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EUROPEAN COMMISSION

Regulatory Scrutiny Board

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Regulatory Scrutiny Board

The Regulatory Scrutiny Board



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FOREWORD BY THE CHAIR

The Regulatory Scrutiny Board (RSB) is now in place, and I am pleased to report on our first year of operation.

The Board did not start from scratch. It builds on the practices and procedures developed by its predecessor, the Impact Assessment Board (IAB), which was set up in 2006. For almost a decade, the Impact Assessment Board enforced high quality standards for the impact assessments underpinning Commission proposals, earning the Commission excellent ratings in the 2015 OECD Regulatory Policy Outlook.

The Juncker Commission wants to achieve still more in better regulation. To this end, it established the RSB in 2015 with reinforced independence and enhanced responsibilities. The Board is now staffed by full-time members, some recruited from outside the Commission, and all appointed for terms of three years. Compared to the IAB, the new RSB has a broader mandate that includes examining the quality of “major” evaluations and fitness checks of existing legislation.

Phasing in the RSB did not happen overnight. Five “interim” members of the IAB continued to serve on the Board until mid-2016. The interim members made possible a smooth transition: they helped keep pace with the delivery of the 10 priorities of the Juncker Commission and shared their knowledge and experience with the new members. Special thanks go to each of these five members for their active support.

The achievements of this year owe a lot to the support provided by the Secretariat of the Board, made available by the Commission’s Secretariat-General. The contributions of the Board’s Secretary and her staff have consistently been excellent and often beyond the call of duty. Thanks also to our administrative assistants, who managed to keep the wheels turning all year.

There is plenty to reflect on as the Board enters its second year of operation. Procedures have evolved in light of experience gained in 2016. It is clear that the May 2015 better regulation package is delivering tangible improvements, notably through a better feedback loop of evaluations into policy-making and more systematic consultations of stakeholders. Evaluations still need to improve with regard to delivering lessons relevant for future political decisions. Progress here needs to be monitored, and criteria for the Board to exercise its quality control mandate need to be refined. In 2017 the Board will be developing its advisory function. It will also engage in regular exchanges of views and ideas with the European institutions, Member States and review bodies at the national level. The Board will listen to stakeholders and seek advice from academia on state-of-the-art approaches. I hope that this report will be a useful starting point for these exchanges.

Anne Bucher

SUMMARY

The Regulatory Scrutiny Board is now operational. It examines the quality of all impact assessments, major evaluations and fitness checks of existing legislation. It issues opinions on drafts of the related reports.

Chapter 1 introduces the Board in its new format, explains its mandate and its approach. It describes the process of regulatory scrutiny at the European Commission, and how the Board goes about its work. It also explains exactly where the Board fits into the better regulation framework, and what happens both upstream and downstream of the Board. Finally, this chapter presents the Board's outreach strategy.

Chapter 2 accounts for the work of the Board in 2016. In the second year of this Commission, a large volume of legislative proposals has moved through the system. Often this has been in the form of packages of legislation, aimed at delivering on this Commission's 10 priorities.

The Board issued opinions on 60 impact assessments in 2016. About two in five were negative the first time around, a steady rate compared to previous years. The Board also formally considered 7 evaluations and read 15 more that were annexed to impact assessments. The Board did not issue positive or negative summary ratings on evaluations, but will do so starting in 2017.

Chapter 3 considers some evolving practices. It makes broad and cross-cutting observations, drawing on the Board's work over the year. In particular, it provides a closer look at three topics that have characterised the Board's work in 2016. First, the Commission's approach with packages of related policy measures has yielded benefits, and this is illustrated with the example of the Energy Union. Second, the practice of stakeholder consultations has strengthened the process. Finally, experience with REFIT is leading to improved quantification, as illustrated by an example on taxation.

A conclusions section points the direction that the Board anticipates pursuing in 2017.

CHAPTER 1. How does the Regulatory Scrutiny Board work?

The Juncker Commission has committed to putting better regulation principles at the heart of its policy-making processes. Policies are to deliver better results for citizens, businesses and public authorities. Part of delivering on this commitment has been to strengthen internal quality control. To this end, the Commission established the Regulatory Scrutiny Board as an independent body with wider autonomy and responsibilities than its predecessor.

1.1. Independent and transparent

- A seven-member Board...** The Regulatory Scrutiny Board (RSB or Board) is an independent body within the Commission. It comprises a Chair and six regular members. All seven are appointed by the Commission on the basis of their expertise, to serve on the Board full time, on three-year non-renewable terms. The Chair and three regular members come from within the Commission. The three remaining members are recruited from outside the Commission.
- ...with a mix of internal and external members...**
- ...operates independently...** The Board acts independently and prepares its opinions autonomously. It does not seek or take instructions from within the Commission, nor from any other national or EU institution, body, office or agency. All Board members act in their personal capacity. They share collective responsibility for the decisions of the Board.
- ...and transparently.** The Board's rules of procedure cover the RSB mandate and proceedings. They define such issues as rules of independence and related ethics provisions; the scope of the mandate, which now includes major evaluations in addition to impact assessments; and protocols for communication, transparency and outreach activities¹. The Board publishes its opinions on the Commission's website² at the same time as the corresponding evaluation or impact assessment is published. It also intends to publish a list of all the draft reports that it has considered.
- The Board is helped by a Secretariat.** A Secretary to the RSB and a small team from the European Commission's Secretariat-General (SG) support the activities of the Board. This includes analytical and administrative support, such as planning and preparation of Board meetings, interactions with the services and associated follow-up.

¹ The rules of procedure are available at http://ec.europa.eu/info/files/regulatory-scrutiny-board-rules-procedure_en

² Board opinions on impact assessments are available on <http://ec.europa.eu/transparency/regdoc?fuseaction=ia> and on evaluations. on http://ec.europa.eu/info/regulatory-scrutiny-board-opinions-evaluations-and-fitness-checks_en

1.2. Board mandate and the meaning of regulatory scrutiny

The Board does quality control...

...on impact assessments...

...and evaluations.

The Board serves political decision-makers.

Procedurally, impact assessments need a positive opinion from the RSB.

The Board intervenes at a point before legislative proposals have been finalised.

The Board helps promote overall coherence.

As part of the Commission's May 2015 renewed commitment to Better Regulation³, the Commission transformed the former Impact Assessment Board into a full-time Regulatory Scrutiny Board with stronger safeguards on independence. The ambition remains to strengthen quality control of forward-looking impact assessments (IAs). These are a crucial source of information and analysis in the policy cycle.

The Commission extended the mission of the RSB to cover "fitness checks" and significant ex post evaluations of existing policies. The long-standing obligation to evaluate spending programmes now fully extends to legislation and policy initiatives. The goal is to ensure that evaluations supporting Commission policy-making are of high quality. This helps make operational what is commonly referred to as the "evaluate first" principle.

The Board provides quality assurance to the political level of the Commission. It helps ensure that initiatives take into account all available evidence and stakeholders groups' views before political decision-makers consider what action to take, if any. The Board publishes its formal opinions after the College of Commissioners has completed its deliberations. More broadly, the Board helps to develop further the Commission's policy on better regulation.

Importantly, the Commission's Working Methods specify that initiatives with significant economic, social or environmental impacts need an impact assessment and a positive Board opinion before proceeding to an interservice consultation and eventual consideration by the College of Commissioners⁴. If the Commission takes action without a supporting impact assessment, it needs to publicly explain why.

The Board helps to improve draft impact assessments before Commission services finalise their proposals. The Board's opinions are not quality assessments of specific legislative proposals, which are typically prepared later.

The Board also strives for consistency and predictability in the policy process. The Board assesses all EU policy initiatives on the same set of better regulation criteria. By virtue of its central role in the process, the Board can spot connections across separate initiatives. This helps promote overall coherence and consistency across proposed policy measures.

³ See the EC Communication "Better Regulation for better results – An EU agenda", available at http://ec.europa.eu/info/files/better-regulation-better-results-eu-agenda-0_en

⁴ See the Working Methods of the European Commission 2014-2019, C(2014) 9004, 11 November 2014

1.3. How the Board reviews cases

The Board receives a draft report four weeks before a meeting.

Figure 1 describes the flow of regulatory review work through the RSB. Services first collect the evidence and prepare the impact assessments and evaluations. This process is of varying length, and can take up to a year. Services submit the drafts to the RSB. The RSB uses a standard set of questions (known as a “quality checklist”) to consider systematically various dimensions of the report. The Board shares it with the services ahead of the Board meeting.

The Board meets 2-3 times per month.

The Board normally meets fortnightly, but holds additional meetings when circumstances warrant. The Board can also decide to treat certain files using a written procedure⁵. This usually happens for straightforward cases and for resubmissions.

Opinions are delivered promptly...

...and for impact assessments, can be positive or negative.

Services receive the Board opinions after the meeting. For impact assessments, the opinion can be positive or negative. In case of a negative opinion, the report needs to be substantially revised and resubmitted to the Board for a second review and opinion. The second opinion is in principle final. If this is negative, it signals that serious shortcomings remain. Whether and under what conditions the initiative can proceed further requires a political decision.

Changes are generally recommended and sometimes required, even with positive opinions.

