



Impact Assessment in the EU: the State of the Art and the Art of the State

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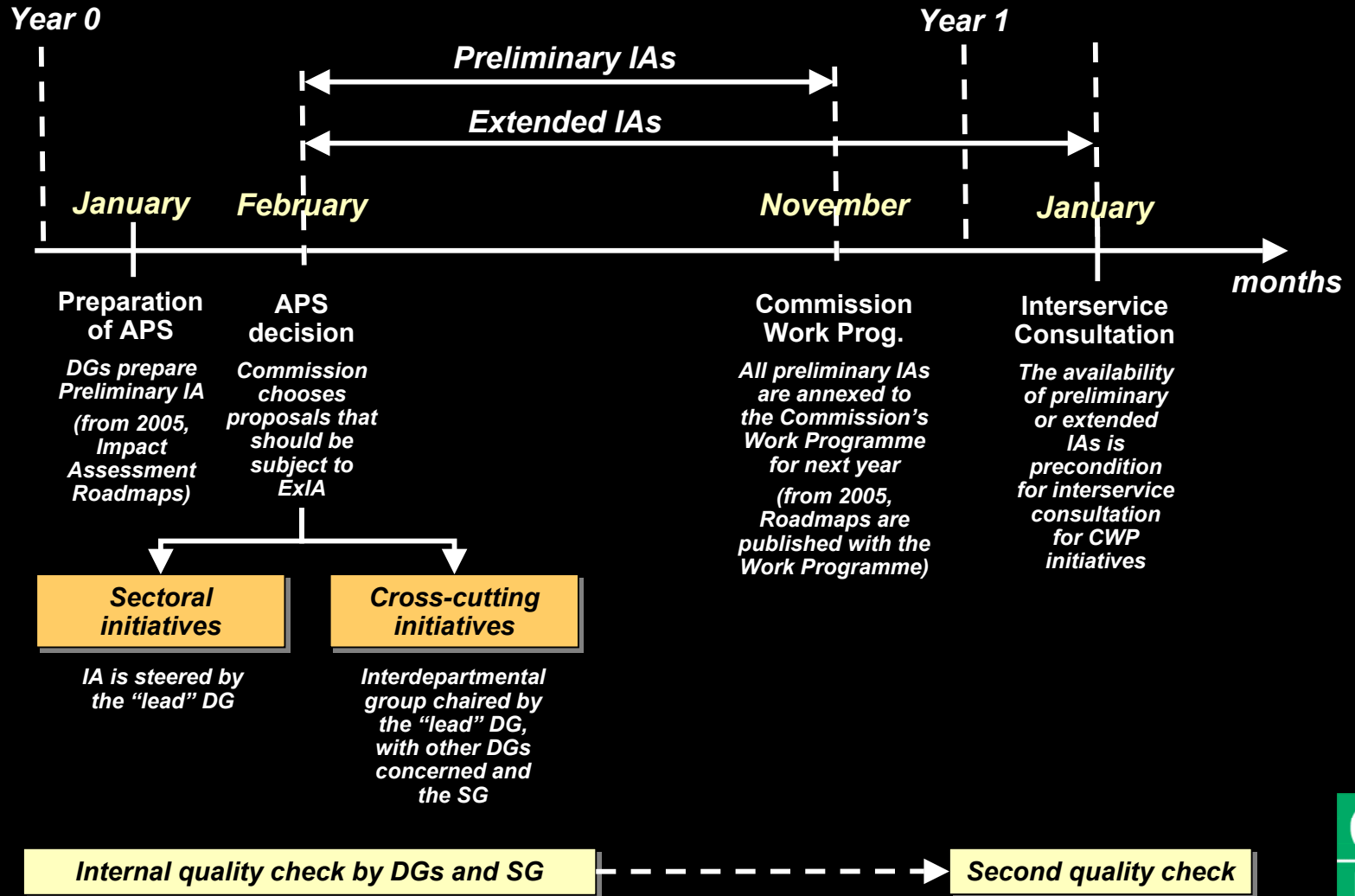
Introduction

Impact assessment is the talk of the town, at least in Brussels. EU policymakers believe it will lead Europe back on the Lisbon track. But can they live up to the promise?

