



12 September 2017

CONFERENCE OF COMMITTEE CHAIRS

Impact Assessment Handbook¹

Guidelines for Committees

I. Preliminary considerations

1. The European Parliament shares with the Council and Commission the determination to and responsibility for improving the quality of legislation applicable throughout the Union. The Interinstitutional Agreement on Better Law-Making², which enshrines that joint commitment, identifies impact assessment as one of the tools which can help the institutions reach well informed decisions and achieve the goal of high-quality, clear, simple and effective legislation.

For the purpose of this Handbook, impact assessments are deemed to be ex-ante analyses of the likely or foreseeable effects of draft EU legislation or policies proposed for adoption at European Union level, as defined in the Interinstitutional Agreement on Better Law-Making³.

2. In that connection, Parliament has given two undertakings, reiterated in a number of resolutions⁴ and enshrined in the Interinstitutional Agreement on Better Law-Making⁵:

- to take full account of the Commission's impact assessments;
- to carry out impact assessments on its own substantial amendments when it regards it as appropriate and necessary for the legislative process.

3. In practical terms, the three institutions have included in the Interinstitutional agreement on Better Law-Making a specific section on impact assessment⁶, which clarifies their respective roles and lays down a number of basic rules to govern the conduct of their use of this tool

What is an ex-ante impact assessment?

¹ The arrangements for the oversight and coordination of impact assessment work within the Parliament were defined by the Conference of Presidents on 15 November 2012 (PV CPG 15.11.2012 PE 499.457/CPG). Administrative support is provided by the Ex-Ante Impact Assessment Unit of the Directorate for Impact Assessment and European Added Value, which works in close cooperation with the Parliament's committee secretariats, policy departments and other horizontal services.

² Official Journal, 12:05:16 (2016/L 123).

³ Article 12.

⁴ Resolution on guaranteeing independent impact assessments (2010/2016(INI)) – Rapporteur: Angelika NIEBLER, 8 June 2011 and resolutions cited therein; Resolution on the 18th report on Better legislation - Application of the principles of subsidiarity and proportionality (2010) (2011/2276(INI)) - Rapporteur: Sajjad KARIM, 13 September 2012; Resolution on EU Regulatory Fitness and Subsidiarity and Proportionality - 19th report on Better Lawmaking covering the year 2011 (2013/2077(INI)) - Rapporteur: Sajjad KARIM, 4 February 2014; Resolution on the revision of the Commission's impact assessment guidelines and the role of the SME test (2014/2967(RSP)) - 27 November 2014; Resolution on the Annual reports 2012-2013 on subsidiarity and proportionality (2014/2252(INI)) - Rapporteur: Sajjad KARIM, 12 April 2016; Resolution on Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook (2014/2150(INI)) - Rapporteur: Sylvia-Yvonne KAUFMANN, 12 April 2016.

⁵ Articles 14 and 15.

⁶ Articles 12 to 18 of the Interinstitutional Agreement on Better Law-Making

Under the terms of the Interinstitutional Agreement, impact assessments 'should cover the existence, scale and consequences of a problem and the question whether or not Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. The principles of subsidiarity and proportionality should be fully respected, as should fundamental rights. Impact assessments should also address, whenever possible, the "cost of non-Europe" and the impact on competitiveness and the administrative burdens of the different options, having particular regard to SMEs ("Think Small First"), digital aspects and territorial impact'⁷.

The objective is to identify systematically the evidence which can be used to assess the potential impact of a series of political options with a view to comparing their respective advantages and drawbacks.

4. An impact assessment is a tool to aid decision and policy-making in the three institutions. It is in no sense a substitute for political decisions within the democratic decision-making process.

5. Impact assessments form an integral part of the process of shaping Union policies, without prejudice to the role conferred on each institution in the decision-making process and in keeping with their respective institutional roles and responsibilities.

6. Impact assessments must not lead to undue delays in the law-making process or prejudice the co-legislators' capacity to propose amendments.

Why is a practical guide to impact assessments needed?

The purpose of this guide is to help the parliamentary committees deal with impact assessments, in keeping with the undertakings given by Parliament. In that connection:

- it sets out the main principles governing impact assessments as also outlined in article 12 of the Interinstitutional Agreement on Better Law-Making⁸;
- it brings together in one document details of the best practices tested in the committees and sets out some practical criteria so that the committees can enjoy the benefits of impact assessments in the context of negotiations under the ordinary legislative procedure;
- it seeks to improve the degree of consistency in the way that the parliamentary committees deal with impact assessments.

