




IMPACT ASSESSMENT IN THE EUROPEAN UNION

Andrea Renda, *Senior Research Fellow, CEPS*
Brussels, 30 April 2010



INTRODUCTION: IMPACT ASSESSMENT

- IA is seen as a useful tool in support of more efficient, effective, transparent and accountable policymaking
- Internationally sponsored (OECD) and currently adopted in many EU countries and at EU level, within broader regulatory reform programmes
- The focus and depth of analysis change remarkably from country to country
- IA requires resources and transparency of regulatory processes: in many Civil Law countries it has failed so far

2

IA: MAIN STEPS



- Analysis of status quo***
- Identification of need for regulation***
- Analysis of alternative policy options***
- Consultation***
- Collection of information***
- Identification of preferred option***
- Detailed cost-benefit analysis***
- Input to drafting***

IA: METHODS AND CHALLENGES

- ***Efficiency criteria***
 - Pareto, Kaldor-Hicks, KHZ, KHM, Rawls
 - Substantial v. procedural efficiency
- ***Methods of evaluation***
 - CBA, CEA, Risk assessment, Risk-Risk Analysis
- ***Types of regulatory intervention***
 - Re-regulation, de-regulation, self-regulation, co-regulation, regulation through information, etc
- ***Measurement problems***
 - Marketable goods, non-market goods, non-monetizable goods, Intertemporal social discount rates, etc.
 - Prospect theory, WTP v. WTC
- ***Organisational, game-theoretic issues***
 - *Principal-agent relationships*
 - *Oversight agencies*

Benefit category	Estimation approach
To individuals	
• Mortality	<i>Wage compensation; stated preferences; averting behaviour; human capital (foregone earnings).</i>
• Morbidity (acute, chronic)	<i>Stated preferences; cost of illness (medical earnings, pain and suffering, avoidance); averting behaviour</i>
To production/consumption	
• Crops/forests/fisheries	<i>Consumer plus producers surplus</i>
• Water-using industry	<i>Consumer plus producers surplus</i>
• Municipal water supply	<i>Opportunity cost (alternative aquifer)</i>
• Authorities	<i>Service replacement (municipal treatment, bottled water)</i>
Economic assets	
• Materials (corrosion, soiling)	<i>Replacement cost, service values, household production function</i>
• Property values	<i>Hedonic price models</i>
Environmental assets	
• Recreational use	<i>Unit day, stated preference, property value, travel cost, random utility, hedonic prices, travel cost, service replacement costs</i>
• Other use (visibility)	<i>Stated preferences, property value</i>
• Passive use (non-use)	<i>Stated preferences</i>

Source: elaborated from Freeman (1993)

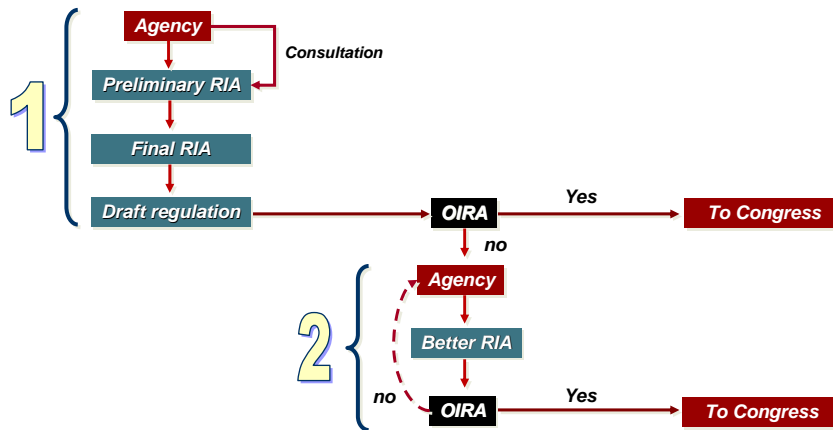
5

RIA IN THE US (1)

