

# COMMISSION LEGISLATIVE AND WORK PROGRAMME 2008

## List of Strategic and Priority Initiatives

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**ROADMAP**

Title of the initiative: **Lisbon Annual Report**

Expected date of adoption of the initiative: December 2008

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The renewed Lisbon Strategy for growth and jobs is the overarching strategy to modernise the EU economy. It is based on a partnership between Member States and the Commission. The annual report sets our progress achieved both at Community and Member States level, whilst identifying a limited number of actions for decision. It is the main document for discussion at the Spring Council.

What are the main problems identified?

None

Is EU action justified on grounds of subsidiarity? Yes

**B. Objectives of EU initiative**

What are the main policy objectives?

To promote effective implementation of structural reforms both at Community and national level. It does so by reporting on progress, by proposing country-specific recommendations for endorsement by the European Council and by identifying actions for decision by Heads of State and Government

Does the objective imply developing EU policy in new areas or of strategic importance?

New policy orientations can be proposed – particularly within the four priority areas defined by the European Council (R&D/innovation, business environment, employability, energy/climate change).

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

This report describes progress made with the implementation of the Strategy. It does include a proposal for country-specific recommendations as provided for by Articles 99 and 128 of the Treaty.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes.

Do the options respect the proportionality principle?

Yes.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

There are indirect impacts in the sense that the Commission's assessment of Member States' progress and proposed country-specific recommendations can be expected to speed up the reform process. This can be the case in a wide range of policy areas – e.g. fiscal policy, R&D/innovation, labour market policy, competitive markets. In addition, decisions taken by Heads of State and Government on the basis of proposals from the Commission can be expected to produce impacts across similar policy domains (for example, making it easier to start up a business and/or reducing administrative burdens).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

In principle, not.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

If there are impacts, they should be positive.

Who is affected?

Community institutions, Member States, social partners, businesses and citizens.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The Commission gathers information (including statistics) and further builds its analysis on implementation reports prepared by Member States.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Stakeholders are involved at national level. At the Community level, the usual channels will be used to receive input (e.g. European Economic and Social Committee, Committee of the Regions).

**ROADMAP**

Title of the initiative: **White Paper on Adaptation to Climate Change**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

This initiative was launched as part of the second phase of the European Climate Change Programme (ECCP) in October 2006 as envisaged in the Commission Communication "Winning the battle against climate change" (COM/2005/0035). Subsequently, ECCP working groups were established in early 2006 covering water, marine resources/coastal areas/tourism, human health, agriculture and forestry, biodiversity, regional planning/energy infrastructure/structural funds, urban planning, development co-operation, insurance, and national strategies of Member States (see [http://ec.europa.eu/environment/climat/eccp\\_impacts.htm](http://ec.europa.eu/environment/climat/eccp_impacts.htm)). On this basis and the recent IPCC reports of early 2007, the Commission issued a Green Paper "Adapting to climate change in Europe – options for EU action" (COM/2007/0354). This is followed by a public consultation phase until end November 2007 which should lead to a White Paper on adaptation. Adaptation to the inevitable effects of climate change touches on almost all EU policies.

What are the main problems identified?

Climate change impacts are becoming increasingly more severe, and represent a critical challenge in Europe, not just as an environmental issue affecting the economy and competitiveness of regions.

Is EU action justified on grounds of subsidiarity?

Although actual planning measures are implemented at a local or regional level, in a number of areas there is a clear value added and there are economies of scale and scope for a European adaptation policy framework to be developed.

**B. Objectives of EU initiative**

What are the main policy objectives?

Assist member states reducing their vulnerability and increasing their resilience against the negative impacts of climate change.  
Making Community policies and support programmes 'climate proof'.

Does the objective imply developing EU policy in new areas or of strategic importance?