- *Regulatory impact assessment is seen as a useful tool in support of more efficient, effective and transparent and accountable policymaking*
- *The US and UK experience have led to mixed results, but confirmed the role of ex ante assessment as a valuable tool for policymaking*
- *Much of the new Lisbon strategy relies on better regulation and the new Integrated Impact Assessment model adopted in 2003*
- *International best practices show that an ad hoc oversight agency is useful in spurring high-quality impact assessment*



The Commission's SPPC





Promises to keep

The UK presidency and the Commission have put strong emphasis on the assessment of costs and benefits of prospective regulation.

This is a major turn

- *“It’s crucial that we put impact assessment at the heart of policy–making. That we have a clear view of the effect that our new legislation will have on business, backed up by solid analysis. Nowhere is this more important than as regards competitiveness”*

Alan Johnson (2005)

- *“we will only put forward proposals that have undergone an impact assessment. This approach should guarantee that we know the full costs and benefits of future legislation”*

Gunther Verheugen (2005)



A scorecard analysis

The first 95 ExIAs completed by Commission DGs resulted in a sea of disappointment...

- *95 ExIAs performed since 01/2003 (plus one not publicly available)*
- *Scorecard items used by Hahn and Dudley (2004)...*
- *...plus scorecard items tailored to the EU model*
 - *Competitiveness*
 - *Proportionality*
 - *Subsidiarity*
 - *Consistency with the acquis*
 - *Use of soft-law, co- and self-regulation*
 - *Consultation*
 - *Sensitivity test*



Main results

The first 95 ExIAs completed by Commission DGs resulted in a sea of disappointment...

- **Costs are seldom estimated**
 - 40% quantified at least some cost
 - 25.3% monetized all or nearly all costs
 - Business costs only in 12.6% of sample
- **Benefits are rarely quantified**
 - 33.7% quantified some benefits
 - 26.3% monetized some benefits
 - 11.6% quantified (nearly) all benefits
 - Specific benefits (health, safety) almost ignored
- **Costs and benefits are almost never compared**
 - Net benefits in 13.7% of the sample
 - Cost-effectiveness in 8.4%



Main results

The first 95 ExIAs completed by Commission DGs resulted in a sea of disappointment...

- **Alternatives are seldom compared**
 - **Cost of each alternative compared in 16.8%**
 - **Only in 14.7% costs were monetized**
 - **Benefits monetized only in 7.4% of the cases**
- **Methodology is oversimplified**
 - **Discount rate only in 3 ExIAs**
- **Environmental and social impacts?**
 - **Environmental impact only in 60% of ExIAs**
 - **Social impact in 75.8%**