- 1981: Reagan administration introduces RIA (EO 12,291)
 - Does not apply to independent agencies (e.g. FTC, FCC, SEC)
 - Estimated yearly saving: \$10 billion
- 1985: The grand experiment
 - Yearly OMB Report on the costs and benefits of Federal regulation
 - Council of Competitiveness replaces Task Force on Regulatory Relief
- 1993: Clinton launches the NPR (EO 12,866)
 - Eliminate 16,000 and modify 31,000 pages in the Federal Code
 - Threshold for RIA: only "significant regulatory actions" (> 100M million USD)
- 2002: RIA under George W. Bush (EO 13,258)
 - Removal of Vice-President's role in solving controversies between OIRA and proposing agencies
 - OIRA Prompt letters: from "consultant" to "adversarial gatekeeper"

6

RIA IN THE US (2)



7

RIA IN THE US (3)

- In the US, RIA is based on Kaldor-Hicks (resourcist) net benefits calculation...
- ... but only government agencies are obliged to carry out RIA, i.e. RIA is mandatory only for most significant secondary legislation
- Oversight is key: OIRA, GAO, CBO all contribute to quality assurance
- The use of Kaldor-Hicks criteria as the sole pillar of analysis is not generally accepted in Congress, independent agencies, and in common law adjudication
- This is also due to law and economics scholars, especially economists (Chicago, 1979)

8

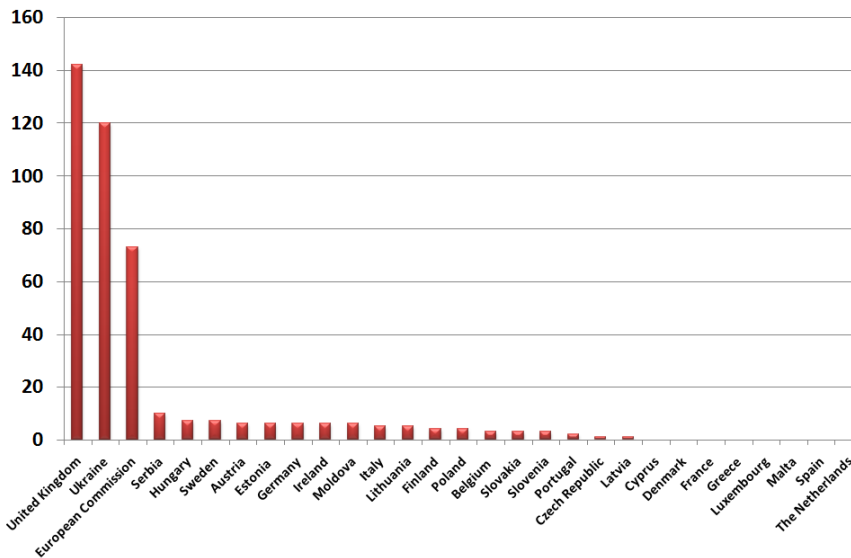
CIVIL LAW COUNTRIES

- RIA, where existent, serves widely different purposes and has different scope and depth
 - Often the scope is too ambitious or misunderstood (e.g. Italy)
 - Every paradigm shift (à la Kuhn) needs a cultural shift, and this is lacking in many countries
 - A “better regulation” community is slowly emerging – no “ruling class heroes”
- Parliamentary democracies are less prone to RIA than presidential ones
 - Administrative procedures, decision styles, agencies’ knowledge differ widely
 - RIA gives results in the long-term (next government?)

THE DIADEM EXPERIENCE

- Definition of impact assessment:
 - 1) A systematic, mandatory, and consistent assessment of aspects of social, economic, or environmental impacts such as benefits and/or costs;
 - 2) affecting interests external to the government
 - 3) of proposed regulations and other kinds of legal and policy instruments
 - 4) to i) inform policy decisions before a regulation, legal instrument, or policy is adopted; or ii) assess external impacts of regulatory and administrative practices; or iii) assess the accuracy of an earlier assessment.

