\\_out/ia\\_carried\\_out\\_en.htm](http://ec.europa.eu/governance/impact/ia_carried_out/ia_carried_out_en.htm)

<sup>7</sup> The catalogue is the list of all proposals planned by the Commission.

See also [http://ec.europa.eu/atwork/strategicplanning/index\\_en.htm](http://ec.europa.eu/atwork/strategicplanning/index_en.htm).

<sup>8</sup> Implementing rules enacted through specialized regulatory committees.

<sup>9</sup> Checklist is a 3-5 page summary, which contains a detailed analysis of the impact assessment on all key elements required by the guidelines. Annex 2 to the Impact Assessment Board Report for the year 2007 contains a model quality checklist. SEC(2008) 120 of 30.01.2008

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009SC0055:EN:NOT>)

<sup>10</sup> [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index\\_en.htm](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index_en.htm)

## 3.2. Quality control

### 3.2.1. Workload of the Board

As in 2008, the Board examined all of the impact assessments produced by the Commission services. There were 79 impact assessments in total. The Board issued 106 opinions, 30 of which were on resubmitted impact assessment reports.

	2007	2008	2009
<b>Impact assessments</b>			
Total impact assessments examined <sup>11</sup>	102	135	79
CLWP items	67	46	23
Catalogue items	31	80	43
Comitology items	4	9	13
<i>Share of CLWP items</i>	<i>66%</i>	<i>34%</i>	<i>27%</i>
Legislative proposals	57	86	53
Non-legislative proposals	45	49	26
<i>Share of legislative proposals</i>	<i>56%</i>	<i>64%</i>	<i>68%</i>
<b>Opinions</b>			
Number of opinions issued	112	182	106
On the first submissions	102	135	76 <sup>12</sup>
On the second submissions	10	43	30
On the third submissions	0	4	0
Number of opinions requesting resubmission	9	44	28
<i>Resubmission rate<sup>13</sup></i>	<i>9%</i>	<i>33%</i>	<i>37%</i>
<b>Procedures applied</b>			
Number of meetings	22	26	21
<i>Cases in oral procedure</i>	<i>56%</i>	<i>75%</i>	<i>85%</i>
<i>Cases in written procedure</i>	<i>44%</i>	<i>25%</i>	<i>15%</i>

The Board discussed 67 (or 85%) of the cases with the author service in the 21 meetings it held in the course of the year and examined the remaining 12 in written procedure.

<sup>11</sup> The numbers include three cases which were not impact assessments but Commission Staff Working Documents on which the Board made recommendations (2008 – DG INFSO: Regulatory treatment of fixed and mobile termination Rates; 2009 – DG ENV Decision on co-financing of carbon capture and storage and innovative renewable energy demonstration projects and DG MARKT Economic Impact of the FISCO proposals (Procedures for Obtaining Withholding Tax Relief on Securities Income).

<sup>12</sup> The number of opinions is lower than the number of impact assessments examined because the Board has occasionally issued 'combined' opinions covering more than one impact assessment.

<sup>13</sup> The Board has revised the method for calculating the resubmission rate. This has slightly changed the numbers for 2007 and 2008 compared to previous reports. In its 2007 and 2008 reports the Board used a rate which compared the number of opinions it *issued* on resubmitted impact assessments to the number of opinions it *issued* on the first submissions, without taking into account in which year the resubmissions were actually requested. In 2009 report this approach has been changed – now the resubmission rate reflects the *share of opinions which request* an impact assessment to be resubmitted, even if the resubmission in question has not yet arrived.

