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Impact assessment in the European Commission – a system with multiple objectives

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ABSTRACT

Impact assessment (IA) is an instrument that is gradually making inroads into European Union policy making. Great ambitions are tied to the introduction of a compulsory system of IA as a way to achieve better regulation but also as a tool to improve legitimacy of government and increase unity in European politics. In order to raise the quality of the assessments, which has been questioned, there is a call for application of more evidence-based methods. As a result, there *might* be a window of opportunity for greater use of scientific support in impact assessment work.

However, the EC's IA system has several overlapping and partly contradictory objectives – to produce estimates about possible future impacts is only one of them. The IA system should be understood as a political instrument shaped by its multiple objectives and the political context of permanent negotiations in which it is situated.

The arguments put forward emanate from a close reading of EC documents concerning IA procedures and the ambitions they display paired with assessment practices as revealed in interviews with officials in the main EU institutions, trying to perform IAs and to cope with the political balancing act they are embedded in.

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1. Introduction

Impact assessment systems have been employed in European Union politics for a long time. The Environmental Impact Assessments (EIA) Directive introduced in 1985, followed by the regulation known as the Strategic Environmental Assessment (SEA) Directive introduced systematic assessment of environmental effects of political measures. Assessments of environmental impacts were followed by other sectoral assessment. But single sector assessments have only covered certain sets of impacts and only applied for plans and programs, not policies.

However, a renewed interest for a *comprehensive* strategy for ex-ante assessment of *policies* has evolved. In 2003 the Commission introduced a new system for impact assessment

throughout the legislative process across *social, environmental and economic* dimensions that replaced the single-sector assessment policies (EC, 2002a). The initiative can be traced back to the Lisbon Strategy of 2000 where the European Union set itself the goal of becoming the most competitive and dynamic knowledge-based economy in the world. In its endeavour to achieve this goal a core priority is to implement better regulation and a better law making process in the European Union.

The policy for Better Regulation specifies three strategies: the first two are to simplify and reduce administrative burdens; the third strategy is to make future regulation better by a knowledge-based approach to law making. The way to achieve a knowledge based decision making is to submit policy proposals for impact assessment (EC, 2006a,b).

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1.1. An instrument with multiple objectives

The first international standard on regulatory quality adopted by the OECD in 1995, is regarded as a benchmark for the development of regulatory impact assessment (Kirkpatrick et al., 2004). The Mandelkern Group Report on Better Regulation from 2001 is a starting point for integrated policy assessment across sectors and levels in the EU. The group, established by the European Ministers for Public Administration, recommended that IA should be made an integral part of the policy making process. For this purpose, administrative and organisational structures should be introduced in national governments and in EU institutions.

In the report a number of improvements were anticipated to follow from the implementation of an impact assessment system. IA would contribute to – the quality of regulation, the welfare of citizens, business and other stakeholders, as well as increasing competitiveness and promoting mutual learning between EU institutions and member states. IA is further believed to deliver welfare gains far in excess of any costs and is depicted as a method that will help in the “restoration of confidence in governance” and “to improved credibility and legitimacy of government” (Mandelkern Report, 2001, pp. i–ii).

Most of the principles set out in the Mandelkern Report later appeared in the Commission’s Communication on Impact Assessment. The communication states that a formal IA is required for all regulatory proposals and negotiation guidelines for international agreements. The new assessment system follows an integrated approach, replacing the previous single-sector type assessments. All assessments must consider “estimates of economic, environmental, and social impacts” (EC, 2002a, 2004). Further, in addition to stating that all aspects of a policy proposal should be assessed, the special importance of sustainability is underlined by referring to the EU’s Strategy for Sustainable Development where it says:

Sustainable development should become the central objective of all sectors and policies. ... Careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU. (EC, 2001, p. 6)

The impact assessment system introduced in 2003 demonstrates a commitment to strengthen EU’s evaluation culture. The new system is distinguished from the ex-ante evaluation work previously made in the EC:

...ex-ante evaluation and impact assessment have different functions and purposes. Ex-ante evaluation focuses primarily on value for money, i.e. the cost-effectiveness. ... In contrast, impact assessment is policy driven, it focuses on examining whether the impact of major policy proposals is sustainable and conform to the principles of Better Regulation. (EC, 2002a, p. 3, italics added)

By introducing a more evidence-based, analytic and integrated approach, IA should serve as a tool that advances quality in regulation. As such, it should not only produce a knowledge base for decision making but has the multi-

pronged aim of ensuring coordination within the Commission, demonstrate the Commission’s openness to input from external stakeholders, and show its commitment to transparency and help to explain why actions are necessary and appropriate (EC, 2005a, p. 5). To ensure that the assessment work also serves these purposes, consultations have been made an integral part of the IA procedures, making decision makers and the public aware of likely policy impacts while also serving as a tool for communication between them (EC, 2002a, p. 3).

Ambitions are tied to the IA system as an instrument that will affect the *achievements*, as well as the *content* and *process* of European Union politics. The IA system is not only shaped to deliver “better” regulations in a factual sense, but to improve internal communication in such a way that it leads to coherence and legitimacy of government. Communication between the Directorates-General (DG) representing different sectors is enforced by the IA procedures and stakeholders can in theory be allowed to influence every step of the work process (EC, 2005a, p. 9).¹

2. Aims and method

The aim of this article is to demonstrate how the form and content of the IA work of the European Commission is shaped by the multiple objectives and the political context in which it is situated. The study was initiated in the beginning of 2005 within a project developing an advanced system for modelling of agricultural issues.² Representatives of main EU bodies were therefore approached, in order to explore institutional factors that would determine the use of advanced tools offered in support of impact assessment work. The question proved to be too early risen. In 2005, the Commission’s system for impact assessment was still new, and the experience of using advanced tools limited.

The officials were at this point still discussing how the requirements in the Communications should be met and how the midterm review of the Lisbon agenda, stressing the aspect of competitiveness, should be integrated into the work. Hence the question concerning use of advanced tools in the assessment work could not get any thorough answer. However, the research project served as a gate opener into the EU institutions and the question about tool use came to function as a catalyst for the wider question to understand the institutional setting in which a possible science-policy interaction could take place.

Altogether 30 interviews were performed, in 2005 and 2007, with the aim to understand how the assessment system was being implemented in the Commission, with special focus on how the IA work was designed to meet the different objectives:

- To provide accurate estimates about impacts.
- To increase integration between sectors.

¹ The Directorates General, are administrative units comparable to ministries or departments, each responsible for a specific policy area like agriculture, energy, environment, etc.

² SEAMLESS, 6:th framework, Integrated Program, 2005–2008.

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