The negative impacts of climate change could significantly jeopardise the results of Community policies (e.g. agriculture, fisheries, water, energy, transport). EU policies will have to anticipate the potential impacts of inevitable climate change and integrate the needs for adaptation in order to limit the potential damage. Adaptation to climate change is of geo-strategic importance for the EU as climate models predict in particular a significant increase in water scarcity in North Africa, Middle East, Black Sea region, and Central Asia. This might have security

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Options range from legislative measures to soft and supporting instruments, e.g.

- legislative framework that would necessitate the elaboration of a coordinate EU-wide adaptation

strategy and action plan on the basis of MS strategy;

- integration of adaptation issues when existing Community legislation is up-dated making it fully 'climate proof';

- creation of new adaptation initiatives and provision of financial support under existing support programmes (e.g. rural development programmes, regional funds, development programmes).

Commission Services have identified a large number of options has been identified in the Green Paper on Adaptation of June 2007 (COM/2007/0354).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

YES

Do the options respect the proportionality principle?

YES

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- Reduce the impacts of climate change in the coming decades (e.g. loss of human life, loss of private property, damage to public infrastructure, loss of biodiversity)

- Maintain the effectiveness of Community policies and support programmes

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Yes. Making for instance development co-operation climate proof might cost around 1-2% of the assistance provided in accordance with World Bank estimates.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

It will have impacts on the administrative burden (e.g. additional requirements for environment impact assessments and strategic environment assessments, river basin management plans under the Water Framework Directive etc.)

Climate change will have significant implications for developing and neighbouring countries with potential repercussions on our relations with those countries.

Who is affected?

All European citizens and the European economy, especially in the Mediterranean, Balkans, Northern Europe and mountainous areas, coastal areas and river beds.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

PESETA study has provided first set of data on climate impacts with +3 an 4 degrees warming in Europe together with case studies on water, agriculture, coastal areas and tourism. The ADAM project funded by the Commission is also carrying out a study of adaptation and mitigation measures; and their results are expected to be published in 2007. Impact assessment will have to consider climate impacts of 2 degrees Celsius warming. Work will be done in collaboration with IPTS starting after the summer break 2007. Due to the complexity of the issue, the large number of possibilities for adaptation action in each sector of the economy ranging from soft to hard responses, the location-specific nature of the response and limitations in high-resolution data availability the impact assessment will have to rely on a selected number of cases for different sectors.

Which stakeholders & experts have been/will be consulted, how and at what stage?

ECCP working group meetings in 2006, public consultation during 2<sup>nd</sup> half of 2007, setting up of Advisory Board at the end of 2007

**ROADMAP**

Title of the initiative: **Communication on greening the transport sector**

Expected date of adoption of the initiative: **June 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

There are several different elements that set the political context:

- a) The Mid-Term Review of the Transport White Paper stated that the Commission would come forward with initiatives on smart charging, intelligent transport systems and green propulsion.
- b) The Conclusions from the 2007 Spring European Council that the EU is now committed to a 20% reduction in CO<sub>2</sub> emissions by 2020, as well as increasing security of energy supply.
- c) The European Parliament's Transport Committee is in the process of drawing up an own initiative report on Transport Policy and how it fits together with energy and environmental policy.

Many different EU initiatives exist which seek to green the transport sector. This short communication will seek to place the three adopted as part of this package within these.

In more general terms, this initiative will contribute to achieving the overall goals of EU transport, environmental and energy policy, as well as furthering the goals of the Lisbon Strategy.

What are the main problems identified?

Currently:

- transport accounts for 71% of all oil consumption in the EU;
- demand for goods and passenger transport has grown steadily over the last ten years. Up to 2020 the freight transport sector is predicted to grow by a further 34% and the passenger transport sector by 27%;
- Transport emissions count for roughly 26.4% of the EU's total CO<sub>2</sub> emissions, and since 1990 it is the only sector where emissions have grown significantly in the EU. This trend is predicted to continue up to 2020.
- External costs of transport are not always borne the transport users.

Is EU action justified on grounds of subsidiarity?

Transport and Environment policy are clearly areas of Community or shared competence. It is also important that any EU action would not impede the Single Market.

**B. Objectives of EU initiative**

What are the main policy objectives?