When the Board delivers a positive opinion, it includes reservations or recommendations. Reservations allow the report to proceed on the understanding that relevant adjustments will be introduced beforehand. The final version of the impact assessment report should also take into account any recommendations of the Board⁶.

The Board interacts with services in the spirit of helping the system work more effectively.

The Board works in close cooperation with the Secretariat-General of the Commission. The Board provides input on horizontal issues relating to the further development of the better regulation policy. This includes improvements to the better regulation guidelines and toolbox.

The Board has at times found it useful to intensify exchanges with the Services, while taking care not to undermine its independence. On several occasions during 2016, Board members met with different services of the Commission for information and briefing sessions, on selected upcoming packages of initiatives. This also helped to ensure better mutual understanding throughout the assessment process.

The Board is promoting further collaboration with the Commission services. It proactively makes available its expertise and advice at the initial stage of the preparation of legislative initiatives. This can involve reviewing the main evaluation roadmaps and inception impact assessments, and providing comments and guidance to the author DG. As the Board is to scrutinise only “major evaluations”, it is interested in discussing with the Services the scope and the knowledge gaps of the evaluations that it selects for scrutiny.

⁵ A written procedure means that there is no meeting between the Board and the relevant Commission service(s) to discuss the file. It does not prevent Board members from discussing the file amongst themselves.

⁶ The Explanatory Memorandum of the final proposal and Annex 1 of the final impact assessment explain how the Board’s opinion is taken into account.

1.4. Outreach activities outside the Commission

The Board is outward looking.

The Board intends its opinions to be useful at the downstream stages of EU policy-making as well, after the Commission has taken action. To this end, the RSB is holding technical level exchanges of views with EU institutions.

It exchanges views with the European institutions...

The RSB has established ties with the Directorate for Impact Assessment and European Added Value at the Parliament. Issues that it has discussed and explored include quality of impact assessments, resubmissions and legislative proposals without impact assessments, as well as procedural improvements. The Council also regularly invites the Board for an exchange of views on the role of the Board in the Better Regulation agenda. These exchanges have been informative and helpful.

...regulatory watchdogs in several Member States...

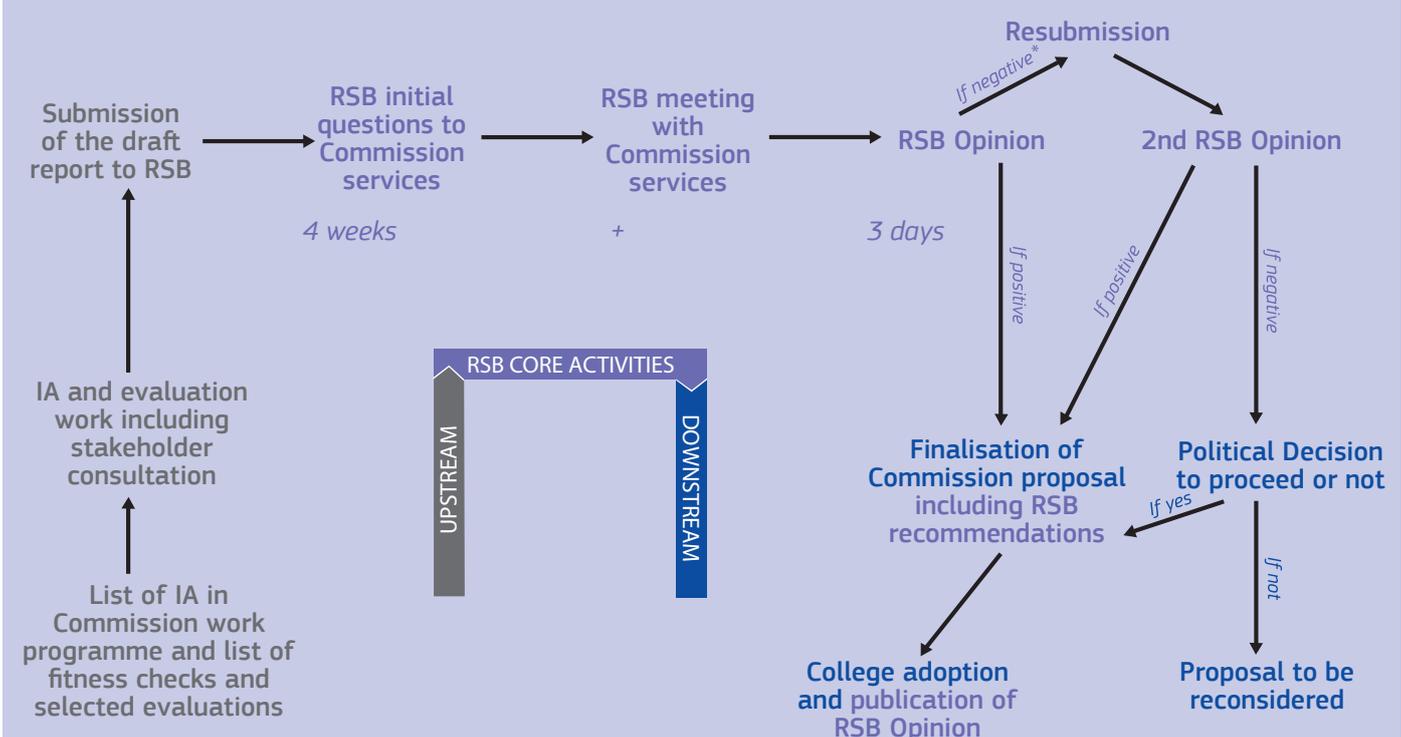
The RSB also maintains contacts with external organisations involved in oversight of regulatory impact analysis and evaluations, as well as with other constituencies for better regulation. External connections are vital to underpin the RSB's practical delivery of its assigned mission and to keep its work state-of-the-art.

...and others interested in better regulation.

There are many groups that have a shared purpose to improve the quality of law-making and regulation. Working together and sharing best practices helps to achieve common better regulation objectives. The Board needs to be aware of new developments and thinking in impact assessments and evaluation methodologies, both good practices and deficiencies. The RSB needs to learn and understand the expectations of its stakeholders and counterparts, especially as regards its operations and their impact on the quality of EU policies and laws.

For reasons linked to confidentiality and independence, the RSB does not meet with stakeholders on specific ongoing impact assessments or evaluations.

Figure 1. RSB core activities in the legislative cycle



* A negative RSB opinion on an evaluation or a fitness check does not prevent Commission services from proceeding further.

CHAPTER 2. Work of the Board in 2016

In 2016, the Commission launched much of the legislative work necessary to deliver on the 10 priorities of the Juncker Commission. The workload of the Board reflects this. **Table 1** shows that the Board examined far more impact assessments compared to its predecessor in 2015 and 2014. The Board also started to review major evaluations, as per its extended mandate.

2.1. Impact Assessments

The better regulation framework sets high standards for impact assessments.

All Commission initiatives that are likely to have significant economic, environmental or social impacts require an impact assessment. This is true for both legislative and non-legislative initiatives, including delegated acts and implementing measures. The Commission's internal validation process determines which initiatives satisfy this threshold⁷.

Two out of five draft impact assessments got a negative rating on first reading...

The Board reviewed 60 separate impact assessments in 2016. Of these, 25 (42%) received an initial negative assessment, resulting in revision and resubmission to the Board. In 2016, the Board has subsequently given positive overall assessments to all but one⁸ of the revised impact assessments that it has received. The activity in 2016 reflects the focus on the 10 policy priorities, with the Single Market, the Digital Single Market and the Energy Union leading the agenda.

...but almost all were subsequently brought up to standard.

Assessing reports involves judgment calls.

Opinions of the Board can be positive or negative. The criteria for opinions of each respective type are not the result of a mechanistic process or of a box-ticking exercise. The Board evaluates the quality of an impact assessment report based on the Commission's Better Regulation Guidelines and verifies whether the minimum standards are met. However, in doing so, the Board also takes into account the context of each initiative and the proportionality of the analysis, meaning that the depth of the analysis should match the importance of the initiative.

It considers how an individual initiative fits within the wider sectoral regulatory environment, to what extent it responds to political orientations that have already been agreed by the relevant EU institutions, and whether there is a legal obligation to act. Timing constraints of the initiative are sometimes a factor when judging the availability of evidence, of prior evaluations and of comprehensive stakeholder consultations.

Table 1. Impact assessments reviewed in 2014, 2015 and 2016

| Year | Cases | Negative opinions | Resubmission rate* |
|--------------------|-----------|-------------------|--------------------|
| Impact Assessments | | | |
| 2014 | 25 | 10 | 40% |
| 2015 | 29 | 14 | 48% |
| 2016 | 60 | 25 | 42% |

* Resubmission rate is defined as the ratio of the number of negative opinions to the number of cases

⁷ Standards are set out in the Better Regulation Toolbox, available at http://ec.europa.eu/smart-regulation/guidelines/toc_tool_en.htm

⁸ Revision of Directive 2009/28/EC on the promotion of the use of energy from renewable sources. The full list of negative opinions is included in **Annex 2**.

A positive opinion means that the impact assessment is fit for purpose.

A positive opinion means that based on the examined draft, as well as clarifying discussions with the responsible Directorate-General during the Board meeting, the Board is confident that the next version of the document will be acceptable as a tool to support sound decision-making by the political level of the Commission.