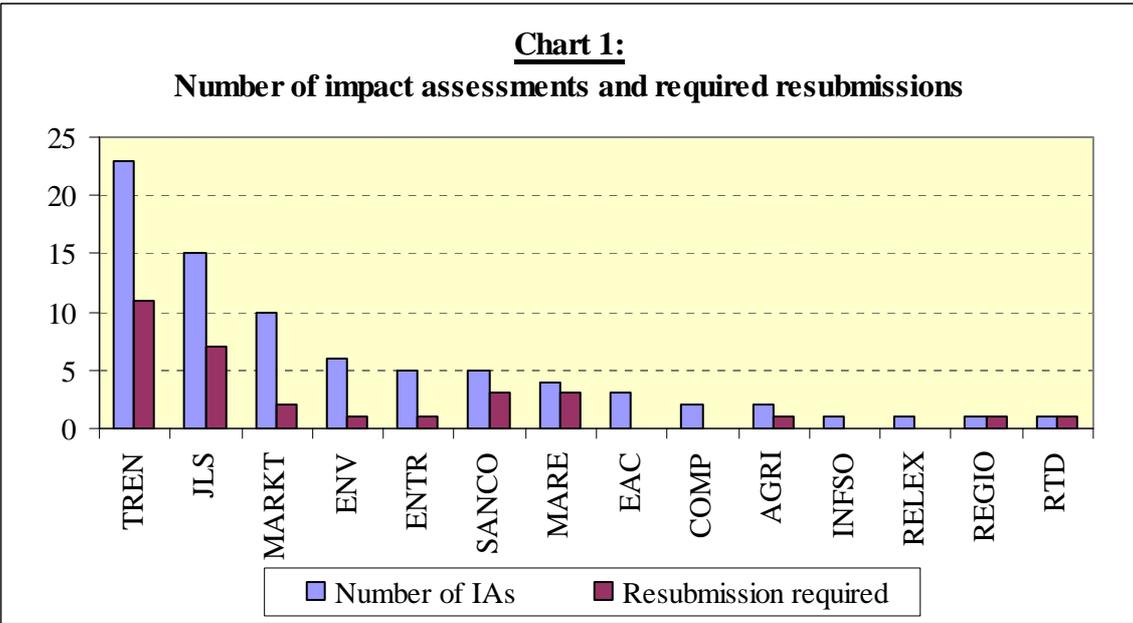
The lower number of impact assessments in 2009 compared to 2008 (see the table above) is explained by the fact that 2009 was a transition year in the European Parliament and the Commission. The Board expects the numbers be higher again in 2010.

The statistics in the table above show how the scope of impact assessment work has evolved since 2007. The share of CLWP items has fallen while the number of impact assessments on catalogue and comitology items has increased. The share of legislative proposals has also increased. These trends reflect the fact that since 2008 there has been a systematic screening of Catalogue items and increased attention to comitology items which has made it possible to identify non-CLWP initiatives with potentially significant impacts.

3.2.2. Overall quality of impact assessments

As was the case in 2008, the Board noted a continued shift in the nature of quality concerns from the basic elements of the impact assessments, which continue to improve, to more substantial analytical issues. However, there was still a slight increase in the resubmission rate from 33% to 37%<sup>14</sup>, indicating that improvements in quality remain a challenge.

The following graph shows the number of impact assessments and resubmissions by different Commission’s services in 2009.

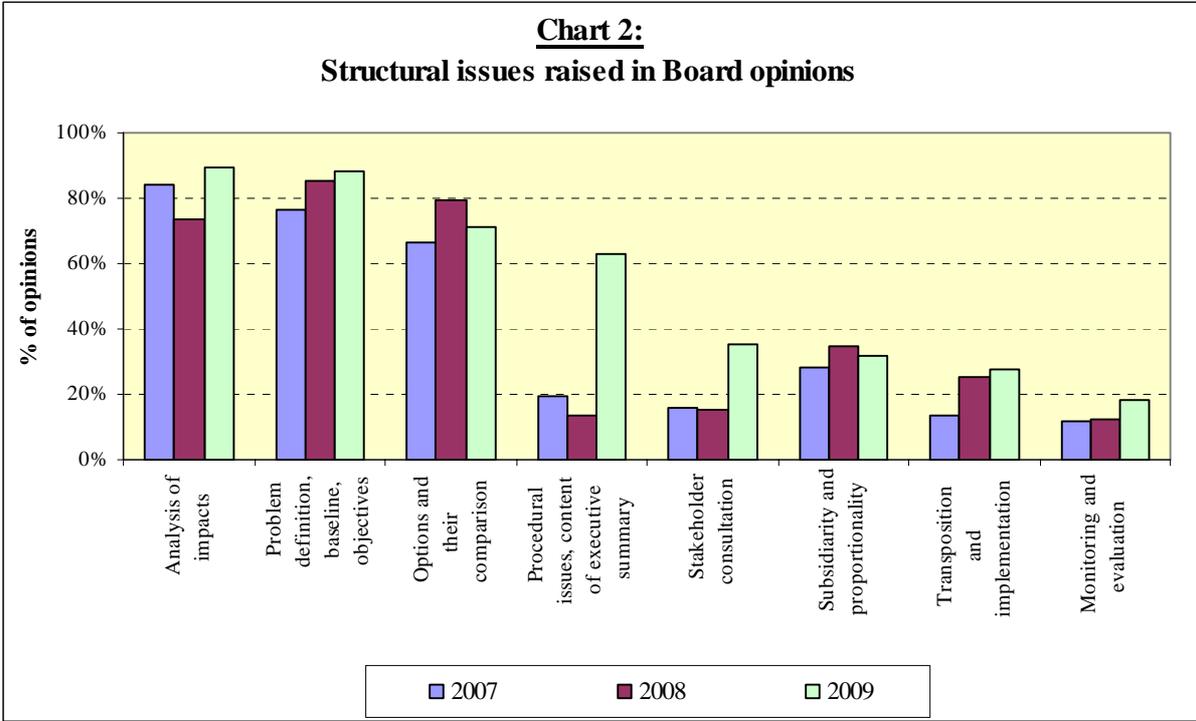


<sup>14</sup> It should be noted that the resubmission rate not only reflects the average quality of impact assessments, but also, among other things, the standards being applied. The standards which the Board applied in 2009 were based on the new 2009 Guidelines.