To place the 3 initiatives adopted at the same time as this Communication in context, explaining how they relate to one another and to other relevant policies. Given the diversity of initiatives they will, depending on their nature, require an individual Impact Assessment. As a result this communication does not.

Does the objective imply developing EU policy in new areas or areas of strategic importance?

No. The assessment will not contain any development of EU policy.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The options are essentially to have a communication or not have a communication.  
The choice of instrument for any subsequent action would be taken, if necessary, later.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes

Do the options respect the proportionality principle?

Yes

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- Having a communication will ensure that the mutually-reinforcing nature of the three initiatives planned for adoption in June next year – Intelligent Transport Systems, Green Propulsion and Smart Charging – will be explained and their relationship to other transport policies set out. This will result in a better and easier understanding of the initiatives by stakeholders.
- Not having a communication will have less administrative burden in the short term. However, there will also be no official explanation of how the different initiatives adopted at the same time fit together, possibly decreasing the understanding of their objectives and scope.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No and No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No

Who is affected?

There are no significant effects, as this is essentially about explanation of other initiatives.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The necessary information and data – the three initiatives themselves – are not available. As their content becomes clear in early 2008 drafting will be able to begin. The work will be done internally and the level of analysis will be proportionate.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Stakeholders and experts will not be consulted, as this is essentially a "chapeau" document.

## ROADMAP

Title of the initiative: **Impact assessment on the internalisation of the external costs of transport**

Expected date of adoption of the initiative: **June 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Commission is currently developing a model for the assessment of external costs of transport. This was requested by the European Parliament when it approved the 'Eurovignette' Directive in May 2006 which states that: *"No later than 10 June 2008, the Commission shall present, after examining all options including environment, noise, congestion and health-related costs, a generally applicable, transparent and comprehensible model for the assessment of all external costs to serve as the basis for future calculations of infrastructure charges"*. The Directive adds that: *"This model shall be accompanied by an impact analysis of the internalisation of external costs for all modes of transport and a strategy for a stepwise implementation of the model for all modes of transport"*.

Internalisation of external costs has already been analysed and envisaged by the Commission. The Green Paper (1995) and White Paper (1998) already envisaged efficient charging in road transport. The White Paper of 2001 and its Mid Term Review (2006) confirmed the willingness of the Commission to have efficient infrastructure charging.

The internalisation of external costs is a way to apply the "polluter pays" principle, which is consistent with policies to promote sustainability. Furthermore, by improving the functioning of internal markets, the internalisation of external costs is a way to enhance European competitiveness.

What are the main problems identified?

Transport users impose costs to society which are not sustainable in the long term. These costs relate to congestion, accidents, noise, air pollution and climate change. Most of these costs are not borne by them, but by other transport users and society at large, which leads to unfairness. Furthermore, the failure of market prices to reflect overall social costs might lead to inefficiencies and suboptimal use of transport modes. Transport externalities would require government measures to correct those failures. Based on the Treaty-based "Polluter-Pays" principle and on the need to ensure the well functioning of internal market, the Community may be entitled to act, once subsidiarity principle taken into consideration.

Is EU action justified on grounds of subsidiarity?

Internalisation is a way to impute external costs to users and to ensure that prices paid by transport users reflect social costs, i.e. private and external costs. The internalisation of external costs is a way to apply the "polluter-pays" principle as it has been requested by the European Parliament (see above). This principle is treaty-based: article 174 of the Treaty states that, *"environmental damage should as a priority be rectified at source" and that "the polluter should pay"*.

In addition, the Community has to ensure the proper functioning of the internal market and the absence of distortions of competition between transport undertakings in the Member States as well as territorial and social cohesion. The current situation as regards taxation and charging in transport reflects a wide variety between Member States' approach and between different modes of transport, despite a number of directives on taxation and infrastructure charging (Directive 2003/96/EC (energy taxation), Directive 2006/38/EC (Eurovignette), Directive 2001/14/EC (rail)). Such a variety could endanger the objectives of a Common Transport Policy set in article 70 of the Treaty.