An initial negative opinion means the Board wants to see the revisions.

An initial negative opinion implies that the Board wants to review the report again before the initiative proceeds further. Reasons for negative opinions vary, but most often, they involve multiple shortcomings with the initial draft report.

The Board does not endorse any policy.

There are several aspects of impact assessments on which the Board does not take a view. For example, a positive opinion on an impact assessment does not convey any judgment about the underlying policy. A positive opinion also does not mean that an impact assessment has fully addressed every aspect of the better regulation requirements. Rather, the Board signals that the report adequately communicates what the best available evidence suggests, and where the political judgment begins.

Problem definition and options are frequent weaknesses.

Common weaknesses in impact assessments during 2016 have been problem definition and development of options (see **Figure 2**). As these are two key elements in the design of an impact assessment, they sometimes overshadow other elements. For example, when the problem is poorly defined, it is hard to define appropriate corresponding objectives and options. Likewise, analysis of options is of limited value if valid approaches are left out without explanation or when the considered options do not solve the problem. Other weaknesses have included the design of baseline scenarios, unclear linkages of objectives and options to the problems (the intervention logic), and a lack of quantification. The handling of stakeholder consultations is also a work in progress, and sometimes stakeholder consultation exercises have not been used to their potential as a source of evidence. Reader-friendliness can also be an issue: an impact assessment report that is too long and technical for non-experts becomes less useful.

Reports should be reader-friendly.

Figure 2. Structural issues raised in Board opinions

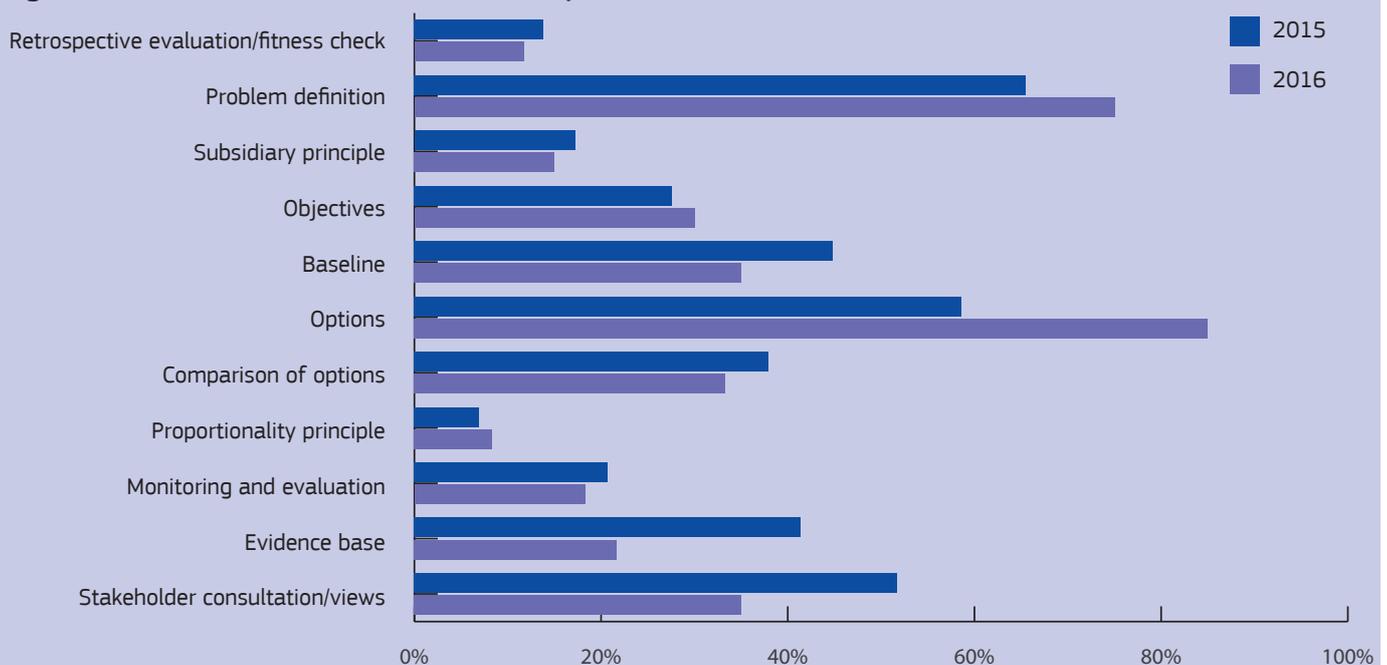


Figure 3 shows analytical issues that received attention in 2016 opinions. According to the Better Regulation Guidelines, impact assessments need to assess significant impacts. The Board raises a concern when impact assessments have not addressed or poorly analysed a significant impact (lighter bar).

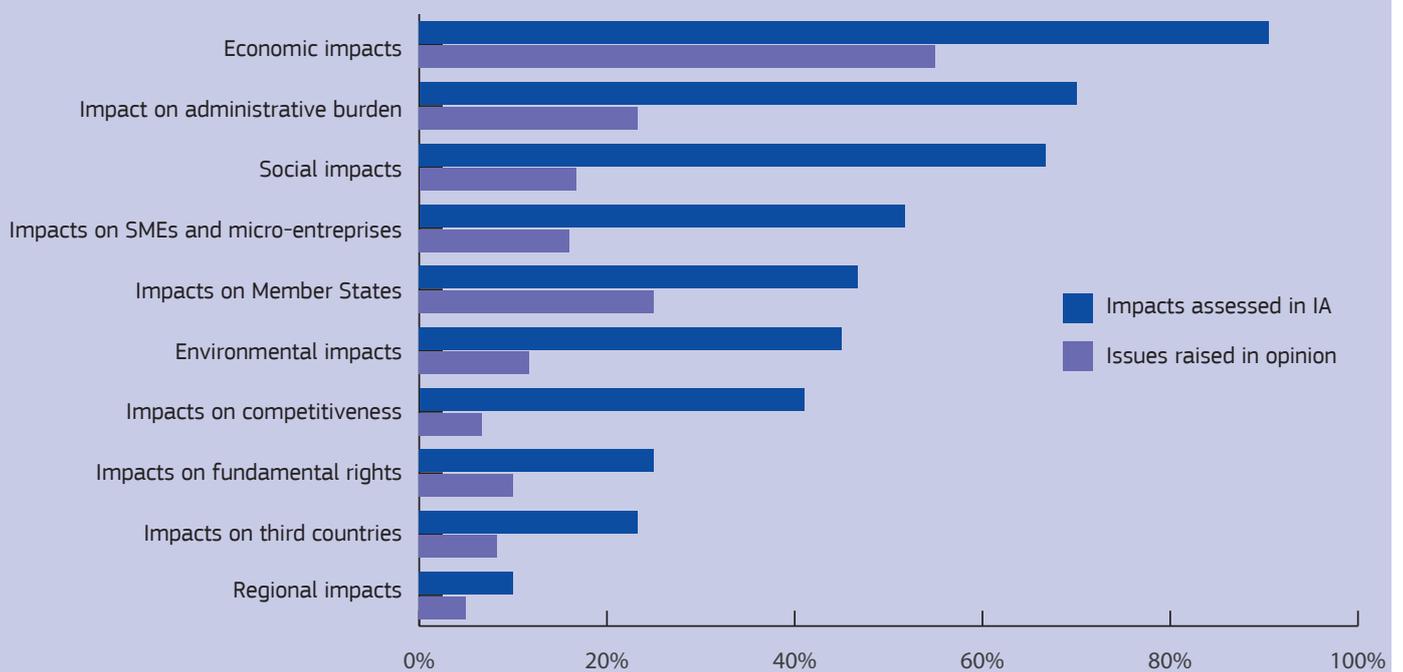
In a majority of the cases, the Board raised concerns about how the reports had assessed the economic impacts of possible EU intervention. The Board also often wanted to see more analysis on the expected impact on individual Member States. In quite a few cases, the impact on administrative burden needed more analysis.

Services have been responsive to Board comments.

When finalising their impact assessments, Commission services largely took into account the recommendations that the Board made in its opinions (see **Box 1**). Looking at individual resubmitted impact assessments, **Annex 2** shows that a limited number of them had only partly integrated the Board's recommendations.

The Board is developing further its monitoring system to assess more systematically the evolution of the quality of individual impact assessments and evaluations, during and after interventions by the Board.