The Board asks for resubmission where there are serious concerns with the fundamental elements of the impact assessment report, such as the problem definition, baseline scenario or objectives. Further statistical analysis of the Board's recommendations revealed that the cases which had to be resubmitted often had a limited set of options or weaknesses in how they were compared, and insufficient subsidiarity/proportionality analysis. In 89% of cases where resubmission was required (compared to 60% of cases where the resubmission was *not* required), the Board made recommendations on options and how they were compared; in 43% of the cases the Board was concerned about the quality of subsidiarity and proportionality analysis (compared to 24% of cases where the resubmission was *not* required).

*Structural issues raised in Board opinions*

The standards which the Board applied in 2009 were based on the new 2009 Guidelines, which strengthened provisions on stakeholder consultations and procedural aspects, including on the content of the executive summary. This explains the marked increase in these two categories in Chart 2 below.



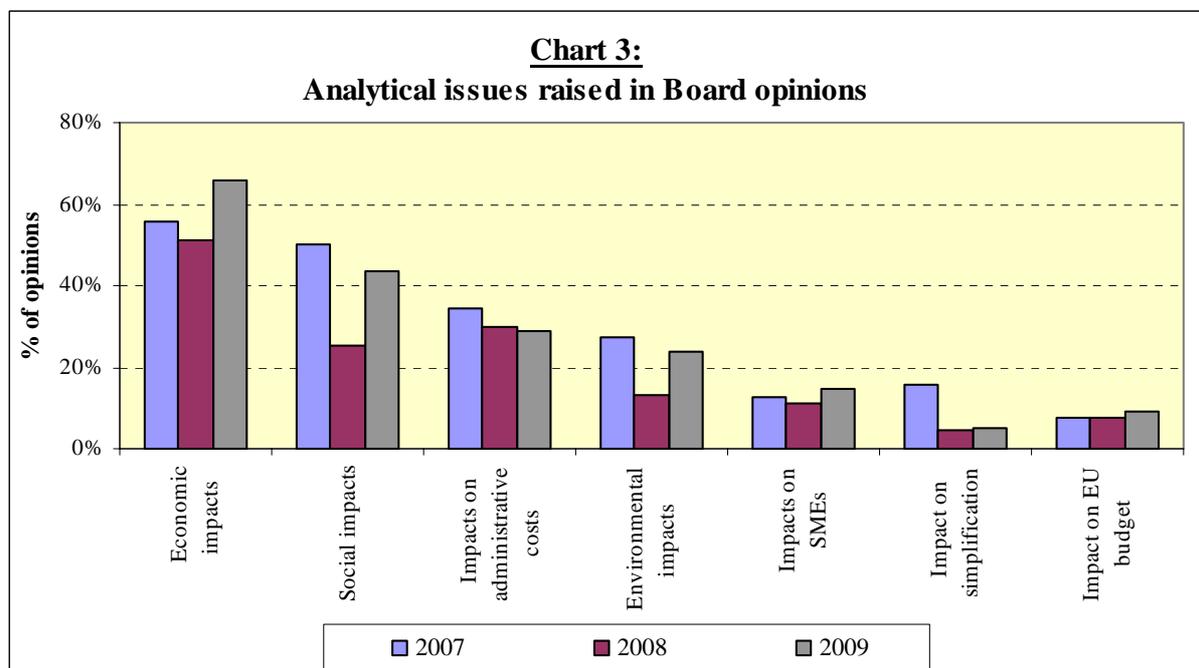
**The analysis of impacts** is the core part of any impact assessment and therefore a more detailed analysis of the Board's recommendation on these aspects is provided in the next section. On the other structural elements of the impact assessment reports, the Board recommendations to Commission services have often addressed the following issues:

- **Problem definition** – incomplete baseline scenarios, in particular the need to include all ongoing activities in Member States and relevant EU policies and to make a realistic assessment of how the situation would develop on this basis. Another concern has been that services do not sufficiently distinguish between the general problem and those aspects of it which could be addressed by EU action.

