

# Evaluation of EU impact assessments

Tom Ferris examines the external consultancy study on EU impact assessments recently published by the European Commission

The European Commission recently published a very useful external evaluation of EU experiences to date with impact assessments. The EU uses impact assessments to help in structuring and developing policies for the European Union (see Box 1). A British consultancy firm, the Evaluation Partnership Limited, undertook this recent evaluation of EU impact assessments. It takes stock of the progress made on impact assessments and explores ways of improving and refining the system. It recognizes that new tools and processes are not introduced overnight, and building up the necessary capacity to use them effectively takes time. Therefore, this evaluation is very much an 'interim' evaluation. It comes too early to make any final judgments about the success or failure of the system, but focuses instead on identifying general trends in terms of the direction in which the system is moving.

## An evolving assessment system

Evaluation Partnership charts the many changes that have taken place in the European Commission's assessment system in recent years. When introduced in 2003, all items included in the EU's Legislative and Work Programme were required to undergo a preliminary impact assessment. Based on the outcome of such assessments, the European Commission then decided whether an extended impact assessment was necessary. Following an exercise in 2004 to take stock of early experiences with the system, a number of aspects were revised in 2005.

The 2005 revisions led to the abolition of the distinction between preliminary impact assessments and extended impact assessments. Instead, the concept of Roadmaps was introduced. This requires the commission to publish its plans for carrying-out assessments, including setting-out the policy options, expected impact assessment work and the consultation timetable. In addition to Roadmaps, it should be noted that full impact assessments are now required for all items in the EU's Legislative and Work Programme. The depth and scope of such assessments is to be determined by the likely impacts of the proposed action.

New guidelines were published in June 2005; these provided enhanced guidance on the procedural rules and analytical steps in the assessments. Since then, there have been a number of additional changes, including



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a further update of the guidelines in March 2006 to introduce new requirements, designed to clarify the roles of the three EU Institutions with regard to assessment. Most recently, in November 2006 the commission established an Impact Assessment Board, which primarily has a quality control and support function. The board is to function independently, with members, who are commission officials at director level, acting in a personal, expert capacity.

## Wide consultation

Evaluation Partnership consulted widely in undertaking their evaluation for the European Commission. Thirty-one detailed evaluation questions were addressed in the evaluation. The evaluation started in August 2006 and was completed in March of 2007. It covered the development of the commission's impact assessment system from its inception in 2002 until 2006, with an emphasis on the period after the adoption of the revised and updated guidelines of June 2005 and March 2006.

The methodology used for the evaluation was based on an examination of the general assessment system and individual assessments. The main approach to gathering information on the assessment system involved holding over 100 structured

## the European Commission undertakes impact assessments

The European Commission's impact assessments are designed to help in structuring and developing policies for the European Union. They identify and assess the problems at stake and the objectives to be pursued. They help to identify the main options for achieving the objectives and analyse their likely impacts in the economic, environmental and social fields. Moreover, they outline advantages and disadvantages of each option and examine possible synergies and trade-offs.

An impact assessment consists of a set of logical steps to help structure the preparation of commission proposals. By testing the need for intervention at the ELF; Stevel and by examining the potential impacts of a range of policy options, it should lead to improvements and simplification of the regulatory environment.

interviews with representatives from the main EU Institutions, member states, and other interested parties. In addition, two online surveys and a formal information request to assist support functions in the relevant commission services were conducted. As regards individual assessments, the consultants screened more than 150 impact assessment reports, as produced between June 2003 and September 2006, in order to obtain quantitative baseline information. Based on this, a representative sample of 20 impact assessments was chosen for an in-depth quality assessment. Finally, six assessments were selected as case studies, which included a round of interviews with commission officials, who were involved in the development of the impact assessment, stakeholders who participated in consultations, and representatives of the European Parliament and Council who were involved in the legislative or policy process. On foot of their work, the consultants produced recommendations to ensure improvements in the European Commission's impact assessment system. They are set-out in Box 2. They are based on the objectives set out in relevant commission documents, and on the information gathered throughout the evaluation. This also includes feedback from interested parties both inside and outside of the commission.

## Improving the quality of assessments

The consultants provide some very interesting evidence, to support the need to improve the quality of assessments, in their 142 page report. Space only allows some flavour to be included in this article. Much of what the consultants have to say involves common sense. They say, for example, that there should not be regulation just for the sake of regulation. In general, they concluded that the more assessments are understood and conducted as a genuine, objective and open analytical exercise, the higher their potential to lead to better-informed and therefore higher-quality proposals. As regards improving the quality of assessment, the consultants advised that commission officials 'do their homework' in a systematic, coherent and transparent manner, in order to ensure a more evidence-based, analytical and integrated approach to policy design.

As indicated, the consultants examined twenty assessments in depth. Generally, they found that the extent to which assessments achieved their objective of improving the quality of commission proposals varied considerably from one assessment to the next. Assessments on legislative proposals, or on 'action plan' type non-legislative proposals, tended to be more thorough in the assessment

of different options, more balanced, and of higher overall quality than assessments on other non-legislative proposals or spending programmes. While many were developed in a thorough, analytical and open process, others were written in a way that made it unlikely that they would have a positive effect on the quality of the proposal. The evaluation assessed numerous aspects and factors related to the approach, process and quality of the assessment reports. Some of the most relevant conclusions include:

- Approximately half of the assessments examined identified, analysed and compared the most relevant policy options in a way that was judged fully proportionate. The remainder showed some deficiencies, often analysing only the preferred option in detail.
- The commission's approach to the assessments was found to be balanced. However, the analysis of economic impacts was often more developed and concrete than the analysis of social or environmental impacts.
- When organised and managed openly and effectively, the participation in the assessment processes of both external stakeholders and different commission services contributed to improving the quality and balance of assessments. However, the openness has often been limited by a somewhat narrow and inflexible approach to consultation and co-ordination, or a lack of time or resources.