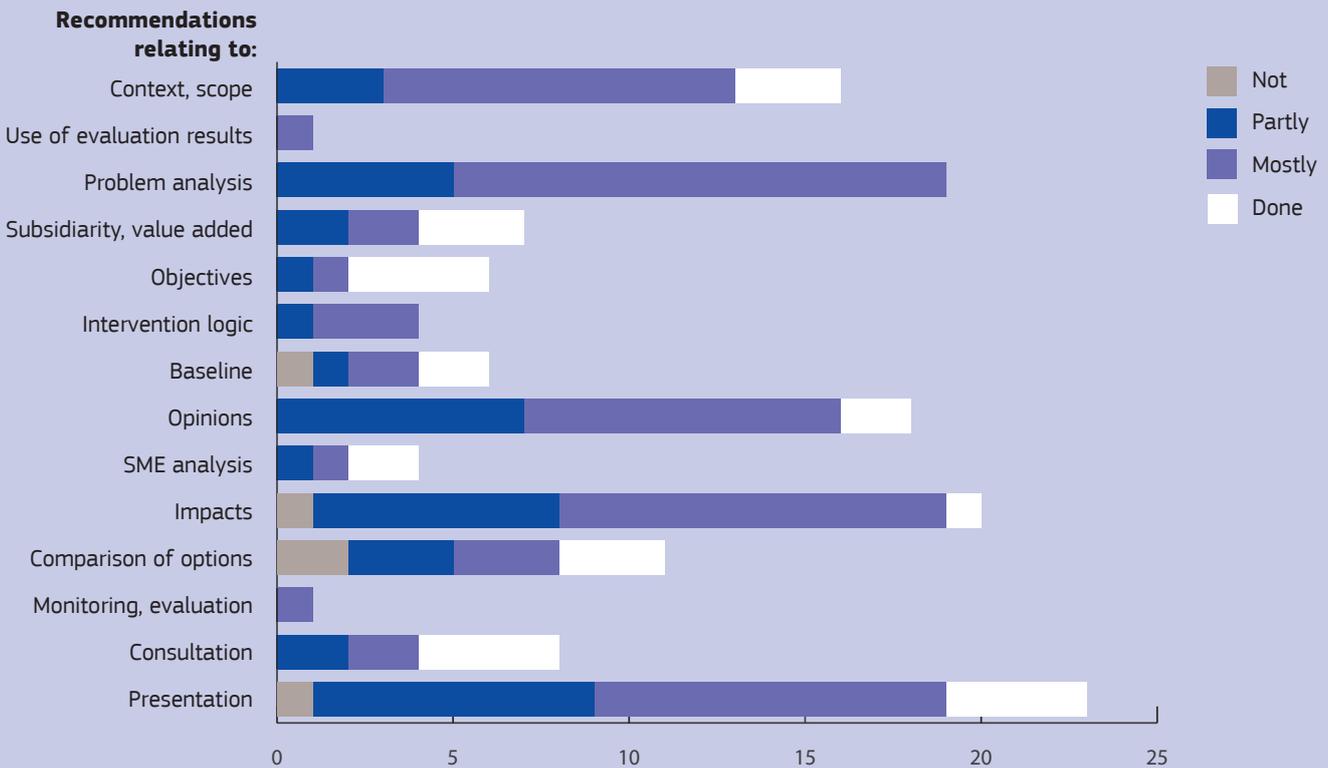
Figure 3. Analysed impacts in 2016



Box 1. Impact assessments have improved after interaction with the Board

The first test of Board effectiveness is to examine how draft impact assessments have improved following an initial negative opinion. Resubmitted drafts have confirmed a large scope for improvement. **Figure 4** shows improvements in the context, problem analysis, options, impacts and presentation. Revisions contained descriptions of problems that were sharper and more evidence-based, there was more detailed analysis of stakeholder views, the case for EU measures was more compelling and the policy trade-offs of various options were clearer. However, the comparison of options did not always improve satisfactorily. In these cases, it was not evident that the conclusions and preferred option followed logically from the presented evidence. In all cases but one, however, the Board considered that the improvements the services introduced in the resubmitted impact assessments were sufficient to merit a positive opinion. Positive opinions still flagged remaining concerns, for Services to address and for policy-makers to consider.

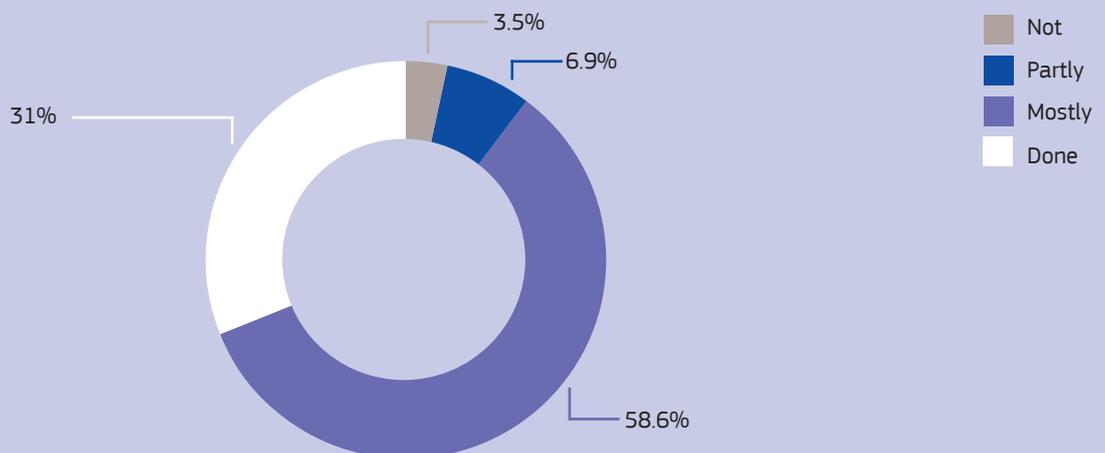
Figure 4. Integration of RSB recommendations after initial negative opinions



Assessment based on 23 resubmitted impact assessments after initial negative RSB opinion

A second moment when the integration of the Board's recommendations can be assessed is when services submit their impact assessment for interservice consultation, after having obtained the final Board opinion, which is usually positive but can sometimes be negative. **Figure 5** shows that only in a limited number of cases does the final impact assessment not integrate the remaining RSB recommendations, or only do so to a limited extent.

Figure 5. Integration of Board's recommendations after final opinion



Assessment based on 29 impact assessments submitted for interservice consultation

2.2. Evaluations

Part of Better Regulation is to evaluate what exists before proposing changes.

The 2015 better regulation package reaffirmed the Commission's commitment to "evaluate first". It clarified the requirements for evaluations and fitness checks. It also extended the Board's mandate to the scrutiny of fitness checks and major evaluations.

Already several decades ago, EU budget procedures imposed an obligation to evaluate spending programmes. Systematic evaluation of policy and legislation is more recent, but is delivering pertinent lessons. Nevertheless, until recently, quality assessment of evaluations was left to the individual services and did not rely on a centralised quality control mechanism.

The Board has started reviewing evaluations...

The Board issued opinions on seven evaluations in 2016, but did not give overall ratings as has been the practice with impact assessments. From 2017 onwards, the Board will be issuing positive and negative opinions on evaluations. This is for transparency reasons and should support the Commission's ongoing efforts to systematise and improve evaluation activity. Other than transparency, Commission working methods do not currently envisage formal procedural implications of a negative Board rating on an evaluation.

...selectively.

The mandate of the Board is for the RSB to look only at fitness checks and the most important evaluations. The Board has selected those evaluations it will examine in 2016 and 2017 (see **Table 2**). The list consists of 9 fitness checks, 13 programme evaluations and 11 other evaluations. The Board gave priority to major initiatives that are scheduled for review later in the mandate of the Commission. This typically includes the preparation of the next Multiannual Financial Framework (MFF) post-2020. It includes in particular programmes with large budgets, a high degree of innovation or political sensitivity. It also includes policy initiatives of a cross-cutting nature⁹. This list is tentative, and may change in the event of delays or new evaluation announcements.

⁹ Examples include a comprehensive evaluation of humanitarian aid; state aid remedies in banking cases; and a review of the Financial Conglomerates Directive.

Services are required to account for evaluation findings...

...and there is room for improvement on this point.

The “evaluation first” principle is gradually taking root.

Evaluations are improving the evidence base.

To increase ownership of evaluation results, services are now obliged to write a Staff Working Document (SWD) that summarises the evaluation and its conclusions. The Board’s opinion on evaluations focuses on the quality of the SWD. The few (seven) SWDs that the Board reviewed over the past year had limited critical analysis of such issues as coherence, relevance and EU value added. They also did not systematically draw clear conclusions for follow-up action and did not always exploit all the information that external evaluators had collected. By contrast, the analysis of efficiency and effectiveness was more complete.

All evaluations can and should constitute an essential input to the corresponding impact assessment, whether or not the Board issues a separate opinion on them. As such, the Board sees evaluations together with the impact assessment, and can include its assessment of their quality in the opinion it provides on the impact assessment. In the course of 2016, the Board has seen and reviewed another 15 evaluations in this way.

Overall, it appears that at least half of the impact assessments applied the “evaluation first” principle in 2016 (see **Annex 3**). This is a positive result given that the increased emphasis on the implementation of this principle started with the May 2015 adoption of the better regulation package. The preparations for many of the impact assessments that the Board reviewed in 2016 had already started before that date.

The “evaluation first” principle increases transparency. Board review of the SWDs also provides an institutional safeguard against “cherry-picking”, i.e. selectively reporting evidence that supports a particular approach. The presence of such a safeguard serves to increase the credibility of evaluation practices.

Table 2. Evaluations 2016-2017

| | Evaluations for separate RSB scrutiny | | Evaluations seen with IA |
|-----------------------------------|---------------------------------------|---------------------|--------------------------|
| | Selected 2016-2017* | Scrutinised in 2016 | 2016 |
| Fitness checks | 9 | 2 | |
| Ex post evaluations MFF 2007-2013 | 5 | 2 | |
| Interim evaluations MFF 2014-2020 | 8 | | |
| Other evaluations | 11 | 3 | 15 |
| Total | 33 | 7 | 15 |

* The selection of the planned evaluations for review in 2016-2017 was based on the Commission’s multi-annual evaluation planning

CHAPTER 3. Changes in practices

The Juncker Commission has made a commitment to evidence-based policy-making. The focus on the 10 big priorities, the rules promoting more systematic stakeholder consultation, more quantification, and the continued prominence given to REFIT initiatives have improved the quality of better regulation practices.

