

**Questions following the Contribution adopted by the XXXIV COSAC
on 11 October 2005 (OJ C 322 2005)**

Better regulation: Impact assessments

- 1) *COSAC welcomed the better regulation initiative and called on the Commission to produce an integrated impact assessment for all major initiatives in its work programme, as proposed on page 5 of the Communication, "Better Regulation for Growth and Jobs in the European Union" (COM(2005) 97 final).*

How many work programme initiatives did the Commission adopt in the period 1 November 2005 to 28 February 2006? How many of these initiatives were accompanied by an integrated impact assessment?

In the period between 1 November 2005 and 28 February 2006, 32 Work Programme items were adopted. 23 of these items were accompanied by Impact Assessment Reports. The remaining 8 items did not have the requirement for an IA e.g. Green Papers, periodic reports, etc.

- 2) *COSAC called on the Commission to produce one-page summaries of all its impact assessments to assist in understanding of the material quickly and efficiently; to translate these summaries into all the official Community languages; and to send them directly to the national parliaments without delay.*

Has the Commission taken steps to start producing one-page summaries of its impact assessments?

The revised internal Guidelines for Impact Assessment, which were endorsed by the Commission on 15 June 2005, introduced a standard reporting format for impact assessments which includes the requirement to produce a one-page Executive Summary of the impact assessment.

- 3) *COSAC called on the Commission to send all impact assessments and roadmaps directly to national parliaments and to publish its impact assessments and roadmaps in all the official Community languages.*

Has the Commission sent any impact assessments or roadmaps directly to national parliaments? What proportion of its impact assessments does the Commission translate into all the official Community languages?

Although the Commission's impact assessments are prepared as an aid to the internal political decision-making process within the Commission, to enhance transparency and accountability, the decision was taken to make all completed impact assessments publicly available and to send these to the Council and European Parliament together with the Commission proposal. It is the responsibility of the Member State governments to forward these impact assessments to the national parliaments in line with their respective scrutiny arrangements.

As stated above, since Commission impact assessments are primarily designed to inform the internal political decision-making process, they have the status of Commission Staff Working Documents. This means that there is no requirement for them to be translated from the original drafting language, which is usually English. Given the current pressures on the translation capacity in the Commission – where a set of transitional rules are in place to respond to these

pressures - the Commission is not in a position to translate the impact assessments.

- 4) *COSAC called on the EU institutions and Member States to develop a common approach to assessing administrative costs.*

What steps has the Commission taken to develop a common approach to assessing administrative costs?

In its Communication of March 2005 on Better Regulation for Growth and Jobs¹, the Commission announced its intention to examine if a common approach could be developed for assessing administrative costs associated with existing and proposed Community legislation. A prototype approach called "EU net administrative cost model" was outlined in the Staff Working Document annexed to the Communication² and put to the test from April to September. At the end of that pilot phase, the Commission concluded that a common approach at EU level was feasible and would have a clear added value. The prototype was revised on the basis of the pilot phase findings and the best practices at Member State level.

The methodology validated by the pilot phase (common definition, common core equation and common reporting sheet) was presented in a Communication adopted on 21 October 2005³. The Communication announced the inclusion of that methodology in its impact assessment guidelines and evaluation guidelines⁴. The Commission also declared its longer term intention to explore whether the proposed EU common methodology could be used to assess cumulative administrative burden at sectoral level⁵.

The Council was invited to reach an agreement with the Commission on a common methodology, in line with the European Council conclusions of March 2005 requesting the Commission and the Council to do so before the end of 2005.

An operational manual for applying the model has been drafted and included in the IA guidelines as of 15 March 2006. The Commission started the optimisation of the methodology with the help of the Member States (Standard Cost Model Steering Group). By end of March, it will set a virtual network of experts through SINAPSE, a web-platform for the collection of expertise. This will prepare the ground for the work of the High level group of national experts on better regulation, set up to advise the Commission on this issue and others. This for instance should result in agreement on standard ratios for overheads.

¹ COM(2005)97, 16 March 2005.

² SEC(2005)1329.

³ Communication on an EU common methodology for assessing administrative costs imposed by legislation (COM(2005)518, accompanied by Commission Staff Working Document SEC(2005)1329 *Outline of the proposed EU common methodology and Report on the Pilot Phase (April– September 2005)*.

⁴ The Communication specified that actual implementation and use of the methodology will be "subject to (a) the principle of proportionate analysis (the Commission retaining responsibility for judging the costs of its proposals); (b) the availability of sufficient, reliable and representative data, compatible with the EU common methodology; and (c) the availability of an adequate level of staffing and financial resources".

⁵ In the Annual Progress Report on the Lisbon strategy adopted in January 2006, the Commission announced that it will launch "a major exercise to measure the administrative cost arising from Community rules (or the way in which they have been implemented) in specific policy areas as part of the ongoing work on legislative simplification, with a special emphasis on SMEs" (COM(2006)30, 25 January 2006).

Moreover the Commission is identifying impact assessments and evaluations to be launched in 2006 and concerning measures with significant administrative costs.

DG ENTR will launch a pilot project to test the model when applied to a number of related acts (assessing cumulative burden put on a sector). More has been promised in the October 2005 COM and in the January 2006 Annual Progress Report on Lisbon.