- **Executive summary** – need to ensure that these present a full reflection of the impact assessment report's main findings in a clear and structured way. In addition, the Board has recalled the need to present clearly any quantitative results in the executive summary.
- **Stakeholder consultation** – need to ensure that the concerns expressed by stakeholders are fully addressed in the impact assessment reports. On occasion the Board has raised concerns that not all relevant stakeholder groups were consulted.
- **Subsidiarity and proportionality** – need for a more detailed analysis of these issues. The Board would welcome more consistent use by services of the structured questions provided in the 2009 Guidelines.
- **Transposition and implementation** – in those cases where the impact assessment is addressing the revision of existing legislation, services should pay more attention to the lessons learnt from past implementation and, where possible, this should be based on evaluation results.
- **Monitoring and evaluation** – need to better define appropriate progress indicators which would allow for proper monitoring and evaluation of the actual impacts of the initiative.

*Issues raised in the analysis of impacts*

In general, many of the Board's recommendations concerning the analysis of impacts address broad issues such as the evidence base, the robustness of assumptions made and the methods used. Chart 3 shows how these recommendations were distributed across the different categories of impacts, breaking down the 'analysis of impacts' column in Chart 2.



In 2009 the Board frequently made recommendations on the analysis of economic, social and environmental impacts, reflecting the importance it attaches to balanced analysis in line with the integrated approach to impact assessment.

- Given that the analysis of **economic impacts** is a part of every impact assessment, it is by definition the category mentioned most often in Board opinions (in more than 60% of cases). The recommendations in this area are varied, reflecting the broad spectrum of relevant economic impacts. On a number of occasions the Board has asked services to provide a more developed analysis of the impacts on competition and on the internal market.
- The Board made recommendations on the assessment of **social impacts** in more than 40% of all impact assessments. These recommendations often address employment impacts and distributional impacts between social groups.
- The Board made recommendations on the analysis of **environmental impacts** in about 25% of cases. The Board has observed that in the impact assessments carried out for different sectoral policies insufficient attention is given to indirect environmental impacts. It has also often pointed to the need to analyse environmental impacts other than those related to carbon emissions.
- While the Board is aware of the methodological difficulties of providing a robust **quantification** of the most significant costs, and even more so of key benefits, it has on a number of occasions recommended that further efforts are made to quantify impacts.

#### *Assessment of administrative burdens*

The issue of administrative burdens remained high on the political agenda in 2009, not least as a result of the Commission's Action Programme to reduce these burdens by 25% for a significant part of the Community *acquis*. To ensure that administrative burdens are kept to the minimum necessary in new legislation or reduced in revised legislation, Commission services have to address this issue in their impact assessments. These impact assessments should provide details of any new information obligations for businesses, citizens or public administrations, and in those cases where the change is significant the impact should be quantified using the EU Standard Cost Model.

While awareness of administrative burdens has increased, the Board made recommendations both on the general identification and quantification of information obligations. It believes that further up-stream support to services in dealing with this analysis would be useful, and welcomes the Commission President's decision to locate responsibility for administrative burdens alongside that for impact assessments in the Secretariat General of the Commission so that the two processes become mutually reinforcing. In this context, the Board underlines the importance of assessing administrative burdens as part of an integrated impact assessment that looks at both the benefits and costs of a piece of legislation, and ensures that all economic, social and environmental impacts are addressed in a balanced way. An example of the importance of this is the electronic invoicing initiative in the context of the VAT directive (see Box 2).

### Box 2– Review of electronic invoicing in the context of the VAT directive

The Commission services did not prepare an impact assessment for this initiative but instead produced a background analysis focusing on administrative burdens reduction aspects. This analysis was carried out with the help of an external consultancy and the results were validated by the High Level Group of Independent Stakeholders on Administrative Burdens. While the benefits of e-invoicing in terms of reducing administrative burden were assessed in detail, the analysis did not provide evidence or data on the potential impacts on the other VAT invoicing elements, such as compliance costs and security issues. It seems likely that a full impact assessment would have facilitated discussions in the Council.

#### *3.2.3. Impact assessment work in different policy areas*

In 2009 there were three major areas of impact assessment work: the response to the financial crisis, asylum and migration, and energy efficiency.

Six impact assessments carried out in 2009 were linked to the Commission's response to the **financial crisis** and were prepared under extremely tight deadlines. The short preparation times made it difficult to respect entirely the Impact Assessment Guidelines and had an impact on the quality of the impact assessment reports submitted to the Board. The Board nevertheless welcomes the significant efforts made by DG MARKT, and considers that the impact assessment work has contributed considerably to the transparency and quality of the proposals compared to a situation without this analysis at all.