This Handbook is intended to be used flexibly by the committees.

⁷ Article 12.

⁸ Reference may also be made to the Commission's Better Regulation Guidelines SWD (2017) 350 and the Council Guide to dealing with impact assessments Document 9790/16 of 9 June 2016.

II. Criteria for assessing and using Commission impact assessments

7. In keeping with its inter-institutional undertakings, Parliament, ‘upon considering Commission legislative proposals, will take full account of the Commission’s impact assessments’⁹.

EP-Commission Framework Agreement

The EP-Commission Framework Agreement¹⁰ commits the Commission to ensure that its impact assessments are conducted under its responsibility by means of a transparent procedure which guarantees an independent assessment. Impact assessments shall be published in due time, taking into consideration a number of different scenarios, including a 'do nothing' option, and shall in principle be presented to the relevant parliamentary committee during the phase of the provision of information to national parliaments under TFEU Protocols 1 and 2.

8. The parliamentary committees may draw on the assistance of the Parliament’s Ex-Ante Impact Assessment Unit, with a view to assessing the quality, methodology and the independence of the impact assessments provided by the Commission and their relevance for Parliament’s work.

9. The road-maps and inception impact assessments accompanying the Commission’s Work Programme are screened by the Ex-Ante Impact Assessment Unit to check which legislative proposals will be accompanied by impact assessments. When a Commission proposal is referred to a parliamentary committee, the Unit checks whether it is duly accompanied by an impact assessment and routinely provides an initial appraisal of the strengths and weaknesses of the impact assessment in question. This initial appraisal provides an overview of the Commission’s impact assessment and analyses whether the principal criteria laid down in the Commission’s own Better Regulation Guidelines, as well as additional factors identified by the Parliament in this Handbook, appear to be met by the Commission impact assessment.

When should a proposal be accompanied by an impact assessment?

According to the Interinstitutional Agreement on Better Law-Making ‘initiatives included in the Commission Work Programme or in the joint declaration¹¹ will, as a general rule, be accompanied by an impact assessment’.¹²

The Commission’s Better Regulation Guidelines¹³ state that:

An IA is required for Commission initiatives that are likely to have significant economic, environmental or social impacts.

Provided that the above conditions are fulfilled, impact assessments should be carried out for:

- both legislative and non-legislative initiatives, as well as

⁹ Article 14 of the Interinstitutional Agreement on Better Law-Making.

¹⁰ OJ L 304, 20.11.2010, p. 47.

¹¹ The joint declaration referred to here is the joint declaration on interinstitutional programming mentioned in Article 7 of the Interinstitutional Agreement, which follows the adoption of the Commission Work Programme.

¹² The Commission’s Better Regulation Guidelines require Commission impact assessments to be accompanied by a two-page executive summary translated into all the official languages.

¹³ Better Regulation Guidelines (SWD (2017) 350 final), p. 15. See also Tool 9 on when an impact assessment is necessary for more detail.

- delegated acts and implementing measures, taking into account the principle of proportionate analysis.

10. If a proposal likely to have a substantial impact¹⁴ is not accompanied by an impact assessment, the committee responsible, on the basis of a decision by the coordinators, may, with or without suspending consideration of the proposal in question:

- ask the Commission to provide an impact assessment, or,
- ask the Ex-Ante Impact Assessment Unit to carry out or commission the Parliament's own impact assessment of the proposal in question.

There must be broad political support for these decisions.

11. In keeping with Parliament's calls that all Commission proposals should be accompanied by an impact assessment, the impact assessment is considered with a view to assessing its relevance for the ongoing work in committee. With that aim in view, a committee, on the basis of a decision by the coordinators, may ask the Ex-Ante Impact Assessment Unit to:

- provide a detailed appraisal of the quality and independence of the Commission's impact assessment;
- assist the committee in organising a specific meeting, with the participation, where appropriate, of external experts, to ask the Commission to present its analysis and submit to it any requests for clarification.

If such a request is made by a committee other than a committee responsible, that request is to be made in agreement with the committee(s) responsible.

There must be broad political support for these decisions.

The appraisal mentioned above, in this point, are drawn up by the Ex-Ante Impact Assessment Unit or, where necessary, commissioned from external experts. The scope of the assignment is to be defined by the requesting committee itself.

12. The initial appraisal mentioned in point 9, and the detailed appraisal mentioned in point 11, must enable the committee to determine whether the impact assessment will facilitate consideration of the substance of the proposal in full knowledge of the facts and whether the impact assessment meets, firstly, the standards which the Commission has laid down in its internal guidelines (cf. Annex I), and, secondly, the quality criteria which Parliament has defined in its resolutions.