DIADEM: NUMBER OF IAS PER COUNTRY



IMPACT ASSESSMENT IN THE EU

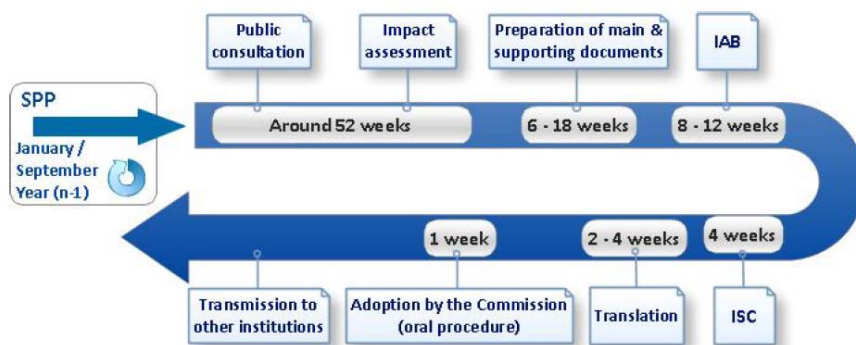
- **1986: Business Impact Assessment System (BIAs)**
 - *SMEs Task Force at the Commission*
 - *Since 1989, competence of DG XXIII (now DG Enterprise)*
- **1996: SLIM: Simplification of the Legislation on the IM**
 - *Ex post evaluation of regulation*
- **1997: Business Environment Simplification Task Force**
 - *Focus on compliance costs, SMEs and obstacles to growth*
 - *Sharing of Best Practices and benchmarking*
- **1998: Business Test Panel**
 - *A stable consultation platform for businesses*
- **2002: communication on Impact assessment**
 - *Preliminary assessment + Extended Impact Assessment*

IMPACT ASSESSMENT IN THE EU

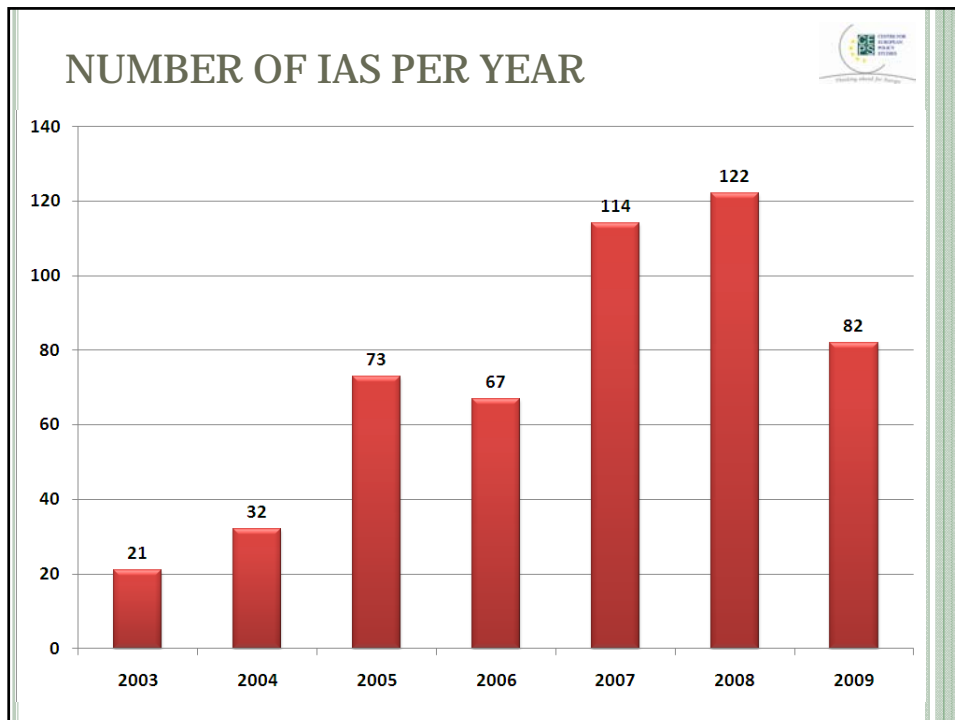
- **2003: Inter-institutional agreement on better lawmaking**
 - Parliament and Council commit to the same IA methodology
 - Reinforced in 2005 with the “Common Approach to IA”
- **2005: Relaunch of the IA system (“growth and jobs”)**
 - New IA guidelines, more emphasis on economic analysis
- **2007: ex post evaluation of the Commission’s IA system**
 - Suggested strengthened quality oversight
- **2007: Appointment of the Impact Assessment Board**
 - 5 DGs involved, rooted in the SG
- **2007: launch of the administrative burdens Action Plan**
 - Emphasis shifts towards administrative burdens
 - Since 2006 the IA guidelines contain an annex on the SCM
- **2010: smart regulation?**