The Board examined eight impact assessments on **asylum and migration policies**. The two major issues it raised in its opinions on these impact assessments were the analysis of subsidiarity and the estimation of financial impacts, particularly implementation costs. The latter issue was frequently linked to the difficulties of obtaining data in this field.

Work on **energy efficiency** included eight implementing (i.e. 'Comitology') measures that, as a follow up to the Eco-design directive, set requirements for different product groups. One of the main challenges in impact assessments in this domain has been how to present sufficiently clearly the investment needs (costs) and corresponding energy savings (benefits), and the timing of when they occur. Another analytical problem of a horizontal nature has been that of taking full account of national initiatives, for example on energy security, in the baseline scenario.

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

The Board's opinions are available within the Commission throughout the decision-making process. This creates clear incentives for the author service to improve its impact assessment in line with the Board's recommendations. The opinions are published on the Board's internal website as soon as they are transmitted to the Director-General of the author service. Once an impact assessment has been revised to reflect the Board's recommendations, it is circulated together with the opinion(s) on the earlier draft impact assessment(s) to other Commission services for the inter-service consultation<sup>15</sup> on the policy proposal and subsequent decision-making by the College.

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<sup>15</sup> The phase in the Commission's internal decision making process when an author service formally consults the other Commission services.

All Board opinions are made public on the internet once the Commission has adopted the related policy proposal<sup>16</sup>.

### 3.4. 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. Moreover, according to the 2009 Guidelines Commission services have to explain in the explanatory memorandum which accompanies the draft proposal how they have incorporated the Board's recommendations.

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. The Board's secretariat has analysed how the Board's opinions were followed up and found that in all cases the final impact assessment was improved. In 41% of cases the follow up of the Board's recommendations led to substantial changes (see Chart 4<sup>17</sup>). In some cases, services made a radical review of their approach, and changed the preferred policy option (see Box 3). In other cases, given the extensive nature of the changes, it took more than a year to resubmit the impact assessment.

#### Box 3 – Examples of changes in preferred policy approach.

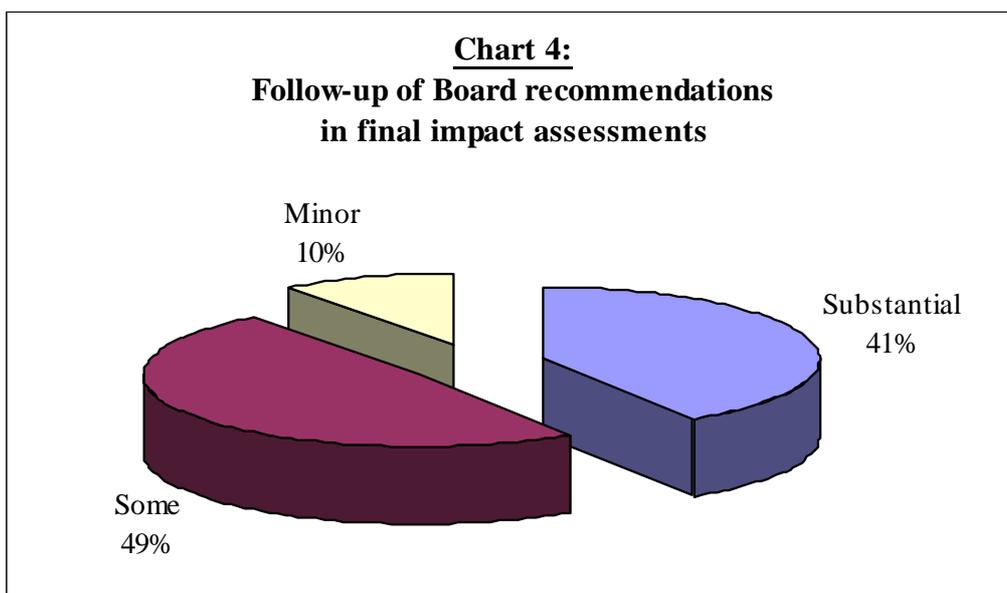
Proposal on financing of aviation security – given that it was not possible to justify the action at EU level, DG TREN dropped one element of the preferred option – an obligatory ‘one-stop’ security point.

Proposal on civil aviation accidents – following the discussion with the Board, DG TREN reassessed the policy options and identified an alternative preferred option – ‘European network of safety investigation authorities’ – that would achieve the policy objectives in a more proportionate and efficient manner than the creation of a European Coordinator, as originally proposed.

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<sup>16</sup> [http://ec.europa.eu/governance/impact/iab/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab/iab_en.htm). In exceptional cases, and only on the grounds provided for in Regulation 2001/1049 regarding public access to documents, a Commission service may request that Board's opinion should not be published on the external website, in which case the Board decides on the matter. In 2008 and 2009 no such requests were received.