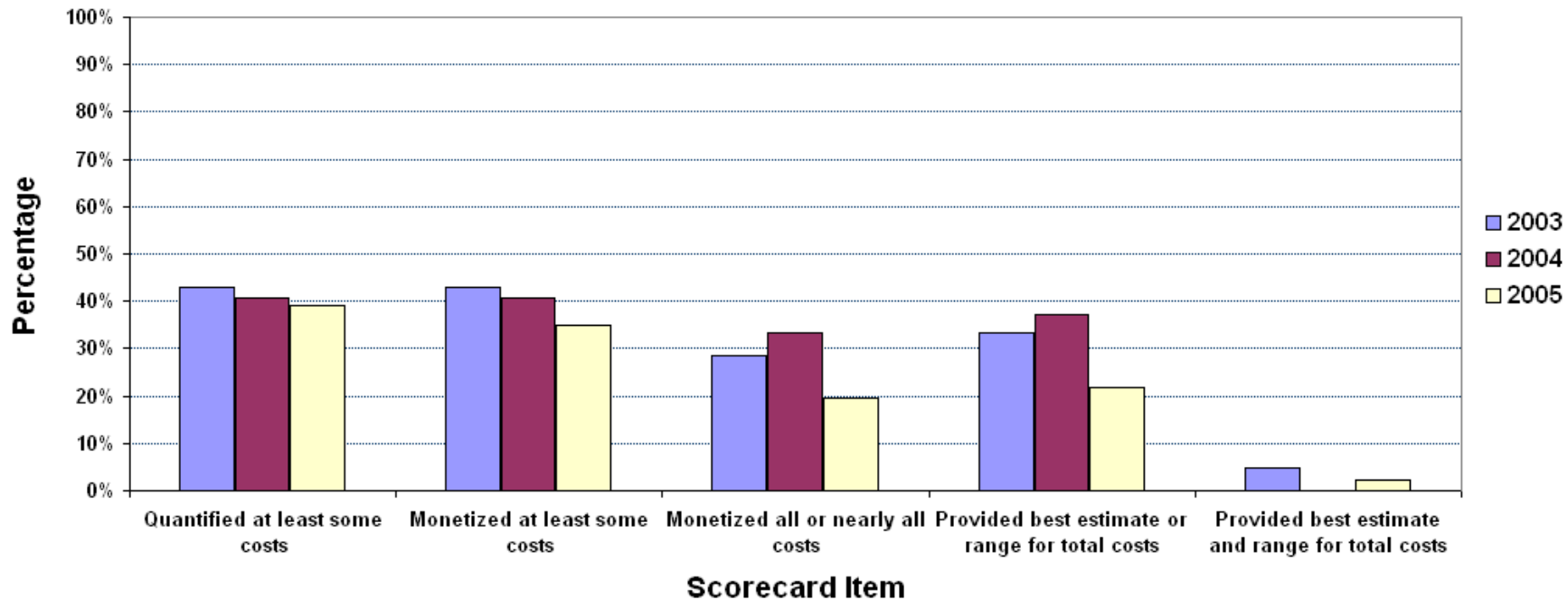
Main results

The first 95 ExIAs completed by Commission DGs resulted in a sea of disappointment...

- **Administrative burdens?**
 - *Only in 22.1% of the ExIAs*
- **Subsidiarity and proportionality**
 - *57 ExIAs out of 95 considered subsidiarity*
 - *54 considered proportionality*
- **Self- and co-regulation are almost neglected**
 - *Only 8.4% of ExIAs considered self-regulation*
 - *9.5% considered co-regulation*

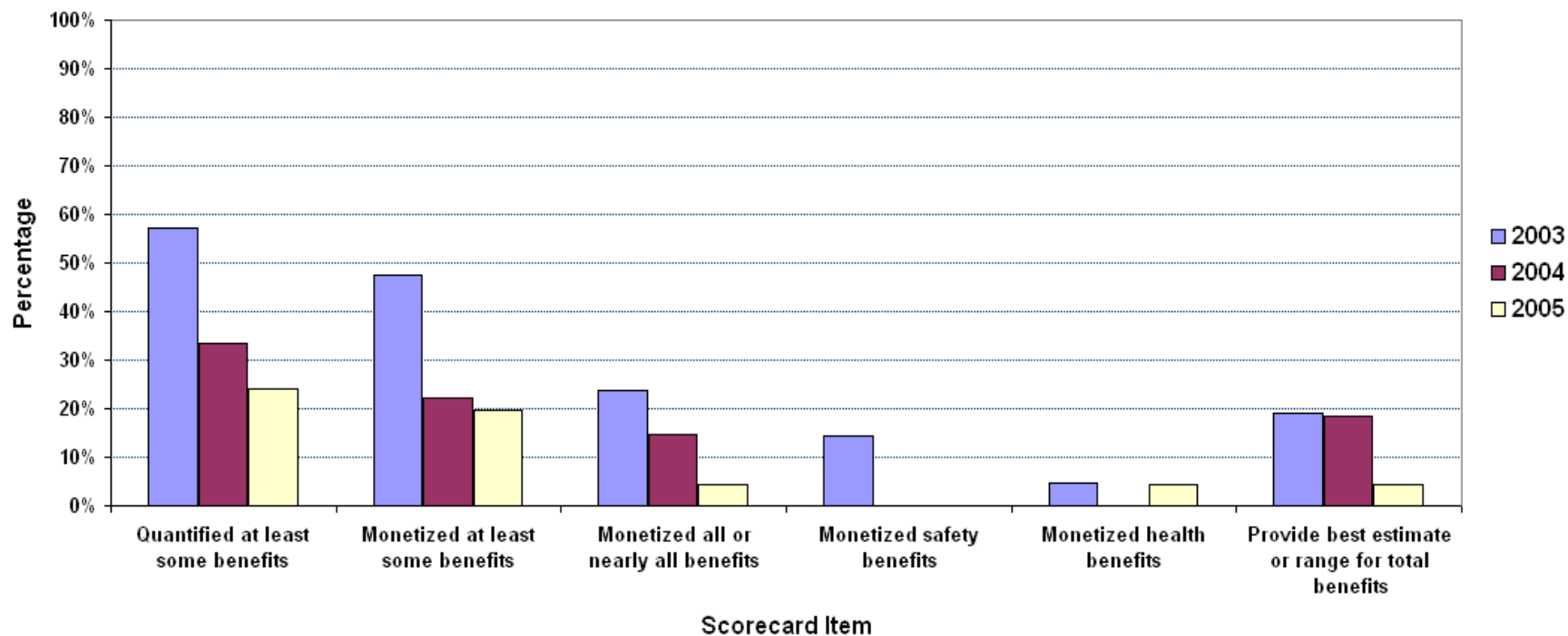
Is IIA quality increasing?