3.1. Approach with packages

The Commission has been focusing on big things.

Most of the Board's work in 2016 concerned implementation of the Commission's 10 priorities. While the overall strategy document for these priorities was not subject to an impact assessment, the downstream legislative or non-legislative actions are much more systematically impact assessed. The priorities on the Single Market, the Energy Union and the Digital Single Market (DSM) in particular have generated by far the most work on impact assessment. The Single Market priority generated ten impact assessments on individual proposals in 2016, the Energy Union eight and the DSM seven (see **Annex 1**).

Big packages provide frameworks that promote consistency.

The Energy Union is a good example of this.

Within each priority, the Commission simultaneously submits several initiatives from different departments. This enables the underlying impact assessments to take into account the broader context and consider cumulative impacts of related measures. A good case in point is the Energy Union (see **Box 2**). An overall reference scenario provided a common starting point for energy-related impact assessments on specific measures regarding climate change, renewables, the electricity market and energy efficiency.

The focus of the option analysis varies.

In those cases where the overarching strategy or action plan already indicated which specific means the Commission anticipated using, the Board considered that the relevant impact assessments had a dual purpose. First, they should help design details of the chosen policy option. Second, they should clearly and in an unbiased way present implications. Doing both helps the Commission as it decides whether to confirm or adjust its original indication. Examples of such cases include impact assessments that stemmed from action plans on terrorist financing and on corporate taxation.

The Board does not and should not review IAs on every delegated or implementing act...

The business community has regularly pointed to the need to assess impacts of delegated and implementing acts¹⁰. Commonly referred to as secondary legislation, relatively few such acts are subject to Commission IAs. Some are linked to technical or scientific choices, which do not fit into an impact assessment framework. There are also other safeguards to ensure scrutiny and stakeholder consultation including impact assessment work by a European regulatory agency, where relevant, and consultation of expert groups to help prepare legislation.

...but it is useful to see some IAs on delegated and implementing acts.

Over the course of 2016 the Board nevertheless reviewed the available Commission IAs on secondary legislation. These IAs concerned primarily endocrine disruptors, electricity and gas markets, electronic communications, and regulation of the financial sector. The secondary legislation IAs reviewed confirmed the relevance of thorough scrutiny from a better regulation perspective.

¹⁰ See, for example, https://www.buinessurope.eu/sites/buseur/files/media/position_papers/internal_market/2015-09-16_better_regulation_package.pdf and http://www.amchameu.eu/system/files/position_papers/amcham_eus_position_on_better_regulation_and_transparency_-_final.pdf

Box 2. Good practice for the impact assessment of packages: the Energy Union had extensive quantification and a common baseline for individual proposals.

The Energy Union Framework Strategy and the 2030 Framework for Climate and Energy establish the EU commitment to further reduce greenhouse gas emissions by at least 40% by 2030, to increase the share of renewable energy consumed to at least 27%, and to use at least 27% less energy by 2030 compared to 2007.

Several actions combine to help achieve these objectives. They include emission trading, effort sharing, land use and land use change and forestry, electricity market design, renewables, and governance. These touch on many policy dimensions and are closely intertwined. Given their far-reaching implications and their interlinkages, these actions need to be considered as a system rather than independently from each other. For this reason, the Commission is submitting the 2030 Climate and Energy proposals in packages.

In order to take interdependencies into account in the search for the most cost-efficient options, the Commission has based its preparatory work on a model suite starting from a common EU Reference Scenario 2016 ("REF2016").

This provides 2030 energy-system projections based on current trends and policies. The models cover the entire energy system (including energy demand, supply, prices and capacity investments), all greenhouse gas emissions and removals, and a time horizon from 1990 to 2050. They encompass EU Member States, other EEA Member States and candidate countries. They consider the impacts where relevant on transport and industry (PRIMES), agriculture, forestry and land use, atmospheric dispersion, health and ecosystems (acidification, eutrophication), macro-economy with multiple sectors, employment and social welfare. For robustness reasons, the analysis is complemented by other modelling, analytical tools and qualitative assessment.

The Energy Union is a complex package with many interacting components. The developed methodology used in this field is striving for a robust, comprehensive and analytically consistent approach with extensive quantification and transparency on the assumptions and challenges. This represents good practice for better regulation.

3.2. Consultations and their use

Systematic use of consultations strengthens the process.

Building on existing minimum standards for consultation, stemming from EU Treaty obligations, the Commission's new Better Regulation Guidelines strengthened the commitment to carry out consultations that are of high quality and reach all stakeholder groups. The guidelines generalise the minimum requirement for a 12-week open online consultation to all impact assessments and evaluations. They also introduced new opportunities for public input at different stages of the policy cycle.

Stakeholder consultations improve transparency and can have a positive effect on efficiency and effectiveness of regulation. Such consultations are a key element of the impact assessment process. Stakeholders are given the opportunity to provide input on all key elements, including the problem definition, the design of regulatory alternatives and possible impacts. Consultation is also an integral part of the evaluation of existing regulation.

Targeted consultations should complement the open public consultations.

Consultations have multiple functions in evaluation and impact assessment. Among other things, they collect evidence on past performance, opinions on areas for improvement, options for solutions, evidence on impacts, and views on preferred options. The Better Regulation Guidelines require all of the above. Fulfilling all these roles in a single open consultation is often difficult. For this reason, the guidelines invite Commission services to complement open consultations with smaller, targeted consultations when needed. **Box 3** presents an example of good practice in this regard.

Open public consultations seldom deliver a representative sample of stakeholders.

The Board has observed several instances where impact assessments treat open online consultations as a representative survey. The collection of respondents is seldom representative of the stakeholder population. It almost always oversamples some groups and undersamples others. Moreover, the details of opposing viewpoints are often important to policy-makers. As a consequence, it is usually inappropriate to present consultation results as a sort of opinion poll, showing overall percentages in support of a certain option without clarifying diverging points of view of different groups of stakeholders.

Box 3. A case study of good practice for consultations in impact assessments: modernisation of EU copyright rules

Copyright is one area where it is challenging to quantify the costs and benefits of legislation. In the impact assessment on modernisation of EU copyright rules, public consultations provided the main elements to assess impacts and choose options. The robustness stemmed from the following features:

- Extensive consultations. The impact assessment consolidated four public consultations (on the review of the EU copyright rules, the review of the Satellite and Cable Directive, publishers in the copyright value chain and the panorama exception, online

platforms) and carried out two Eurobarometer surveys. There were also a number of workshops and round tables targeted to specific topics. Jointly these helped to capture a fuller range of consumer and citizen perceptions. The consultation on copyright rules alone attracted 9,500 responses.

- The impact assessment presented stakeholders' views on the options in a systematic way. In particular, it broke down views by stakeholder categories. These included right holders/authors/performers/journalists, publishers/producers/broadcasters/distributors, Member

States, online services, users, and institutional users.

- The choice of options made it clear who the proposal affected and how to strike a balance between different stakeholder groups whose views diverged considerably.
- In some cases, the stakeholder consultations were useful as a source for evidence in the absence of quantification of costs. For instance, the public consultation reported that certain intermediaries had estimated costs related to all types of illegal content ranging from 5-10% of operating costs.

3.3. Quantification and the REFIT perspective

Quantification: a glass both half full and half empty.

The Commission has a commitment to better quantify regulatory burden reductions or savings potentials wherever possible, and the Interinstitutional Agreement of April 2016 reflects this. Both regulatory burdens and impacts are often hard to quantify. In practice, quantification is often one of the most challenging parts of impact assessment work.

The Better Regulation Toolbox made a special effort to collect a wide range of methodologies and tools to address the quantification challenge. But availability of relevant data is a major constraint. This problem can only be addressed over time, by improving monitoring and evaluation provisions. For this reason it is helpful when impact assessments clearly define future data requirements.

Overall, the majority of 2016 impact assessments provided some quantification. **Figure 6** and **Figure 7** show that quantification in 2015 and 2016 was more often on costs than on benefits.