<sup>17</sup> In 2009 the Board's secretariat has strengthened the analysis of follow-up of impact assessments of all adopted proposals (sample of 50). Therefore the data is not strictly comparable for similar analysis provided in Board's 2007 and 2008 reports (in 2008 the random sample of only 18 impact assessments was assessed and the 2007 analysis, while indeed covering about all impact assessments, used less stringent criteria for the assessment).



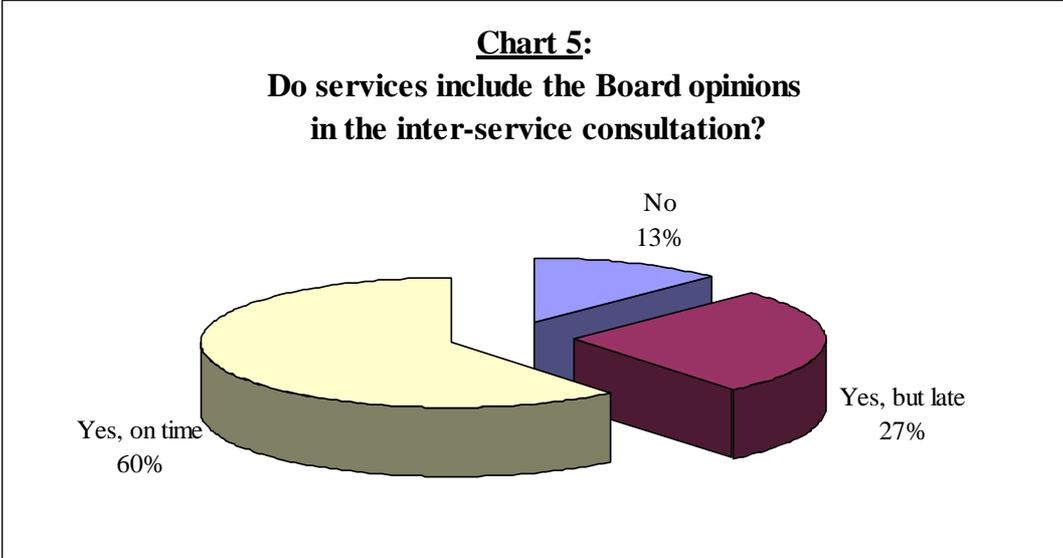
In its 2008 report the Board noted that the main reason for incomplete follow-up to its recommendations was poor planning. The 2009 Guidelines therefore introduced new planning provisions. Commission services should now allow for eight weeks (previously four weeks) between the submission of the impact assessment to the Board and the launch of the inter-service consultation. This timing was followed in about 55% of cases and it seems to have allowed for a somewhat higher proportion of final impact assessments with substantial changes.

However, there are still cases where inadequate planning and the resulting time pressure seem to have an impact on the level of follow-up. The Board observed the following issues with regard to planning:

- a) Before the Board examination – late submissions. In 2009 60% of the impact assessment reports were submitted late to the Board (less than four weeks before the discussion with the Board) and only 40% were submitted on time (at least four weeks before the discussion).
- b) After the Board examination – inter-service consultations launched before the Board had finished its examination and unsatisfactory follow-up of Board recommendations in the final impact assessments.

While in 2008 the Board's opinion was part of the inter-service consultation process in 80% of cases, in 2009 this ratio increased to around 90% (see Chart 5 below). There are, however, still issues related to timing: in 27% of cases the Board's opinion was added late to the inter-service consultation file, and in some cases it was not added at all.

The institutional changes that took place in 2009 – a new European Parliament and transition to a new Commission – and the economic and financial crisis clearly had an impact on the rhythm of the Commission's work and on planning. The Board would nevertheless welcome further efforts by Commission services to improve planning, and stronger enforcement by the Secretariat General of the Commission that inter-service consultations should not be launched before the Board has provided its final opinion. Finally, the Board would welcome greater awareness from the other EU institutions, in particular from Council Presidencies, of the importance of allowing sufficient time for the underlying analysis when suggesting timetables for planned Commission initiatives.



While the aim of the Commission's impact assessment system is primarily to improve decision-making within the institution, the impact assessments and Board opinions are made public and can play a role in the European Parliament's and the Council's discussions on policies.

**3.5. Impact assessments as part of the Commission's working culture**

The Board's 2008 report identified the need to improve the quality of impact assessments before they are sent to the Board. It recommended a strengthened role for impact assessment support units in the services and for impact assessment steering groups. In light of this the Board welcomes the following developments.

#### *a) Impact assessment support in Commission services*

Most services have impact assessment support units, and many have developed training programs and internal guidance for specific policy areas.