Figure 1 - Quality of ExIAs in 2003, 2004 and 2005 selected scorecard items on cost assessment



Is IIA quality increasing?

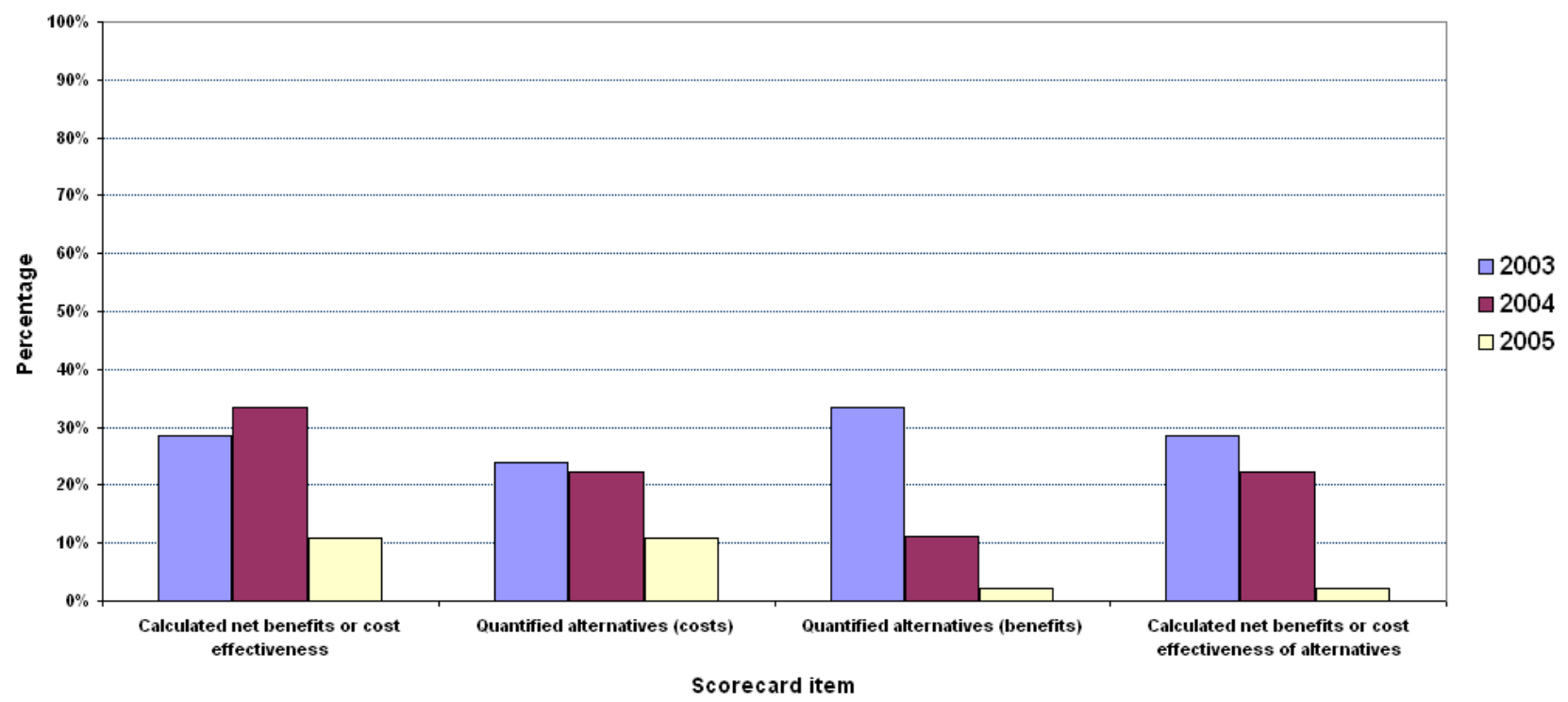
Figure 2 - Quality of ExIAs in 2003, 2004 and 2005 selected Scorecard items on benefit assessment