13

IMPACT ASSESSMENT IN THE EU




14





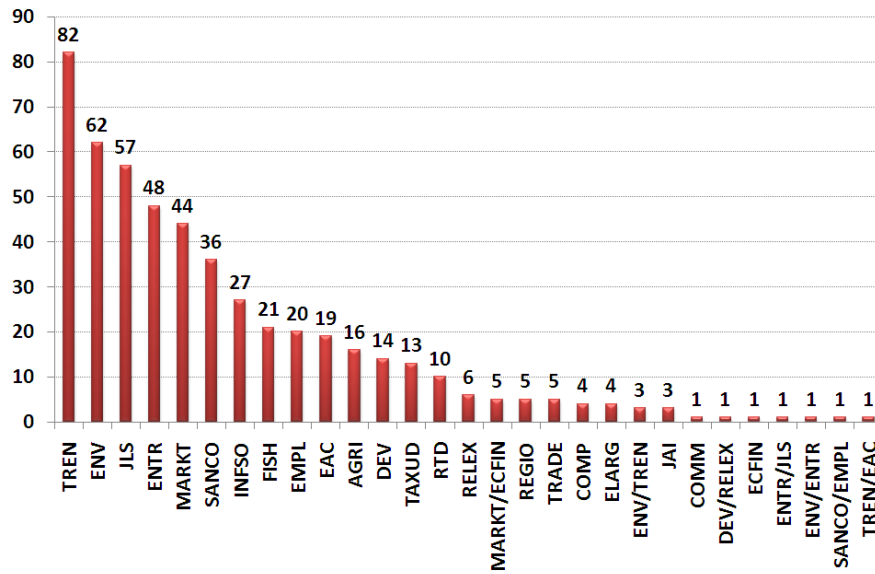
PLATEAU-ING?

- Very high initial expectations: it “should guarantee that we know the full costs and benefits of future legislation” (Verheugen, 2005)
- Some bad episodes (REACH, Roaming regulation, Services Directive, 2006 Communication on the telecoms review, etc.)
- Degree of quantification is still quite low
- Lack of skills in some Commission DGs
- Growing emphasis on “accounting” methods such as the Standard Cost Model
- Still insufficient focus on implementation, compliance and enforcement phases of legislation