Community actions will be analysed with regards to the subsidiarity principle.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The general objective of the Commission proposal is to propose a strategy to internalise external costs generated by transport according to the principle of "polluter pays" as it has been requested by EP. By internalising external costs, transport prices would give the right signal to transport users and could improve the efficiency of infrastructure use and reduce negative externalities.

At this stage, the internalisation strategy aims at improving fairness and efficiency in transport users' decision by reflecting external costs in price mechanisms in consistency with the polluter pays principle.

Does the objective imply developing EU policy in new areas or of strategic importance?

Yes. Depending of the choice of economic instruments, transport may contribute to reducing air pollution and CO2 emissions. Congestion charging may also modify infrastructure charging.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

In view of internalising external costs, available policy tools will be proposed and analysed. (ETS, taxes, charges etc. and combinations of individual policy tools). For each external cost, policy options will be described.

They will mainly comprise market instruments such as differentiated charges, specific taxes, and ETS, as well as combinations of the latter. For each external cost, policy options will be described. Their possible shortcomings will be identified and indications will be provided on the potential of other measures (e.g. financing and regulatory ones) to curb the costs that may remain after full internalisation has taken place.

The implementation of economic instruments generally requires the use of legislative measures. However, the time horizon and the territorial level at which the different selected measures would be applied will be proposed by the study and cannot be foreseen at this stage.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

As regards environmental costs, actions developed by DG ENV will be taken into consideration. Close cooperation between services is envisaged.

Do the options respect the proportionality principle?

Yes. Special care will be given to analyse the impact of policy options and to justify EU intervention.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Efficiency and cost effectiveness of each policy options will be analysed and compared Impact on transport flows, on competitiveness, on cohesion and on the environment will also be analysed.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No

Who is affected?

Transport users and society at large are affected.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A study has been launched and will be finalised in September-October 2007: "*Internalisation Measures and Policies for all external Costs of Transport (IMPACT). Handbook on estimation of external costs in the transport sector*". CE Delft. 2007.

Which stakeholders & experts have been/will be consulted, how and at what stage?

On 15 March 2007, the Commission held a workshop with stakeholders to test the main assumptions and orientations undertaken in the ongoing study (IMPACT study).

A technical workshop will be held in October -November 2007 to present the main findings of the study. In addition, a high level conference will be organised beginning 2008 to present and discuss the findings of the study.

A public consultation will start in September 2007.

A high level conference will take place in January-February 2008.

## Roadmap

Title of the initiative: **Communication on 2nd EU Strategic Energy Review**

Expected date of adoption of the initiative: **Nov 2008**

### A. Context and problem definition

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The 1<sup>st</sup> EU Strategic Energy Review was adopted by the Commission in January 2007 (COM(2007)1), following an Energy Policy Green Paper in 2006 (COM(2006)105). The 1<sup>st</sup> Review included a comprehensive and detailed agenda designed to set the EU on a more sustainable, secure and competitive energy path. In their endorsement of the agenda in March 2007 (Presidency Conclusions, 9 March 2007), the European Council agreed strategic targets, to reduce greenhouse gas emissions in the EU by at least 20% by 2020, to increase the share of renewable energy in the EU energy mix to 20% by 2020, including a minimum of 10% for biofuels in each Member State, and to reduce energy demand by 20% by 2020, compared to business-as-usual projections.

As regards follow-up, the European Council decided to keep the Energy Action Plan under regular review. To this end, the Commission was invited to put forward an updated Strategic Energy Review in early 2009. Inter alia, the Review should serve as the basis for the new Energy Action Plan from 2010 onwards to be adopted by the spring 2010 European Council (European Council conclusions). An Action Plan 2010-2013 will be proposed.