Is IIA quality increasing?

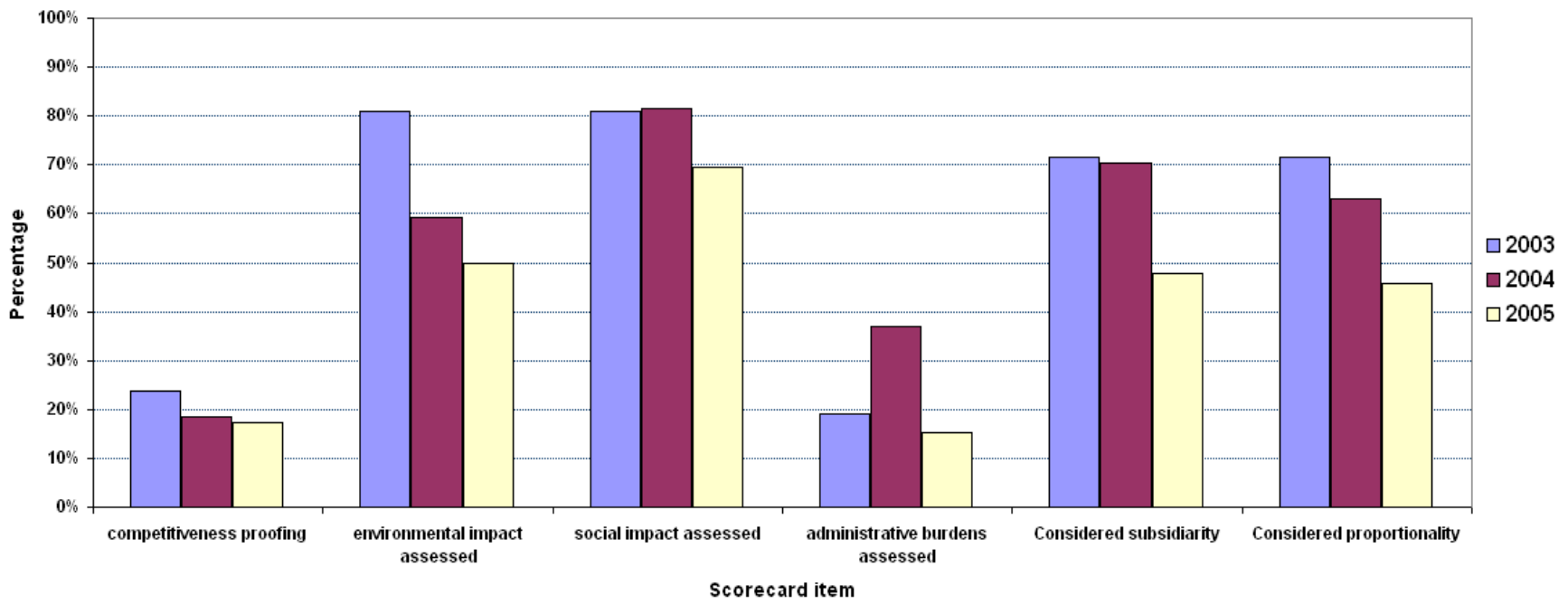
Figure 3 - Quality of ExIAs in 2003, 2004 and 2005 selected items on overall impact assessment





Is IIA quality increasing?

Figure 4 - Quality of ExIAs in 2003, 2004 and 2005 selected items on comprehensiveness of assessment



Convergence?