Parliamentary committees may invite the Commission to present its impact assessment in a full committee meeting (as foreseen in Paragraph 42 of the Framework Agreement between the European Parliament and the Commission¹⁵) or, where appropriate, in a separate meeting agreed by coordinators, in order to explain its analysis and methodology, and respond to any criticisms or apparent shortcomings so far identified.

Whenever the Commission is invited to present its impact assessment, the Ex-Ante Impact Assessment Unit may also be invited to present, where possible, its initial appraisal or other work it produced in relation to that impact assessment.

¹⁴ For example, a proposal not included in the Commission Work Programme or a regulatory or implementing act.

¹⁵ Official Journal, 20:11:10 (2010/ L 304)

What quality criteria apply to impact assessments?

The Commission's proposals - and by definition the impact assessments accompanying them - must respect Treaty obligations in respect of (inter alia):

- fundamental rights, including the Charter of Fundamental Rights, non-discrimination and European citizenship (Article 6 TEU and Articles 10 and 18 TFEU);
- requirements of the MFF and budgetary procedures (Article 310(4) TFEU);
- the precautionary principle (Article 191(1) TFEU);
- the potential costs owing to the lack of action in the field of environmental policy (Article 191(3) TFEU);
- requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health (Article 9 TFEU);
- consumer protection requirements (Article 12 TFEU);
- the conditions necessary for the competitiveness of the Union's industry (Article 173 TFEU);
- impact on developing countries (Article 208 TFEU).

Further requirements laid down by Parliament include:

- transparent and targeted public consultations, involving regional and local authorities;
- a rigorous, objective and exhaustive approach;
- an adequate choice of strategic scenarios and options (including the option of taking no action);
- proper justification of the options selected in the light of the principles of subsidiarity and proportionality;
- a balanced analysis of the impact on the economic, social and environmental pillars and on public health;
- more detailed consultations with stakeholders before impact assessments are prepared to offset any lack of methodology or data.
- consideration of other assessment criteria, such as:
 - impacts outside the Union, including on international trade;
 - impact on the four freedoms of the internal market ('Single market test');
 - impact on SMEs and micro-enterprises (SME test);
 - regional and local impacts;
 - impact in terms of administrative burdens,
 - the objective of effective application in the Member States,
 - as far as possible, qualitative criteria, such as the impact on vulnerable social groups (social benchmarking), gender equality;

13. If the Commission's methodology and reasoning fail to meet these criteria or reveal shortcomings, the committee responsible, on the basis of a decision by the coordinators, may ask the Commission to revise its original impact assessment with a view to analysing certain aspects or policy options in greater detail or complementing or updating the analysis of certain aspects¹⁶. There must be broad political support for this decision.

14. Alternatively or in parallel to the procedure in point 13, the committee(s) responsible, on the basis of a decision by the coordinators, may ask the Ex-Ante Impact Assessment Unit to undertake or commission the Parliament's own complementary or substitute impact assessment of the aspects dealt with inadequately or not at all in the Commission's original impact assessment. There must be broad political support for this decision. The terms of reference for such impact assessment work are defined, in each case, by the committee itself.

¹⁶ Article 16 of the IIA on Better Law-Making: 'The Commission may, on its own initiative or upon invitation of the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary'.

III. Criteria for analysing the impact of *substantial* Parliament amendments

15. When it regards it as appropriate and necessary to the legislative process, Parliament carries out impact assessments of its substantial amendments, without in any way undermining its ability to adopt such amendments. There must be broad political support for this decision.

What is the definition of a *substantial* amendment?

The Interinstitutional Agreement on Better Law-Making states in Article 15 that ‘the definition of a ‘substantial’ amendment should be for the respective Institution to determine.’ It is difficult to provide a definition of ‘substantial’ which is valid across the board - it is an assessment which must be made on a case-by- case basis.

16. It is up to the parliamentary committee(s) responsible to determine whether one or more of the amendments tabled during its consideration of a Commission proposal is ‘substantial’ and, if appropriate, whether it or they should be the subject of an impact assessment. The terms of reference for impact assessments on such amendments are defined, in each case, by the committee itself.

17. The committee responsible, on the basis of a decision by the coordinators, may request an impact assessment of one or more specific substantial amendments¹⁷. There must be broad political support for that decision.

18. The associated committees involved, pursuant to the procedure under Rule 54, may, on the same basis, carry out impact assessments of the substantial amendments which fall within their spheres of responsibility, provided that this is compatible with the procedural timetable agreed with the committee responsible.