A new element of relevance is the expected new Treaty Article on EU energy policy. This should give the EU a strong legal basis for all future actions in the energy field, particularly those which will strengthen solidarity between Member States at a time when security of supply is increasingly threatened by the decline in fossil fuel resources and increased world competition for these resources. The European Council would certainly wish to bear this factor in mind in their review of the 1<sup>st</sup> Energy Action Plan and discussions with a view to a new Action Plan from 2010. An assessment is needed of how effective the existing energy policy measures and Energy Action Plan are in meeting the objectives set out in the Treaty

What are the main problems identified?

Energy policy is being developed in a global context marked by rapidly-evolving global energy markets, geopolitical changes and stress, and the need to establish international cooperation on climate. Within Europe, the 1<sup>st</sup> Energy Action Plan demonstrates ambitious targets and concrete commitments, implying that the next years and decades will be a time of substantial change in Europe's supply and use of energy. Energy policy is complex, with many interactions with other policy choices (eg agriculture, climate, external relations) and a variety of possible policy instruments. Given this reality, the effectiveness of energy policy as a whole needs to be understood, as well as strategic issues for its future direction. Trends and scenario analyses need to be reviewed regularly, with appropriate time horizons, now normally 2030.

Is EU action justified on grounds of subsidiarity?

Only the European Commission could give a European perception of EU energy and has therefore been tasked to do so by the European Council.

## B. Objectives of EU initiative

What are the main policy objectives?

(i) Assessment of the effectiveness of the 1<sup>st</sup> Energy Action Plan vis a vis established energy policy goals and targets, and if adopted, the objectives in the new Treaty. This will include how the internal market is taking shape and performing, progress on energy efficiency and on increasing the share of renewable energy in the energy mix, trends in greenhouse gas emissions, key energy technology developments and achievements in the EU's external energy policy.

(ii) A forward-looking analysis, reviewing different scenarios, setting out strategic issues for the European Council to consider, with a view to the Action Plan to be proposed in 2010, for 2010-13.

Given current concerns, the Review may particularly examine how the security of energy supply of the EU may be enhanced by a fully functioning internal market, by improved and diversified infrastructures and interconnections, including storage and LNG terminals, by better stocks management, by solidarity mechanisms, by a more diversified energy mix, through technological development helping the renewables market penetration and helping reducing carbon emissions from energy (e.g. Carbon Capture and Storage technologies). It will also examine the international dimension including bilateral and multilateral agreements, and may consider possible instruments to enable the EU to speak with one voice in security of supply.

(iii) Respond in a timely and appropriate manner to the European Council's call for a 2<sup>nd</sup> Strategic Energy Review by March 2009.

Does the objective imply developing EU policy in new areas or of strategic importance?

The 1<sup>st</sup> Strategic Energy Review included a comprehensive agenda, subsequently endorsed by the European Council, designed to set the EU on a more sustainable, secure and competitive energy path. Thus the parameters are already set in the 1<sup>st</sup> Strategic Energy Review, the 1<sup>st</sup> Energy Action Plan as well as in the new draft Treaty. The document will act largely as an assessment of what has already happened and a strategic analysis on how to further deliver on existing policy commitments.

## C. Options

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The Review would provide an assessment of the effectiveness of the 1<sup>st</sup> Energy Action Plan and a forward-looking analysis, reviewing different scenarios, setting out strategic issues for the European Council to consider, with a view to the Action Plan to be proposed in 2010. Policy options could be proposed subsequently.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The strategic analysis would cover energy policy, but this is likely to relate to aspects of climate policy, transport policy, tax policy, agricultural policy, social policy, international relations policy etc

Do the options respect the proportionality principle?

The Strategic Energy Review has been requested by the European Council. The European Parliament also welcomes it.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The Strategic Review would enable the Commission, European Council and other European institutions, and others, to consider the effectiveness of energy policy as a whole, as well as strategic issues for its future direction. It should enable the European Council to give clear guidance on the further development of EU energy policy, including notably a 2<sup>nd</sup> Energy Action Plan. It would provide an opportunity to demonstrate the implications of the new draft Treaty, if adopted.