	Better Regulation Programme	Specific RIA Policy	Obligatory RIA	Alternative Instruments Considered	Guidelines for RIA	Coordinating Body for RIA	Consultation part of RIA	Formal Consultation procedures	Direct Stakeholder Consultation	Test of impact on Small Enterprises	Exemptions for SMEs	Total Y + (Y)
Belgium	(Y)	N.A.	(Y)	N.A.	(Y)	(Y)	N	(Y)	(Y)	(Y)	N	7
Czech Rep.	Y	N.A.	N	Y	N.A.	N.A.	N.A.	N.A.	N.A.	(Y)	N	3
Denmark	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	10
Germany	Y	N.A.	N.A.	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	5
Estonia	N	Y	Y	Y	N.A.	N.A.	N	N	N	N.A.	Y	4
Greece	(Y)	(Y)	N	N	N	N	Y	N	N	N	N.A.	3
Spain	Y	(Y)	Y	(Y)	(Y)	(Y)	N	N	N	N	N.A.	6
France	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0
Ireland	Y	N	N	(Y)	(Y)	N	(Y)	(Y)	N	N	N	5
Italy	(Y)	Y	N	(Y)	Y	(Y)	(Y)	N	Y	(Y)	N	8
Cyprus	N	N	N	N	N	N	N	N	N	N	N.A.	0
Latvia	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	9
Lithuania	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	N	N.A.	N.A.	4
Luxembourg	Y	N.A.	Y	Y	N.A.	Y	Y	Y	N	N	Y	7
Hungary	Y	(Y)	Y	N	N	Y	(Y)	(Y)	N	N	N	6
Malta	Y	N.A.	N.A.	N	N.A.	(Y)	N	N	Y	N	Y	4
Netherlands	Y	Y	N.A.	Y	Y	Y	N	N	Y	(Y)	Y	8
Austria	Y	Y	Y	Y	Y	N	Y	Y	Y	N.A.	N	8
Poland	Y	Y	Y	Y	Y	Y	Y	Y	(Y)	N	Y	10
Portugal	N	N	N	N	N	N	N	N	N	N	N	0
Slovenia	Y	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	1
Slovakia	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	(Y)	N.A.	N	1
Finland	Y	Y	Y	Y	Y	(Y)	Y	Y	Y	N.A.	N.A.	9
Sweden	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	9
UK	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	10
Total Y + (Y)	19	13	12	15	15	14	12	12	11	7	5	

Source: European Commission Communication, 16 March 2005

Roadmaps for the 2006 review



The 2006 review will have to tackle a number of teething methodological, cultural and organisational problems

- 1. Improve methodology, introduce CBA*
- 2. Understand and apply proportionality*
- 3. Sector-specific impact assessment*
- 4. Increase internal consistency*
- 5. Improve clarity of presentation*
- 6. Promote cultural change*
- 7. Ex post monitoring and evaluation*
- 8. Subsidiarity*
- 9. Competitiveness-proofing*
- 10. Create a “regulatory watchdog”*



An ad hoc oversight agency?

Consensus is growing amongst scholars on the need to appoint an ad hoc oversight agency. Principal-agent relationships are the basis of this conclusion

“Centralized oversight units can help improve the quality of regulatory impact analyses. We would go further and emphasize that this central unit should be independent of regulatory agencies.

The EU Should create a strong centralized oversight unit to help evaluate significant regulatory proposals...

... in addition, states that do not have such units should consider creating them...”

Hahn and Litan (2004)

An *ad hoc* oversight agency?

Function	Timing
Advocacy	<i>Ongoing</i>
Consulting	<i>Ongoing</i>
Guidance	<i>Periodical</i>
Challenge	<i>When needed</i>
Coordination	<i>Ongoing</i>
Training	<i>Ongoing</i>
Reporting	<i>Yearly</i>
Institutional relations	<i>Periodical</i>



Conclusions

Legal and economic research can help solve the puzzle of regulatory impact assessment from an organisational, methodological and institutional perspective

- *IA is important for the quality of rulemaking and for competitiveness at both EU and MS level*
- *But IA is no panacea: it can only support a wider regulatory reform initiative*
- *The US and UK models prove that setting up an effective IA model is difficult and context-specific*
- *External oversight is crucial for IA effectiveness*
- *The EU experience is disappointing: without major changes, Europe will not live up to its promise*
- *The 2006 review should consider numerous alternative options (i.e. a meta-IA): it should not be a mere “make-up” of the existing model*



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