The Commission's internet site has been updated to provide the manual, reporting sheet and useful links to apply the methodology. This should facilitate pick-up at national and subnational level
http://www.europa.eu.int/comm/secretariat_general/impact/docs_en.htm.

Despite the March 2005 European Council's request that Commission and Council agree on a common methodology before the end of 2005, the Council has neither accepted the Commission's proposed model, nor offered to discuss possible amendments. The Commission has reiterated its invitation at different levels.

As for Member States, the Commission's January 2006 Annual Progress Report on Lisbon provides that "in order to cut red tape and simplify administrative procedures, by the end of 2007" Member States should "adopt and implement a methodology for measuring administrative costs (for national rules and regulations)." Contacts are taken with national and subnational authorities to invite them to use the model or develop models compatible with it. This should be relatively easy for these authorities insofar as the model developed by the Commission has been designed for use at EU and Member State level.

- 5) *COSAC requested that under the co-decision procedure the Commission update its impact assessments following first reading in the European Parliament, a common position from the Council and second reading in the European Parliament and before the meeting of a conciliation committee.*

Has the Commission updated any of its impact assessments as its proposals have moved through the co-decision procedure?

Again it is important to recall that Commission impact assessments are prepared first and foremost as an aid to political decision-making in the Commission itself. However, the Commission may choose to update its original impact assessment in the light of new or previously unavailable information. It is for the Council and the European Parliament to carry out impact assessments on substantive amendments to the Commission's proposal. The Commission retains the right to carry out impact assessments on such amendments if it believes it to be necessary. Co-ordinating the work on impact assessments across the three EU Institutions was the subject of a Common Approach to Impact Assessment, agreed by all three Institutions in December 2005⁶. This follows up on the Inter-Institutional Agreement on Better Lawmaking of December 2003 and sets out certain 'traffic rules' on how impact assessment should be handled throughout the legislative process.

- 6) *COSAC stresses the need for impact assessments to be objective.*

⁶ It has still to receive formal endorsement by the European Parliament's Conference of Presidents.

How does the Commission ensure that its impact assessments are objective? Is this an issue that will be covered in the independent evaluation of the impact assessment system?

There are many 'checks and balances' in the Commission's approach to impact assessment which help to ensure that the analysis is rigorous and comprehensive, including the requirement to establish inter-service steering groups for all impact assessments with a cross-cutting dimension. The early publication of the impact assessment Roadmaps allows stakeholders to see the work already undertaken and planned for the impact assessment, and to prepare their input and relevant data for the integral stakeholder consultation. The Impact Assessment guidelines make it clear that Commission services preparing an impact assessment are required to consider data from a wide range of sources. There are separate guidelines for the collection and use of expert advice which apply also in the preparation of impact assessments. In line with the commitment set out in the March 2005 Communication *Better Regulation for Growth and Jobs in the EU*, the Commission is establishing an e-network of scientific and technical experts who can be called upon to give objective advice in the preparation of Commission impact assessments. It is also important not to underestimate the impact that the publication of the completed impact assessment can have in terms of ensuring that the data and analysis used in its preparation is objective and robust.

An independent evaluation is being launched and will examine the Commission's impact assessment system and is likely to offer options for further enhancement. This may cover questions relating to the organisational set-up for the implementation of the impact assessment system.

- 7) *COSAC called on the Commission to focus its impact assessments on the three elements of the Lisbon Strategy, that is, the economic, social and environmental impacts.*

How do the Commission's impact assessment guidelines ensure that impact assessments focus on the three elements of the Lisbon Strategy?

The Commission approach is an integrated one, which means that impact assessments need to consider the positive/negative and direct/indirect impacts of a range of policy options across the social, economic and environmental dimensions. To help Commission services in preparing a balanced assessment across these three dimensions, the impact assessment guidelines include tables of impacts (one each for each dimension) which indicate a wide range of potential impact areas that ought to be examined as part of the impact assessment. In addition, each impact assessment which has a cross-cutting dimension, which in practice means most impact assessments, must be steered by an inter-service steering group whose membership is normally drawn from a wide range of Commission services. This helps to ensure that all three dimensions are considered as part of the impact assessment.

- 8) *COSAC requested the Commission to produce impact assessments for those legislative proposals that it proposes to withdraw.*

Has the Commission produced impact assessments for those legislative proposals that it proposes to withdraw?

No, the Commission has not carried out new impact assessments on the proposals it is withdrawing as a result of the recent exercise of screening proposals pending before the legislature since before 1 January 2004. However, consideration of the pending proposals' potential impact on EU competitiveness

was a central element in the process of screening and was based on assessments and evidence made available in the course of the inter-institutional negotiations or by stakeholders. If a decision is taken to modify and re-present any of the proposals which are to be withdrawn, then they will be subject to normal impact assessment requirements.

- 9) *COSAC called on the Commission to create a public database to include all the proposals in the annual legislative and work programme, with links to their impact assessments and roadmaps.*

Has the Commission taken any steps to establish such a database?

The proposals in the Commission's legislative and work programme, together with the Roadmaps and, when completed, the impact assessment report and policy document, can all be found on the Commission's impact assessment web pages on the Europa website. See:

http://europa.eu.int/comm/secretariat_general/impact/practice_en.htm