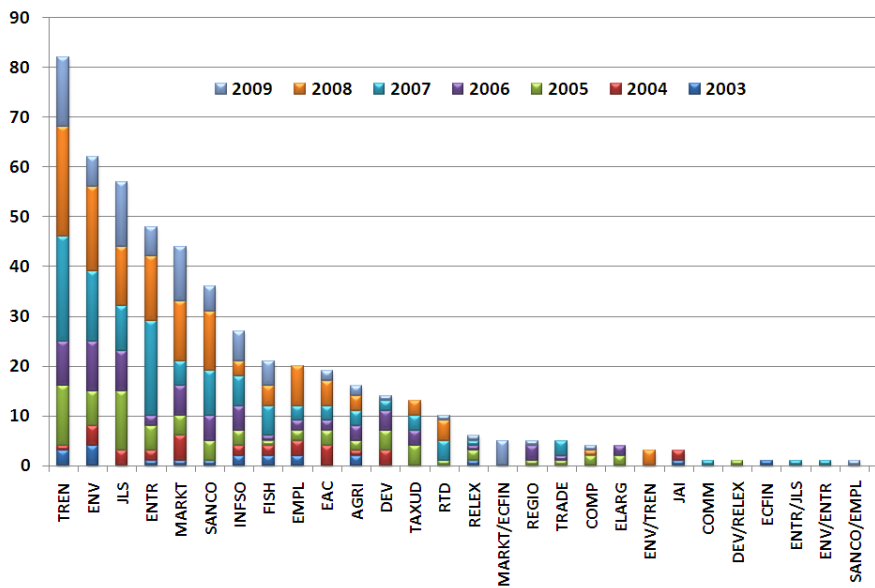




NUMBER OF IAS PER DG



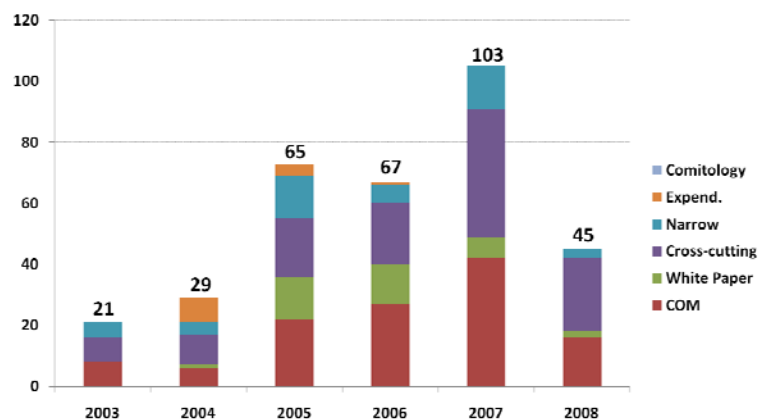
NUMBER OF IAS PER YEAR, PER DG



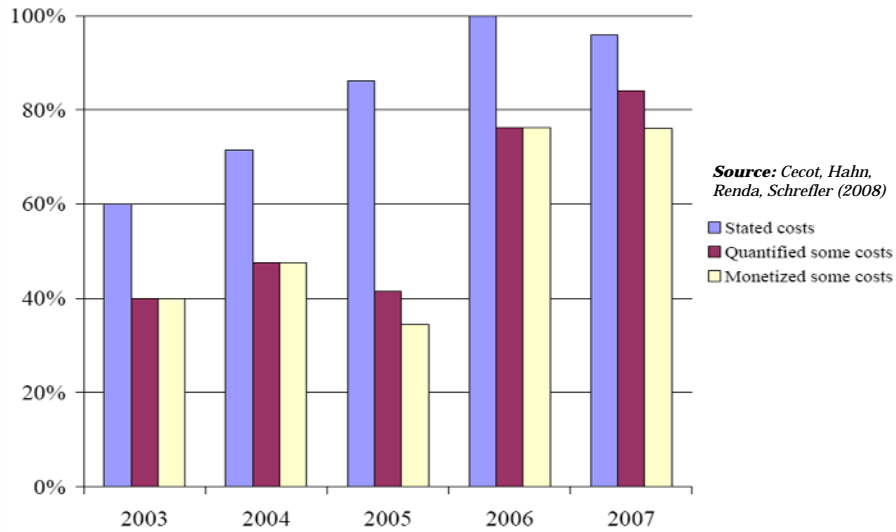
IMPACT ASSESSMENT IN THE EU

- **Proportionality principle:** criteria are (i) the significance of likely impacts, (ii) political importance and (iii) the situation in the context of policy development
 - *Communications which give broad policy orientations*
 - *Non-legislative initiatives/white papers which set out commitments for future action*
 - *“Cross-cutting” legislative action*
 - *“Narrow” legislative action in a particular field or sector, and unlikely to have significant impacts beyond the immediate policy area.*
 - *Expenditure programmes*
 - *Comitology decisions*