Figure 6. Trends in quantification

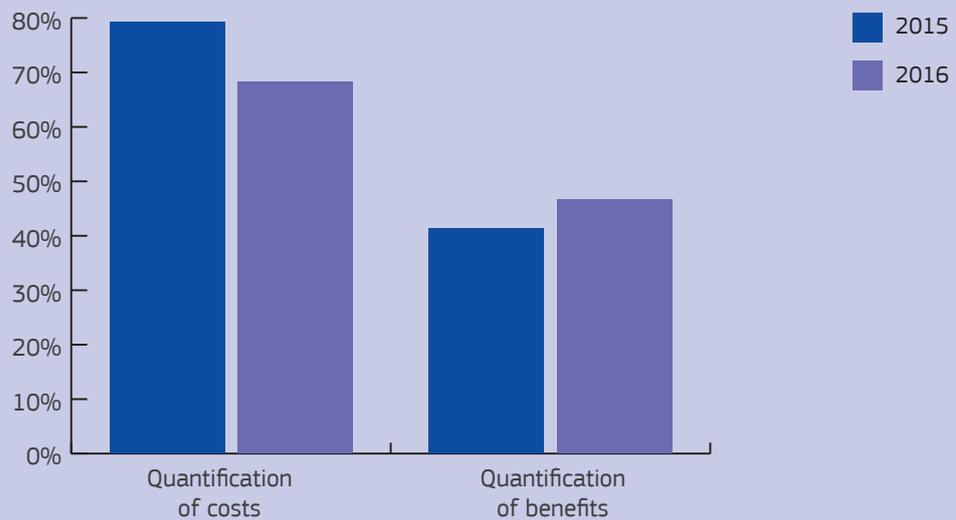
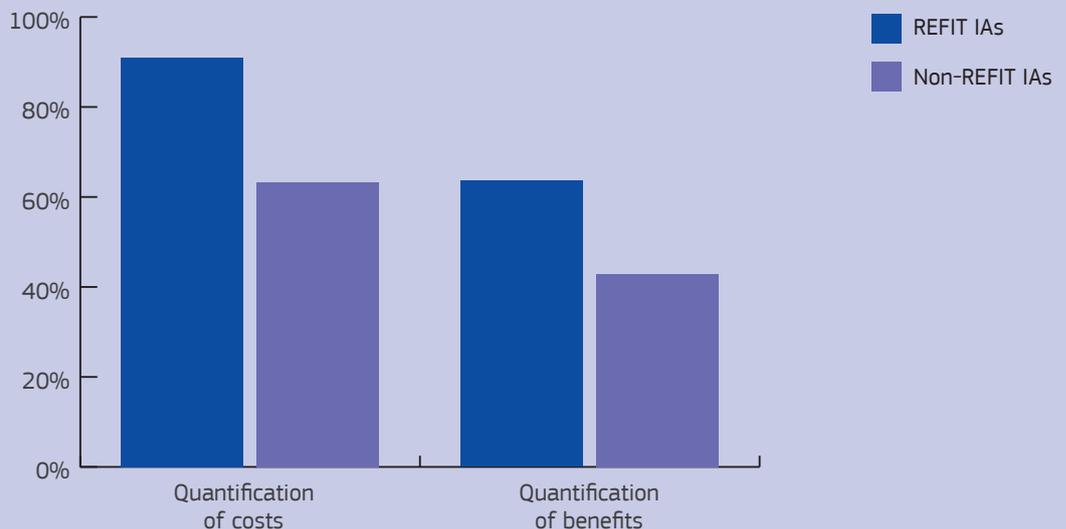


Figure 7. Quantification for REFIT and non-REFIT impact assessments in 2016



REFIT has been gearing up...

The Regulatory Fitness and Performance Programme¹¹ (REFIT) is about assessing the existing stock of EU legislation. The aim is to identify whether there is scope to reduce existing regulatory and administrative burden while preserving the objectives of the legislation. Part of this involves efforts to quantify the costs and benefits of actions.

REFIT is a fundamental part of the Commission's Annual Work Programme and of the Commission's political dialogue with the Parliament and the Council. From what the Board has assessed in 2016, the services have made more efforts to quantify the regulatory burden for REFIT initiatives than other initiatives. In almost all of the 11 REFIT cases, initiatives were supported by some quantification of costs and for around 60% of REFIT cases by some quantification of benefits.

...but the existing stock of EU legislation is not always easy to assess.

The Board has found it difficult to make REFIT principles operational when assessing individual impact assessments and evaluations. Most impact assessments concern amendments to existing legislation. The REFIT dimension should lead to improve the cost-benefit balance of the initiative. This can happen either through a reduction of costs or through evidence that the benefits linked to new provisions exceed the new costs that they incur. In practice, with incomplete quantification that is applied more to costs than to benefits, it is difficult to establish whether REFIT objectives are met.

Box 4 provides an example of comprehensive quantification of costs and benefits in the case of value-added tax (VAT) on electronic commerce (eCommerce). This made a clear case for simplification and identified net savings. It was much harder to identify the REFIT dimension in other initiatives, such as the revision of broadcasting legislation or the energy efficiency of buildings. In those two cases, revisions raised the ambitions (for public interest in the case of broadcasting, for the climate and energy agenda in the case of energy efficiency of buildings). The benefits could not be fully quantified, and came with new obligations that carried additional costs.

The Board has so far treated REFIT and non-REFIT documents in a similar way, while flagging the REFIT dimension in its opinion. This approach might evolve in the future and become more demanding in terms of quantifying regulatory costs and benefits.

¹¹ For a fuller description of REFIT, see http://ec.europa.eu/atwork/pdf/201621025_refit_scoreboard_summary_en.pdf

Box 4. Example of good practice for quantification: Modernising value-added tax (VAT) obligations for cross-border e-commerce

As part of the Digital Single Market initiative and the Action Plan for the modernisation of VAT, the Commission adopted a proposal for a reform of VAT on cross-border e-commerce. This is a REFIT initiative with simplifications brought by the application of the “destination principle” and the mini one stop shop (MOSS). The impact assessment used a systematic approach for the quantification of impacts by covering both economic costs and benefits and administrative burden for businesses and public authorities. The impact assessment

estimated that the preferred option will generate: an annual increase in VAT revenues of EUR 7 billion, reduce annual compliance costs for businesses by 55%, i.e. an annual saving of EUR 1.9 billion, while increasing e-commerce by 0.3% with negligible e-commerce price increases in the order of 0.7% and direct positive effects on EU cross-border e-commerce (value +1.1% and prices -0.15%). **Table 3** illustrates the combination of qualitative and quantitative tools used for these calculations of impacts.

Table 3. Summary of methodology used

| Impact | Approach used | Tools for analysis | Key assumptions | Key sources |
|---|---|---------------------------|--|---|
| Impacts for Member States’ revenues, costs and benefits for Member States to implement the option | Quantitative analysis Qualitative analysis | Standard Cost model (SCM) | Costs similar to the MOSS Different scenarios for e-commerce growth Compliance monitoring based on risk profiling | Member States’ interviews and questionnaires Stakeholder workshops Desk research Member States’ interviews |
| Impacts on administrative burden for businesses | Quantitative analysis | SCM | Impacts of OSS similar to those of MOSS Number of businesses Number and behaviour of micro-businesses engaged in cross-border e-commerce | Businesses interviews Stakeholder workshops Business online survey |
| Impacts on competition and growth | Quantitative analysis | CGE model | Different scenarios for e-commerce growth Number of businesses Number and behaviour of micro-businesses engaged in cross-border e-Commerce | Consumer survey SCM Desk research |
| Impacts on compliance | Quantitative analysis Qualitative analysis | Projections | Different scenarios for e-Commerce growth | Member States’ interviews and questionnaires Stakeholder workshops Desk research Mock purchases |

CONCLUSIONS

Like its predecessor, the RSB delivers quality control for impact assessments. Now, however, it also examines major evaluations. This extension of mandate has increased the Board's capacity to add value and to promote rigorous and transparent application of better regulation principles.

The RSB has taken shape and become operational at the peak of the political cycle, when the Commission is proposing specific measures to make progress on its 10 priorities. In its first year, the Board has shouldered a large workload while integrating new members and shaping its tools.

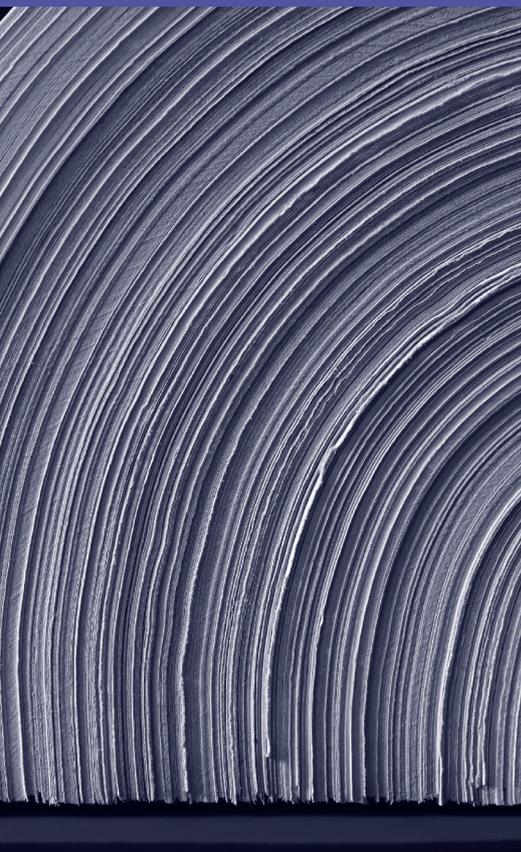
2017 promises to be a busy year as well. The Board is committed to providing high-quality review of impact assessments and major evaluations to support effective delivery on the Commission policy agenda. The RSB is likely to review up to 80 impact assessments, including over 20 related and key initiatives, around a dozen REFIT initiatives and about two dozen evaluations. While most of the evaluations relate to the EU-funded programmes, the major initiatives for impact assessments will cover the circular economy, next steps of the Energy Union strategy and the single market strategy, the space strategy for Europe and initiatives under the Capital Market Union.