In the case of a procedure with Joint Committee Meetings, under Rule 55, decisions concerning the carrying out of impact assessments on substantial amendments are taken jointly by the committees concerned.

19. Impact assessments can be carried out at any stage of the legislative procedure, taking account of the time constraints specific to each reading, and provided that they do not unduly delay the legislative process.

20. As a rule, the committee responsible tries to identify substantial amendments likely to be the subject of an impact assessment before they are adopted in committee. However, it may regard it as more appropriate to carry out the impact assessment at a later date:

- prior to the vote in plenary, if that is possible, in particular in connection with a procedure with associated committees,
- after the vote in plenary.

There must be broad political support for this decision.

¹⁷ Taking account of the deadlines and the procedures required to meet such requests.

At what stage of the legislative procedure should an impact assessment of a substantial amendment be carried out?

The Inter-Institutional Agreement on Better Law-Making does not stipulate at which stage an impact assessment of a substantial amendment should be carried out. In practice, the parliamentary committees have had impact assessments of substantial amendments carried out at first reading, second reading and conciliation stage, and they may do so at any stage of an inter-institutional negotiation on a legislative proposal.

21. The task of carrying out impact assessments of substantial Parliament amendments is conferred on external experts.

22. The decision by the committee responsible to request an impact assessment on substantial amendments is forwarded to the Ex-Ante Impact Assessment Unit, which selects external experts, in keeping with the provisions of the Financial Regulation, EU law on public contracts and the Parliament's own internal procurement rules, in a way that ensures that the experts are as independent and objective as possible and the procedure for selecting them is as transparent as possible.

23. In methodological terms, in accordance with Article 15 of the Interinstitutional Agreement on Better Law-Making, impact assessments of substantial amendments take, as a general rule, the Commission's impact assessment as their starting point. As far as possible, the impact assessment is structured in such a way as to facilitate comparisons with the Commission text, although without duplicating the Commission's work.

24. It follows from Article 17 of the Interinstitutional Agreement on Better Law-Making, that, in keeping with a spirit of sincere cooperation, the Commission is expected to assist Parliament in its work by making available to it details of any specific methodology used in preparing an impact assessment (economic modelling, cost-benefit and/or cost-effectiveness analysis) and forwarding the data employed.

25. Impact assessments of substantial Parliament amendments are made available in the language requested by the Committee. At the request of the coordinators, a summary may be translated into the language of the rapporteur and/or into no more than three working languages.

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26. Parliamentary committees should take account of the deadlines and procedures required to meet their requests for impact assessment work¹⁸ and allow in their work timetable sufficient time for the completion of the requested impact assessment work and for its due consideration by the requesting committee.

27. Parliamentary committees which ask for impact assessment work to be drawn up should inform any other committees to which the performance and results of the analyses requested might be of interest.

28. The Ex-Ante Impact Assessment Unit is responsible for monitoring and ensuring that impact assessment-related work performed by external experts is consistent with Parliament's quality criteria.

29. Impact assessment-related work referred to in this Handbook is published on Parliament's Internet site, in line with Article 18 of the Interinstitutional Agreement on Better Law-Making, unless a duly justified decision to the contrary is taken by the committee responsible.

30. In accordance with Article 17 of the Interinstitutional Agreement on Better Law-Making, the three institutions will, on a regular basis, cooperate by exchanging information on best practice and methodologies relating to impact assessments, enabling each Institution to further improve its own methodology and procedures and the coherence of the overall impact assessment work.

31. Parliament endeavours to keep the Council and Commission informed, regularly and in good time, about on-going impact assessment work.

¹⁸ Apart from impact assessment work referred to in this Handbook, parliamentary committees may ask the Ex-Ante Impact Assessment Unit to produce other work related to impact assessment according to specific needs. The modalities for the performance of such work are to be agreed on an ad hoc basis between the committee responsible and the Ex-Ante Impact Assessment Unit.

ANNEX

Assessment sheet concerning the key components of an impact assessment

The Commission¹⁹ has developed a standard format for its impact assessments (hereinafter IA) which identifies the key stages in the procedure and the questions to which the IA must provide a clear, precise answer. This annex is based on it.