#### **Box 4 – Examples of initiatives taken to strengthen the impact assessment culture in services:**

Many services provide internal training courses (EAC, EMPL, ENV, INFSO, MARE, MARKT, SANCO, TREN) and have developed internal impact assessment guidance (EMPL, ENTR, ENV, JLS, MARE, MARKT, SANCO, TRADE). DG ENTR organised in 2009 an information event for management on the approach to impact assessment.

In DGs EAC, EMPL, ENV and JLS the impact assessment report must be validated by the support unit before it can be signed off by the Director General and submitted to the Board. DG RTD has an internal quality control committee. DGs ENTR, MARKT and TREN have conducted an internal audit on the application of the impact assessment approach.

Some DGs (e.g. EMPL, ENTR, ENV, INFSO, JLS and MARKT) have framework contracts for the provision of external services to support impact assessment work. In DG EMPL this contract can also be used by other services to help them carry out the analysis of social and employment impacts.

#### *b) Impact Assessment Working Group*

The Impact Assessment Working Group is a thematic network of officials who contribute to the development of the Commission's impact assessment work. Around 30 representatives of all relevant services participate in its work. In 2009 the Working Group met three times, and discussed topics such as the assessment of administrative burdens, social impacts and the analysis of impacts on SMEs.

#### *c) Impact assessment steering groups*

Impact assessment steering groups bring together representatives of all Commission services with a potential interest in an initiative to work on developing the impact assessment. Steering groups are the main vehicles for inter-service information sharing, support and transfer of know-how on horizontal issues (such as SME and consumer impacts or impacts on internal market and fundamental rights). When the Board started its activities in 2007, only about half of all impact assessments were supported by steering groups. They were made compulsory by the 2009 Guidelines and have now become a general practice. According to the 2009 Guidelines, services now have to include the minutes of the last steering group meeting that discussed the draft impact assessment report in the dossier they submit to the Board.

#### *d) Training*

The Commission offers general introductory impact assessment training to new officials (in 2009 around 200 participants), advanced impact assessment seminars for practitioners (110 participants), and specialist seminars on specific issues such as consultation, assessing administrative costs, economic modelling, monitoring and evaluation and sensitivity analysis (95 participants in 2009). In addition some services organise their own internal training courses, as indicated in Box 4 above.

#### 4. RECOMMENDATIONS FROM THE 2008 REPORT

In its report for 2008 the Board suggested several changes and improvements targeted at the Commission services, the Board's own work, and the impact assessment system. A stocktaking of these recommendations leads to the following overview:

Recommendation	Progress
Strengthen the role of impact assessment support units	The Commission services have taken several measures in this respect and the Board has recognised the improvement, as described in Section 3.5.
Return sub-standard or exceedingly long impact assessments without issuing an opinion	In 2009 all impact assessments were of a sufficient standard to be considered by the Board. The Board returned one excessively long impact assessment.
Improve planning to avoid time squeezes both in the submission of documents to the Board and in the follow-up to the Board's opinions	The 2009 Guidelines changed the deadline for submitting impact assessments to the Board: there should be at least eight weeks between the submission and the launch of inter-service consultation (previously four weeks) and four weeks between the submission and the planned meeting with the Board. However, in 2009 still only about 40% of the impact assessment reports were submitted on time. The Board therefore recommends that services make further efforts to allow sufficient time for the Board examination as well as for the proper follow-up of its recommendations.
Avoid launching inter-service consultations before the Board has concluded its examination	The Secretariat-General of the Commission has checked more closely that the impact assessment and the Board's opinions are part of the inter-service consultation file. However, in 27% of cases it still happened that services did not include the Board opinion on time and in 13% of cases it was not included in the inter-service consultation at all. The Board would welcome more robust planning by Commission services and further scrutiny by the Secretariat-General. The Board also encourages all services to use its opinions and impact assessment reports more actively in the inter-service consultation process.
Ensure that impact assessments and the corresponding opinion(s) are added to the Europa website immediately after adoption	The Board secretariat ensures the upload of impact assessment documents within a week of the adoption of the corresponding proposal by the Commission.
Ensure that impact assessments fully cover the issues addressed in the corresponding policy proposal	During the inter-service consultation the Secretariat-General of the Commission verifies that the analysis provided in the impact assessment report covers all aspects of the respective Commission proposal. The 2009 Guidelines introduced an explicit requirement that if significant changes to the objectives, options or conclusions of the impact assessment are introduced following its examination by the Board, the author service should resubmit it to the Board for another examination.