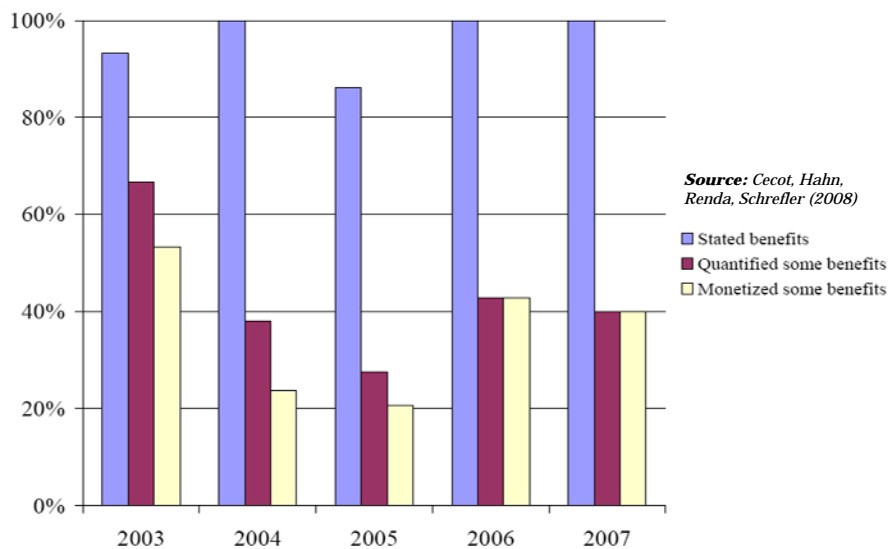
IAS BY TYPE OF INITIATIVE (AT JUNE 2008)



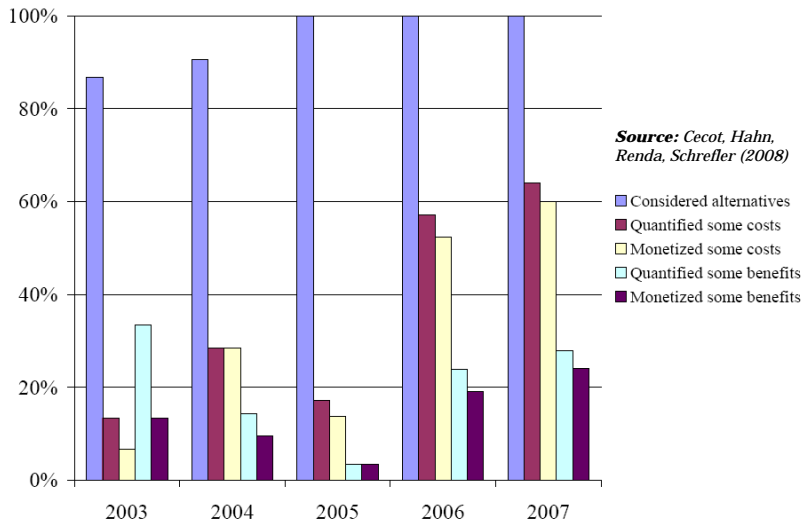
COMMISSION'S BINDING PROPOSALS, 2003-2007