General requirements for the main IA report

- Is the main IA report a self-standing document written using non-technical language with non-expert readers in mind? Does the IA meet the benchmark length of 30-40 pages (excluding annexes but including tables and figures)?
- Are underlying data, statistics, information, expert contributions and stakeholder views all referenced, particularly where choices are made or conclusions are made based on them?
- Is consultation of interested parties integrated throughout the text of the IA? A compulsory annex on Stakeholder consultation must be included in the impact assessment report. Questions to be answered include:
 - o Have the Commission's relevant minimum standards²⁰ been observed? If not, why not?
 - o Which stakeholders have been consulted?
 - o How, at what stage in the IA process were they consulted (transparency, minimum deadline of 12 weeks for online public consultation, minimum time-limit for reply)?
 - o What are the main results of the consultations and how have they been taken into account?

Detailed structure and content of the main IA report

1. What is the problem and why is it a problem?

- What is the issue or problem that may require action? What is the size of the problem?
- Why is it a problem? What are the main drivers?
- Who is affected by the problem, in what ways, and to what extent? Whose behaviour would have to change to improve the situation?
- What is the EU dimension of the problem?
- How would the problem evolve, all things being equal?
- Has any fitness check/retrospective evaluation been carried out of the existing policy framework? What was concluded from the evaluation/fitness check?

2. Why should the EU act?

- Does the EU have the right to act?

¹⁹ SWD (2017)350. [Commission's Better Regulation Toolbox, tool 12 on the 'Format of the IA report'](#)

²⁰ *General principles and minimum standards for consultation of interested parties (COM(2002)704), complemented by COM(2012) 746 and accompanying SWD(2012) 422 and by COM(2014) 368*

- Why could Member States not achieve the objectives of the proposed action sufficiently by themselves?
- What would be the added-value of action at EU-level?

3. What should be achieved?

- What are the general policy objectives? What are the more specific objectives?
- How do they link to the problem? How do the objectives relate to each other, i.e. are there any synergies or trade-offs?
- Are these objectives consistent with other EU policies and with the Charter for fundamental rights?

4. What are the various options to achieve the objectives?

- What are the possible options for meeting the objectives and tackling the problem? Have all possible options been considered (including the option of changing nothing and a non-regulatory option, where appropriate)?
- Which options have been discarded at an early stage and why?
- Who would be targeted by the different policy options? Have different digital solutions been considered?
- Has the Think Small Principle been applied? Are micro-SMEs a priori exempted from new regulations unless appropriately justified? Are "lighter" regimes considered for SMEs generally?

5. What are the impacts of the different policy options and who will be affected?

- What are the likely economic, social and environmental impacts of each of the short-listed options?
- Are all impacts (positive and negative, direct and indirect, intended and unintended, including those outside the EU) listed?
- Are impacts on SMEs assessed, as far as possible including quantitative estimates of administrative and compliance costs?
- Are impacts on competitiveness assessed, in particular on the most affected businesses sectors?
- Who would be affected (e.g. businesses, citizens, workers, consumers, public administrations, regions, third country actors) and how? Which actions/measures would those affected by the measure need to take to comply with the requirements (see also Annex 3)? Are uncertainties specified? In particular, how the estimated impact may be affected by changes in parameters?
- Which impacts are likely to change over time and how?
- What are the potential obstacles that might be encountered for an effective implementation of the option and compliance by Member States and targeted entities?

6. How do the options compare?

- How do options compare, with regard to:
 - o The extent to which they would achieve the objectives (effectiveness)?
 - o Their respective key economic, social and environmental impacts and benefit/cost ratio, cost-effectiveness (efficiency), other means of ranking options such as multi-criteria analysis? And

- The coherence of each option with other EU policy objectives, including the Charter for fundamental rights, and with other policy initiatives and instruments (coherence)?
- What are the trade-offs and synergies associated with each option?
- What is the likely uncertainty in the key findings and conclusions? How these might affect the choice of preferred option?
- Which policy option is preferred and why? Alternatively, why no preferred option is presented?
- How do the options, and in particular the preferred one, conform to the principles of subsidiarity and proportionality, given the size and nature of the identified problem?

7. How would actual impacts be monitored and evaluated?

- What should be monitored and evaluated and when? In particular:
 - What are the core monitoring indicators for the main policy objectives? What are the corresponding benchmarks against which progress will be evaluated?
 - Are monitoring arrangements in place from the outset? Are evaluations designed and scheduled in a way whereby the results can be used as input for future impact assessments?
 - For the preferred policy option:
 - Are operational objectives and the corresponding monitoring indicators identified?
 - What would be monitored and evaluated, by whom, and how will the results be used?

Annexes that must be included in the impact assessment report

Annex 1: Procedural information

Annex 2: Stakeholder consultation

Annex 3: Who is affected by the initiative and how

Annex 4: Analytical models used in preparing the impact assessment