Consultations during its preparation should enable stakeholders and citizens to consider issues and be heard. The Review should be helpful to those looking at likely developments on the EU and international energy scene.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No significant direct financial implications.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The document will increase the transparency on EU energy policies in general by setting out clearly what has been done and what strategic issues exist in the energy area.

Relations between the EU and third countries could be positively affected as international partners will have a clear and coherent, medium term strategic analysis by the Commission on which to consider the further development of their energy relations with the EU.

It will also facilitate the preparation of impact assessments of subsequent proposals as the strategic context will be clearly set out.

Who is affected?

All energy producers and users, including individual citizens have an interest in sustainable, competitive and secure energy. The impact is likely to be largely positive, as security of supply, competitiveness and sustainability are expected to be enhanced by the assessment of effectiveness of policy so far and strategic options for the future.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The data to be analysed will be available within the Commission, (Eurostat, Commission scenarios, Energy Observatory). This will be supplemented by data from Member States, international organisations (International Energy Agency, World Energy Council etc), industry. Noteworthy is a special report prepared by International Energy Agency on EU Energy Policy to be available in Summer 2008. New baseline scenarios of PRIMES taking into account the decisions of European Council of March 2007 (Presidency Conclusions)

Which stakeholders & experts have been/will be consulted, how and at what stage?

The publication of 2006 Energy Green Paper and the 2007 Strategic Energy Review led to an intensification of contacts between the Commission and stakeholders, building up existing consultation channels. This process will continue during the preparation of the Strategic Energy Review, with the involvement of Member States, MEPs, industry and consumer organisations etc. The Commission's fora will also be consulted (High Level Group, Madrid Forum (gas), Florence Forum (electricity), Berlin Forum (fossil fuels), Amsterdam Forum (sustainable energy), Prague-Bratislava Forum (nuclear) etc. A web questionnaire is envisaged to allow stakeholders and citizens to contribute in spring 2008.

## ROADMAP

Title of the initiative: **Revising the emergency oil stocks system**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Following an initiative in 2002 to revise the legislation, including the increase of the stockholding obligation from 90 to 120 days, the 8-9 March 2007 European Council called again for the reviewing of EU oil stock mechanisms, "especially with respect to availability in the event of a crisis".

What are the main problems identified?

In today's tight oil market the probability of supply disruptions seems to be higher than before and even smaller supply disruptions may have serious consequences. Furthermore, an increasing share of global production originates from politically unstable regions. Considering that oil continues to be a key component of the EU energy mix and that our oil import dependency continues to rise, the economy of the EU is increasingly exposed to the risk of supply disruptions.

The current European system of emergency oil stocks shows limitations and shortcomings on several accounts. Member States currently organize their emergency stocks system differently, giving rise to a multitude of national systems. Reliability and efficiency of individual systems is divergent. In particular, if stocks are held by the industry and commercial and emergency stocks are commingled, the availability of 90 days stocks in a crisis is questionable.

Furthermore, at present, there is no effective EU decision making mechanism for supply crises and the Commission's role is confined to consultation. Although the existing IEA emergency mechanism is widely deemed efficient, ten of the new EU member states are not covered by that scheme. In addition, a supply disruption of a regional character may not trigger an IEA action.

Is EU action justified on grounds of subsidiarity?

The internal market ensures that any stock released can flow freely within the EU. The benefits from releasing stocks thus will not be captured by a single country but by the EU as a whole. As a result, if the emergency systems adopted by individual Member States are too diverse and provide different levels of preparedness, this may lead to decreased efficiency and a free rider problem.

**B. Objectives of EU initiative**

What are the main policy objectives?

To strengthen the capacity of the EU to cope with oil supply disruptions and thereby to minimise the negative impacts of such a disruption on EU economy.

Does the objective imply developing EU policy in new areas or of strategic importance?

No.

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Option 1: No policy change

Option 2: A complete overhaul of the current Directive, requiring all emergency stocks to be owned by the government and managed as necessary by a government-controlled agency

Option 3: Ensuring appropriate implementation of the existing rules (to be controlled by a new special inspection unit) and better crisis management

Option 4: Mandating dedicated emergency stocks held by the government or a government-controlled agency at certain minimum levels

Option 2 would require a complete overhaul of current legislation; Option 4 would also require substantial amendments. Option 3 would require modest changes to the Directive.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Do the options respect the proportionality principle?