The Board will also prioritise closer interaction with upstream and downstream stakeholders. On the upstream side, the RSB has initiated a series of meetings with the services to review major initiatives in the Commission Work Programme and identify early on the major challenges of the related evaluations and impact assessments. This early interaction should contribute to efficiency and improve the quality of the reports.

On the downstream side, the Board is enhancing its outreach activities through regular contacts with the European institutions and national and European independent regulatory watchdogs. It will work to collect feedback on the quality and use of impact assessments for the legislative process. The Board is also planning a conference in March 2017 on regulatory scrutiny in the EU, as well as targeted workshops on specific methodological issues with academics and other experts.

The Board intends to further improve its tools and working methods. Priority work includes developing a set of quality performance indicators for impact assessments and evaluations. This will enable the Board to track and report on improvements in better regulation practices over time. The RSB intends to more systematically monitor how its recommendations on draft reports are implemented.



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¹² Until June 2016.

ANNEX 1: IMPACT ASSESSMENTS AND EVALUATIONS

No. Commission Work Programme 2016 Impact assessments and evaluations reviewed in 2016

A New Boost for Jobs, Growth and Investment

1. New start for working parents

A Connected Digital Single Market

2. Implementation of the Digital Single Market Strategy
- Proposal for a Directive of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services
 - Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other discriminations based on place of residence or nationality within the Single Market
 - Review of the regulatory framework for electronic communications
 - Modernising the EU copyright framework - 2nd set of measures
 - Modernising VAT obligations for Cross-Border e-Commerce / A Digital Single Market Strategy
 - Common system of value-added tax regarding electronically supplied books, newspapers and periodicals
 - Digital Single Market Initiative on the Free Flow of Data

A Resilient Energy Union with a Forward-Looking Climate Change Policy

3. Energy Union Package
- Effort sharing decision in the context of the 2030 climate and energy framework
 - Inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework (LULUCF)
 - Review of the Directive on Energy Efficiency (EED) (2012/27/EU)EPBD
 - Legislative initiative on market design, including Review of ACER/Revision of the Security of electricity supply Directive
 - Energy Union Governance – Planning, Reporting and Monitoring obligations
 - Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources
 - Bioenergy sustainable policy

| No. | Commission Work Programme 2016 | Impact assessments and evaluations reviewed in 2016 |
|-----|--------------------------------|---|
|-----|--------------------------------|---|

A Deeper and Fairer Internal Market with a Strengthened Industrial Base

- | | | |
|----|-------------------------------------|---|
| 4. | Labour Mobility Package | <ul style="list-style-type: none"> Directive of the European Parliament and of the Council amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services |
| 5. | Follow-up to Single Market Strategy | <ul style="list-style-type: none"> Proposal to introduce a proportionality test for regulation of professions Proposal for a Directive on restructuring and second chance (Insolvency II proposal) Proposals to introduce a European Services Card and facilitate market access for service providers Proposal to reform the notification procedure for an improved enforcement of the Services Directive |
| 6. | Action Plan on VAT | <ul style="list-style-type: none"> Modernising VAT obligations for Cross-Border e-commerce / A Digital Single Market Strategy Legislative proposal allowing individual Member States to derogate from the common system of value-added tax so as to apply a generalised reverse charge mechanism to domestic supplies |
| 7. | Corporate Tax Package | <ul style="list-style-type: none"> Assessing the potential for further corporate transparency on income taxes Proposal for a relaunch of the Common Consolidated Corporate Tax Base (CCCTB) Improving Double Taxation Dispute Resolution Mechanisms |

A Deeper and Fairer Economic and Monetary Union

- | | | |
|----|---|---|
| 8. | European Bank Deposit Insurance Scheme/ Completion of the Banking Union | <ul style="list-style-type: none"> Proposal amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (delegated act) |
|----|---|---|

An Area of Justice and Fundamental Rights Based on Mutual Trust

- | | | |
|----|---|---|
| 9. | Implementation of European Agenda on Security/Progress towards and effective and genuine Security Union | <ul style="list-style-type: none"> Proposal for an amendment of Regulation (EC) No 1889/2005 of the European Parliament and the Council of 26 October 2005 on controls of cash entering or leaving the Community Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing |
|----|---|---|

Towards a New Policy on Migration

- | | | |
|-----|-----------------------------|---|
| 10. | Better Migration Management | <ul style="list-style-type: none"> Blue card Proposal for a Revised Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment ("EU Blue Card") Revised proposal for a Regulation establishing an EU Entry Exit System and for a Regulation amending the Schengen Border Code [Regulation (EC) 562/2006] |
|-----|-----------------------------|---|

A Stronger Global Actor

- | | | |
|-----|--|--|
| 11. | Post-Cotonou Framework | <ul style="list-style-type: none"> Towards a new partnership between the European Union and the African, Caribbean and Pacific countries after 2020 |
| 12. | Capacity building in the security sector | <ul style="list-style-type: none"> Capacity Building in support of Security and Development |

Impact assessments and evaluations not included in the Commission Work Programme

- Commission Regulations (EU) establishing Network Codes on transmission tariff structures for gas systems and EU-wide market-based approach on the allocation of “new build” gas transmission capacity [which will supplement Regulation (EC) 715/2009] (delegated act)
- Council Directive implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers’ Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation
- Ex post evaluation of the EU occupational safety and health Directives
- Amendments of the Annexes to REACH for registration of nanomaterials
- Transparency measures for nanomaterials on the market
- Proposals for Regulations of the European Parliament and of the Council establishing multiannual plans for the management of demersal fisheries in western EU waters
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work [Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC]
- Fitness check of the EU EMAS and EU Ecolabel Regulations
- Regulation on integrated farm statistics
- Framework Regulation for the Production of European Statistics on Persons and Households
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 99/2013 on the European statistical programme 2013-17, by extending it to 2018-20
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 428/2009 on the EU Export Control Policy
- Evaluation of the EPBD 2010/31/EU (Directive on energy efficiency in buildings)
- Evaluation of the Directive on Energy Efficiency (EED) (2012/27/EU)
- Revision of Regulation 868/2004 of the European Parliament and the Council concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community
- Review of the wholesale roaming market in the EU
- Fitness check of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds
- Implementing Regulation on plant protection products to defining criteria for identifying endocrine disruptors in the context of the implementation of the plant protection products regulation and biocidal products regulation (implementing + delegated act)

- Regulation amending Regulation (EU) No 345/2013 on European venture capital funds (EuVECA) and Regulation 346/2013 on European social entrepreneurship funds (EuSEF)
- Review of the Energy Performance of Buildings Directive 2010/31/EU, including the “Smart finance for smart buildings” initiative
- Possible change in the calculation methodology of dumping regarding the People’s Republic of China (and other non-market economies)
- Framework regulation integrating business statistics (FRIBS)
- Proposal for a Regulation of the European Parliament and of the Council establishing a multiannual plan for the small pelagic stocks and their fisheries in the Adriatic Sea
- Revision of Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment
- Commission implementing regulation on the application of Roaming fair use policy and sustainability mechanism /implementing act/
- Commission Proposal for an Article 185 Initiative on Partnership for Research and Innovation in the Mediterranean Area (PRIMA)
- Revision of directive 2003/59 on the initial qualification and periodic training of drivers of certain vehicles for the carriage of goods and passengers
- Ex post evaluation of the ERDF and Cohesion Fund 2007-13
- Regulation establishing a Guideline on Electricity Balancing (implementing act)
- Ex post evaluation of the 2007-2013 European Social Fund (ESF) Programmes
- Protection of privacy and confidentiality in relation to electronic communications (ePrivacy)
- Proposal for reinforcing the application of the rules on competition laid down in Articles 101 and 102 TFEU by the competition authorities of the Member States
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work [Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC]
- Recommendation for a Council Decision authorising the European Commission to open negotiations and to negotiate with Turkey a modernised bilateral preferential trade framework
- Review of Insurance Block Exemption Regulation (IBER)
- Proposal for a Regulation of the European Parliament and of the Council amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community in view of the implementation of a single global market-based measure to international aviation emissions
- Proposal for a Regulation on Mutual Recognition of Freezing and Confiscation Orders

ANNEX 2: NEGATIVE OPINIONS

Negative opinions issued by the Board in 2016 and the degree to which Board recommendations were integrated in resubmitted impact assessments. Nine negative opinions for which the corresponding impact assessment was not published in 2016 are not included.