### Having better decision-making

The consultants emphasise that policy makers should find impact assessments helpful in their decision-making. That means they should be provided with relevant and comprehensive information on the rationale behind proposed interventions, and their likely impacts. It also means they should be able to easily assess trade-offs and compare different scenarios when deciding on a specific course of action. Some of the interviews carried out suggest that assessments to date have not always provided that assistance. While some interviewees were quite positive, others were very sceptical about the usefulness of assessments as an aid to decision-making. The main problem reported in the interviews was that assessments were not seen as objective, i.e. written only to justify a policy option that was chosen independently of assessments. This has led to the assessment process being undermined as a decision-making tool. A typical reaction from interviewees was that the vast majority of impact assessments failed to meet their expectations, and that with very few exceptions, the commission's impact assessments were not found to be an effective aid to decision-making.

Out of the six impact assessments that were examined as case studies, three clearly played no role in the decision-making process. The remaining three (all on legislative or 'action plan' type proposals) were considered to play such a role to a somewhat greater extent. Only one of

them (which was very detailed and based on a thorough and far-ranging quantitative analysis) was found to have been genuinely useful as a basis for a better informed decision. The consultants concluded that a much greater effort is needed to ensure that future assessments are done in a systematic, coherent and transparent way, in order to ensure a more evidence-based, analytical and integrated approach to the process. In this way, confidence in the process will be bolstered and objectivity demonstrated. The quality of assessments can be best assured if sufficient tools, expertise, time and resources are devoted to the process, and if there is good consultation with internal and external stakeholders. The consultants emphasise the importance of having consultation at an early stage. If stakeholders are not consulted until proposals are at an advanced stage, there is a clear risk that their input cannot be taken effectively into account, and that any suggestions for more fundamental changes to the approach of the proposal may fall on 'deaf ears'.

### Avoiding blanket coverage

The consultants address the issue of the number and range of assessments. There is no one-size-fits-all formula, which can be

#### Consultants' recommendations for improved impact assessments at EU level

1. Improve the quality of commission proposals, in particular by
  - Facilitating a more systematic, coherent, analytical, open, and evidence-based approach to policy design;
  - Providing a thorough, balanced and comprehensive analysis of likely social, economic and environmental impacts.
2. Provide an effective aid to decision-making, in particular by
  - Providing policy makers with Relevant and comprehensive information on the rationale behind proposed interventions, and their likely impacts;
  - Enabling policy makers to assess trade-offs and compare different scenarios when deciding on a specific course of action.
3. Serve as a valuable communication tool, in particular by
  - Fostering internal communication and ensuring early and effective co-ordination within the commission;
  - Enhancing external communication by making the policy development process more open and transparent to external stakeholders.

Ultimately, the achievement of these key objectives should contribute to a better, simpler and more consistent regulatory environment that helps the EU to meet the objectives of the Lisbon and Sustainable Development Strategies.

applied. And so the consultants argue that the commission might decide to reduce the number of assessments that are conducted by limiting the scope of application to those proposals that are likely to have the most significant economic, environmental or social impacts. One solution would be to make assessments mandatory only for all legislative proposals. For non-legislative proposals, the new Impact Assessment Board, acting upon the Secretariat General's advice, could determine those items for which commission departments need to carry out assessments. The board could also decide to advise the commission to define broad categories - or prototypes - of assessments, rather than having a blanket coverage for all issues falling under the assessment system.

The consultants also suggest that "scoping papers" might be developed for all major initiatives. These papers would be produced in advance of full impact assessments. They would show what the requirements for a full impact assessment would involve, e.g. the rationale, different policy alternatives and their likely impacts. In Ireland, there is a similar two-tiered approach in the case of Regulatory Impact Analysis (RIA), with Screening RIAs and Full RIAs. Regulations of relatively low impact undergo a Screening RIA, which is a preliminary less detailed analysis. More significant regulations are subject to Full RIAs consisting of a more extensive and rigorous analysis.

### Conclusion

Some might argue that the Evaluation Partnership's evaluation is premature, given that the commission's impact assessment system was only introduced in 2003, and that a number of changes have been made in the meantime. The reality is that there is already a wide-range of experience to be drawn from over 200 impact assessments already completed at EU level. That is an opportunity that should not be missed. The sooner lessons can be learned as to what success factors can be applied (and shortcomings avoided) in new assessments, the better the assessment system can perform. As the European Commissioner for the Internal Market, Charlie McCreevy, pointed out to the Public Affairs Ireland Conference in July, the consultants' recommendations should help the commission to improve the system further. He went on to say that the commission would be acting swiftly and that there would be changes to the impact assessment system beginning in the autumn. It would be important that any changes focus on better co-ordination, and the support and quality control systems, so that the internal and external credibility of the impact assessment system is strengthened. It is a worthwhile tool. It is important that impact assessments are well applied thereby helping to produce good policy decisions.

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