COMMISSION'S BINDING PROPOSALS, 2003-2007

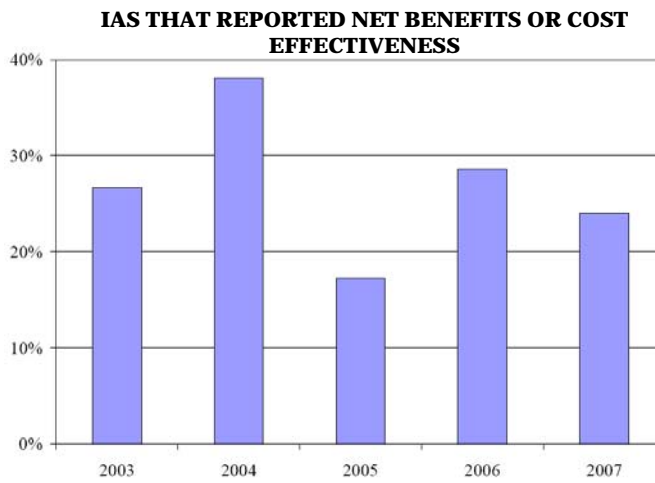


COMMISSION'S BINDING PROPOSALS, 2003-2007



23

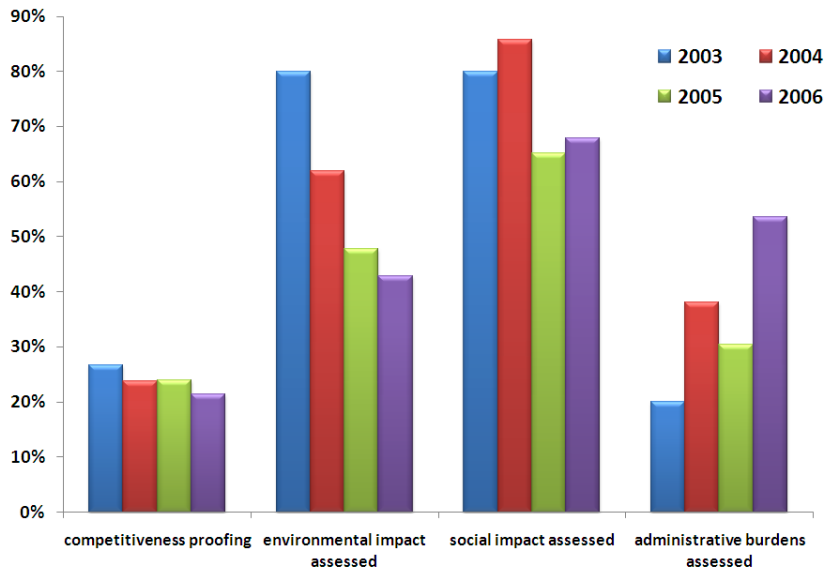
COMMISSION'S BINDING PROPOSALS, 2003-2007



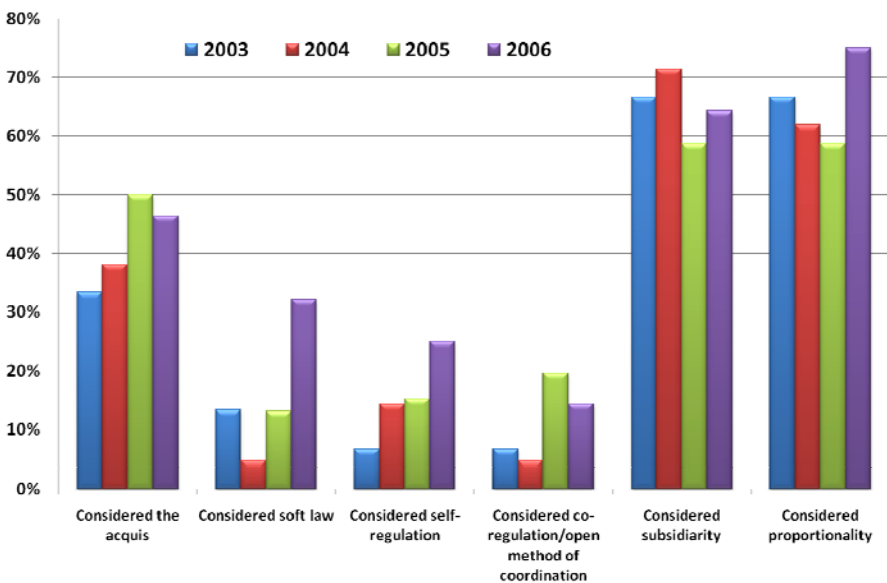
24

Source: Cecot, Hahn, Renda, Schrefler (2008)

COMMISSION'S BINDING PROPOSALS, 2003-2006



COMMISSION'S BINDING PROPOSALS, 2003-2006



WHAT KINDS OF IMPACTS?