## 5. CONCLUSIONS AND NEXT STEPS

Since the system was launched in 2003, impact assessment within the Commission has evolved considerably in many ways, such as the scope of application and quality of analysis. In its three years of operations the Board has scrutinised more than 300 impact assessments and observed how the impact assessment approach has gradually become an integral part of the Commission's policy development process. The Board considers that in general a significant change has taken place in terms of the evidence on which policy is based, stakeholder involvement and overall transparency. The Commission impact assessment system has all the elements in place to be effective. The main challenge is now to apply this system consistently across the Commission services to ensure a high quality for individual impact assessments across the board.

Against this background, in 2010 the Board will give particular attention to the following issues:

- Better planning and follow up of the Board's recommendations

The Board reiterates the priorities from its 2008 report: the Commission 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<sup>18</sup>. Services should allow sufficient time for the Board to examine the impact assessments, and to incorporate the recommendations it makes. In addition, as from 2010 the Board will require services to provide a more detailed explanation of how they have dealt with each of its recommendations in the final impact assessment report.

- Assessment of social and employment impacts

The Board encourages the services to improve the assessment of social impacts in line with the commitments made by President Barroso in the plenary session of the European Parliament in September 2009. In this context, the Board welcomes the new Guidance for Assessing Social and Employment Impacts provided by DGs EMPL and SANCO<sup>19</sup>.

- Assessment of administrative burdens

Commission services should pay close attention to the need to improve the analysis of administrative burdens. The Board welcomes the decision to include the administrative burdens responsibility in the overall framework of better regulation under the direct authority of the President and would welcome the further development of a help-desk function to assist in the assessment of administrative burdens, including the use of the Standard Cost Model.

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<sup>18</sup> It should be noted that time squeezes are not always the result of poor planning by services 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.

<sup>19</sup> <http://ec.europa.eu/social/main.jsp?catId=760&langId=en&preview=cHJldmld0VtcGxQb3J0YWw>

- Monitoring and ex post evaluation

In line with the priority which President Barroso has given in his political guidelines to improving the *ex post* evaluation of the Commission's policy initiatives, the Board (i) will reinforce the verification of whether available *ex post* evaluation information is used in an appropriate manner to focus and strengthen the analysis in the impact assessments and (ii) encourages services to strengthen the way in which impact assessments set out a framework for future monitoring and evaluation.

- Transparency of the impact assessment system

While the Board welcomes the specific requirements for the contents of the executive summaries laid out in the 2009 Guidelines, it would welcome a reflection on how services could further improve the presentation of the executive summaries, for instance by using a standardised template.

- Data availability

Given that sound data and a robust evidence base are crucial for a good quality impact assessment, the Board encourages the Commission services to explore whether practical ways exist to improve data availability; and more generally, how to encourage Member State authorities to be more active in providing necessary information.

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

The President of the Commission created the Board on 14 November 2006<sup>20</sup>. In doing so, he delivered on the commitment he made to the European Parliament 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, in a personal capacity, from the Commission services with the most direct expertise in the three dimensions (economic, social and environmental) of integrated impact assessment. 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 Commission service 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 Commission services to make the improvements to the impact assessments that the Board recommends.

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<sup>20</sup> Information note from the President to the Commission: "Enhancing quality support and control for Commission Impact Assessments - The Impact Assessment Board". See also: [http://ec.europa.eu/governance/impact/iab/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab/iab_en.htm).

### *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 four 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. This contains a detailed analysis of the impact assessment on all key elements required by 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 usually held every other week, and 50 minutes is typically 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 usually focuses on the three key issues which have been raised in the quality checklist or during the meeting, and lists recommendations for improvements in the order of importance. If the Board concludes that the draft impact assessment needs substantial improvements, the author service should submit a revised version. The Board issues a second opinion on this revised text. 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 further 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 and their services cannot give them instructions on the position to take. 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>21</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 service. In 2009, Board Members declared a conflict of interest in five cases and abstained from the discussions on these impact assessments. 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.

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<sup>21</sup> Rules of Procedure of the Impact Assessment Board, Art. 3(2); available at: [http://ec.europa.eu/governance/impact/iab/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab/iab_en.htm)

### *Resources of the Board*

The Board is supported in its work by a secretariat 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 about 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 work and studies to be commissioned in its quality support function.

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 necessary. However, this is difficult in practice: the short lead-time between submission of the impact assessment and discussion of the impact assessment 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 2009, the Board asked for the opinion of the Commission's Legal Service for a case on access to EURODAC for law enforcement authorities. The Board referred to the expert's contribution in its opinion.

**Annex 2: Commission services: Official titles and abbreviations**

<b>Full name</b>	<b>Letter code</b>
Secretariat-General	SG
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 Information Society and Media	INFSO
Directorate-General for Maritime Affairs and Fisheries	MARE
Directorate-General for 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
Joint Research Centre	JRC