| Impact assessment | Board meeting when initial negative opinion was issued | Degree to which Board recommendations were integrated in resubmitted impact assessment* | Final opinion |
|--|---|--|----------------------|
| Amending Directive concerning posting of workers in the framework of provision of services | 20/01/2016 | Partly | Positive |
| Directive amending the Carcinogens and Mutagens Directive to identify new “process generated substances” and establish/revise binding Occupational Exposure Limit values | 17/02/2016 | Mostly | Positive |
| Directive on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment (“EU Blue Card”) | 02/03/2016 | Mostly | Positive |
| Audiovisual media services directive | 16/03/2016 | Partly | Positive |
| Regulation on addressing geo-blocking and other discriminations based on the principle of residence and nationality | 06/04/2016 | Mostly | Positive |
| Defining criteria for identifying endocrine disruptors in the context of the implementation of the Plant Protection Products Regulation and Biocidal Products Regulation | 12/05/2016 | Mostly | Positive |
| Energy performance of buildings directive | 07/06/2016 | Partly | Positive |
| Future relations between the European Union and the African, Caribbean and Pacific countries after 2020 | 08/06/2016 | Mostly | Positive |

| Impact assessment | Board meeting when initial negative opinion was issued | Degree to which Board recommendations were integrated in resubmitted impact assessment* | Final opinion |
|--|---|--|----------------------|
| Capacity building in support of security and development | 17/06/2016 | Partly | Positive |
| Regulatory framework for electronic communications | 05/07/2016 | Mostly | Positive |
| Partnership for Research and Innovation in the Mediterranean Area (PRIMA) | 05/07/2016 | Mostly | Positive |
| Regulation on prudential requirements for credit institutions and investment firms, Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and Directive establishing a framework for the recovery and resolution of credit institutions and investment firms | 07/09/2016 | Mostly | Positive |
| Improvement of the electricity market design | 14/09/2016 | Mostly | Positive |
| Directive on the promotion of the use of energy from renewable sources | 14/09/2016 | Partly | Negative |
| Insolvency II - Directive on Restructuring and Second Chance | 28/09/2016 | Mostly | Positive |
| Directive on the common system of value-added tax with regard to VAT rates for electronically-supplied books, newspapers and periodicals | 12/10/2016 | Mostly | Positive |

* Scoring on a scale of 4 values: not done, partly, mostly, done.

Evaluations scrutinised by the Board in 2016

- Ex post evaluation on EU occupational safety and health directive
- Fitness check on the EMAS and EU Ecolabel regulations
- Evaluation of the energy performance of buildings directive
- Evaluation of the energy efficiency directive
- Fitness check on the EU nature legislation (Birds and Habitats directives)
- Ex post evaluation of the European Regional Development Fund and Cohesion Fund 2007-2013
- Ex post evaluation of the European Social Fund 2007-2013

Compliance with the “evaluate first” principle: impact assessments scrutinised by the Board in 2016 that are supported by preceding evaluation

- Directive on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment (“EU Blue Card”)
- Strategy for agricultural statistics 2020 and beyond
- Extending the European statistical programme 2013-2017 to 2018-2020
- Audiovisual media services directive
- Regulation on addressing geo-blocking and other discriminations based on the principle of residence and nationality
- Effort-sharing decision in the context of the 2030 climate and energy framework
- Energy performance of buildings directive
- Energy efficiency directive
- Future relations between the European Union and the African, Caribbean and Pacific countries after 2020
- Possible change in the calculation methodology of dumping regarding the People’s Republic of China (and other non-market economy countries)
- Reform of the notification procedure for an improved enforcement of the Services Directive
- Regulatory framework for electronic communications
- Review of the Directive on the initial qualification and periodic training of drivers of certain vehicles for the carriage of goods and passengers
- Regulation on prudential requirements for credit institutions and investment firms, Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and Directive establishing a framework for the recovery and resolution of credit institutions and investment firms
- Improvement of the electricity market design
- Energy Union governance
- Directive on the promotion of the use of energy from renewable sources
- Protection of privacy and confidentiality in relation to electronic communications (ePrivacy)
- Revision of the cash controls regulation
- Introduction of a European Services Card to facilitate market access for service providers
- Authorising the European Commission to open negotiations and to negotiate with Turkey a modernised bilateral preferential trade framework
- Amending the directive on establishing a scheme for greenhouse gas emission allowance trading in view of the implementation of a single global market-based measure to international aviation emissions

Better Regulation

“Better Regulation” means designing EU policies and laws so that they achieve their objectives at minimum cost. It is a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders. Better Regulation covers the whole policy cycle – policy design and preparation, adoption, implementation (transposition, complementary non-regulatory actions), application (including enforcement), evaluation and revision¹³.

Consultation

Consultation describes a process of gathering feedback, comments, evidence or other input on a particular intervention from other entities either from within the Commission (interservice consultation) or from outside the Commission (stakeholder consultation).

Delegated acts

The Commission adopts them on the basis of a delegation granted in the text of an EU law, in this case a legislative act. The Commission’s power to adopt delegated acts is subject to strict limits:

- the delegated act cannot change the essential elements of the law
- the legislative act must define the objectives, content, scope and duration of the delegation of power
- Parliament and Council may revoke the delegation or express objections to the delegated act

Evaluation/Evaluation report

Evaluation is an assessment of the effectiveness, efficiency, coherence, relevance and EU added value of one single EU intervention. The Roadmap informs about evaluation work and timing. An evaluation report is prepared by the lead service and presents

the findings and conclusions about the evaluation. The quality of major evaluation reports is checked by the Regulatory Scrutiny Board against the requirements of the relevant guidelines prior to publication and/or transmission to the Legislator as part of a formal report from the Commission.

Fitness check/Fitness check report

A Fitness check is an evaluation of the effectiveness, efficiency, coherence, relevance and EU added value of a number of related EU interventions in a policy area or business sector. It identifies excessive burdens, inconsistencies and obsolete or ineffective measures and helps to identify the cumulative impact of legislation.

A Fitness check report is prepared by the lead service which presents the findings of the Fitness check. The Regulatory Scrutiny Board checks the quality of major Fitness check reports against the requirements of the relevant guidelines prior to publication or transmission to the Legislator as part of a formal report from the Commission.

Impact

In an impact assessment process, the term impact describes all the changes which are expected to happen due to the implementation and application of a given policy option/intervention. Such impacts may occur over different timescales, affect different actors and be relevant at different scales (local, regional, national and EU). In an evaluation context, impact refers to the changes associated with a particular intervention which occur over the longer term.

Impact Assessment/Impact Assessment report

Impact Assessment is an integrated process to assess and to compare the merits of a range of policy options designed to address a well-defined problem. It is an aid to political decision

¹³ For more on “Better Regulation” please see: http://ec.europa.eu/info/strategy/better-regulation-why-and-how_en

making not a substitute for it. The Roadmap informs whether an impact assessment is planned or justifies why no impact assessment is carried out.

An impact assessment report is prepared by the lead service which presents the findings of the impact assessment process. It supports decision-making inside of the Commission and is transmitted to the Legislator following adoption by the College of the relevant initiative. The quality of each IA report is checked by the Regulatory Scrutiny Board against the requirements of the relevant guidelines.

Implementation

Implementation describes the process of making sure that the provisions of EU legislation can fully enter into application. For EU Directives, this is done via transposition of its requirements into national law, for other EU interventions such as Regulations or Decisions other measures may be necessary (e.g. in the case of Regulations, aligning other legislation that is not directly touched upon but affected indirectly by the Regulation with the definitions and requirement of the Regulation). Whilst EU legislation must be transposed correctly it must also be applied appropriately to deliver the desired policy objectives.

Implementation Plan

An implementation plan supports the implementation by the Commission and the Member States of certain new Directives and Regulations. It accompanies any impact assessment and the proposal itself. It identifies implementation needs and actions required of different entities to ensure a timely, effective and consistent implementation. The Roadmap informs if an Implementation Plan is established.

Implementing acts

Primary responsibility for implementing EU law lies with EU countries. However, in areas where uniform conditions for

implementation are needed (taxation, agriculture, the internal market, health and food safety, etc.), the Commission (or exceptionally the Council) adopts an implementing act.

Inception Impact Assessment

The inception Impact Assessment is the initial description of the problem, its underlying drivers, the policy objectives, policy options and the economic, social, environmental impacts of those policy options. It provides a comprehensive basis for stakeholders to provide feedback, information and opinions.

Initiative

An initiative is a policy instrument prepared at EU level to address a specific problem or societal need. An impact assessment will assess options to inform the policy content of the initiative.

Intervention

Intervention is used as umbrella term to describe a wide range of EU activities including: expenditure and non-expenditure measures, legislation, action plans, networks and agencies.

Intervention logic

The intervention logic is the logical link between the problem that needs to be tackled (or the objective that needs to be pursued), the underlying drivers of the problem, and the available policy options (or the EU actions actually taken) to address the problem or achieve the objective. This intervention logic is used in both prospective Impact Assessments and retrospective evaluations.

REFIT

REFIT is the European Commission's Regulatory Fitness and Performance programme launched in December 2012. Under REFIT, action is taken to make EU law simpler, lighter, more efficient and less costly, thus contributing to a clear, stable, least burdensome and most predictable

regulatory framework supporting growth and jobs.

Roadmap

A roadmap is a tool to substantiate the political validation of an initiative the Commission is preparing and to inform stakeholders about planned consultation work, impact assessments, evaluations, Fitness checks. It is published at an early stage by the Secretariat-General on the Commission's website and helps stakeholders prepare timely and effective inputs to the policy-making process.

Stakeholder

A stakeholder is any individual or entity impacted, addressed or otherwise concerned by an EU intervention.

Transposition

Transposition describes the process of incorporating the rights and obligations set out in an EU Directive into national legislation, thereby giving legal force to the provisions of the Directive. The Commission may take action if a Member State fails to transpose EU legislation and/or to communicate to the Commission what measures it has taken. In case of no or partial transposition, the Commission can open formal infringement proceedings and eventually refer the Member State to the European Court of Justice.