- **Commission IAs look at a wide variety of impacts, following the list included in the IA guidelines (thanks to IAB)**
- **Items missing in many IAs:**
 - Internal market impact
 - Impact/expectation on compliance rate
 - Territorial impacts (within the EU)
 - Impact on innovation in the long run
 - Coordination between goals of the policy measure and high-level political priorities
- **Items that are too often considered**
 - Macroeconomic impacts?
- **Items that are considered at the wrong time**
 - Zero option
 - Subsidiarity test

27

OUTSTANDING ISSUES

- Efficient selection of proposals
- Proportionality of analysis
- Oversight
- Transparency and accountability
- Role of the Standard Cost Model
- Efficient use of IA resources
- Inter-institutional challenges
- Convergence with national IA systems?

28

IA: LOST IN...?

- Formulation
- Drafting/elaboration
- Translation (!)
- Consultation
- Co-decision
- Transposition
- Implementation
- Evaluation

29

EMERGING SOLUTIONS

- Need for an expanded role of the European Commission in performing IA throughout the policy cycle
- Stronger oversight on the quality of the Commission IAs
- Need to effectively manage the resources available for the implementation of better regulation at EU level
- Need for stronger targeting of IAs, control on the selection of proposals and decisions on proportionality
- Need to clarify the future role of the SCM and its relation to the IA system.

30

THE EU SCM

- **In 2007, the EU launched an ambitious action programme on measuring and reducing ABs**
 - First round involved 42 acts (mostly directives) in 13 priority areas
 - Expected reduction: 25% of GDP (*net?*)
 - Expected impact: +1.4% of GDP
- **This is the first example of application of the SCM in a multi-level governance framework**
 - Where does the EU end, and member states begin?
 - How much of the ABs is due to national implementation?
- **The SCM was also applied to the EU IA model**
 - Annex 10 of the IA Guidelines

31

THE EU SCM: INTERIM RESULTS

*Results from
the first
round of
measurement
in 13 priority
areas*

Priority Area	Administrative Burden (in €)	Sectoral Reduction Figure (in €)	Reduction as % of Burden
Agriculture / Agricultural Subsidies ²	5 289 700 000	-1 891 400 000	-36 %
Annual Accounts / Company Law	14 589 100 000	-8 274 500 000	-57 %
Cohesion Policy	929 100 000	-222 600 000	-24 %
Environment	1 180 600 000	-242 100 000	-21 %
Financial Services	939 600 000	-141 600 000	-15 %
Fisheries	73 900 000	-33 400 000	-45 %
Food Safety	4 073 300 000	-1 281 800 000	-31 %
Pharmaceutical Legislation	943 500 000	-154 600 000	-16 %
Public Procurement	216 300 000	-60 100 000	-28 %
Statistics	779 500 000	-328 100 000	-42 %
Taxation / Customs	87 005 300 000	-26 334 200 000	-30 %
Transport	3 861 700 000	-748 200 000	-19 %
Working Environment / Employment Relations	3 879 200 000	-659 600 000	-17 %
Total	123 760 800 000	-40 372 200 000	-33 %

32

SCM: PROBLEMS ON THE WAY...

- **Once ABs have been measured, IA is still needed**
 - Impossible to use SCM as a stand-alone tool replacing IA
- **The SCM does not consider all costs...**
 - Investments (Material costs)
 - Taxes and charges (Financial costs)
 - Opportunity costs
- **...nor does consider benefits!**
 - “third-party” IOs (e.g. labelling)
 - Efficiency criteria/welfare analysis
- **The SCM assumes 100% compliance**
 - This is the most critical flaw in the whole methodology, and must be taken into due account before drawing any conclusion in the measurements results

33

Evaluating AB reduction measures