Since oil markets are global, any disruptions of oil supply – whether occurring in one or more Member States or outside the EU – will have repercussions on all Member States. Furthermore, the internal market ensures that any stock released can flow freely to any buyer EU-wide. The benefits from releasing stocks thus will not be captured by a single country but by the EU as a whole. As a result, if the emergency systems adopted by individual Member States are too diverse and provide different levels of preparedness, this may lead to decreased efficiency and a free rider problem.

It must also be kept in mind that several Member States are not members of the IEA which is responsible for emergency response in case of global disruptions; a full EU participation in an IEA action can only be guaranteed through an EU mechanism involving IEA non-Member countries.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The no policy change option would not entail any financial or other burden on Member States but may jeopardise security of supply and expose the economy of the EU to the increasing risk of supply disruptions.

Options 2, 3 and 4 would all improve the availability of emergency stocks and thereby help to achieve a better emergency preparedness and reduce the associated risks. Depending on the current national stockholding structures and the option chosen, this could require additional efforts from some Member States. In particular, if it turns out that the 90 days of stocks are currently not available in a Member State; this would entail the need to build new storage facilities and to build up the stocks.

Option 2 would result in a system with undisputable availability of stocks but the vast financial burden might not be proportional to the benefits. Option 3 would require a team of inspectors whose work could help to uncover and remedy practices not in compliance with the existing legislation. Option 4 would provide a level of dedicated stocks which is sufficient to cope with disruptions experienced in the past, at considerably lower costs than in Option 2.

Coordination in the management and deployment of oil stocks across the EU would also reinforce security of energy supply by creating an efficient mechanism to respond to possible disruptions.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

In case of establishing an inspection unit within Commission services, Option 3 would have an impact on the EU Budget but below 5 Mio €/year.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The revision of the existing legislation will lead to a significant simplification of applicable EU rules which are currently based on a codified text drawing on several original legal acts, some over 30 years old. Furthermore, the revised text will aim at decreasing administrative burden on Member States which are also members of the IEA by the approximation of the stockholding systems established by the EU and the IEA. This would potentially facilitate the calculation of the stockholding obligation and the reporting of stock levels. Finally, the revised text will take account of possibilities for simplification of reporting procedures of Member States, following the implementation of the Commission's Energy Markets Observation System (EMOS). No impacts are foreseen on external relations.

Who is affected?

Depending on the current national stockholding structures and the option chosen, both Member States and the oil industry could be affected.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Analysis of shortcomings of the existing system of European emergency stocks has started in 2006 in discussions with Member States through the Oil Supply Group meetings and with stakeholders (both Member States and industry) through the Berlin Forum Oil Working Party.

These structured dialogues continued in 2007. Members of the Oil Supply Group answered a questionnaire in early 2007 on the composition and availability of emergency oil stocks; the results of this survey provided an important input to the impact assessment. Consultations with the stakeholder community, external experts and the IEA also provide unique access to up-to-date industrial expertise and know-how.

No external contractor is involved.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The main platforms for the consultation of stakeholders are the Oil Supply Group and the Berlin Forum. The Oil Supply Group is a consultative body comprising of the experts of national administrations dealing with emergency stocks and measures; the Group was consulted in its meeting in February. The Berlin Forum's Security of Supply Working Party (composed of both industry and Member State representatives) has been consulted on the issue in its meetings in March, May and July. Many members of this group also provided written contributions/comments.

In addition to the above structured dialogues, Member States, stakeholders, experts and the IEA are consulted through bilateral meetings and other events.

## ROADMAP

Title of the initiative: **Recasting of Directive 2002/91/EC of 16 December 2002 on the Energy Performance of Buildings**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Energy Performance of Buildings Directive ('EPBD') makes certificates for the energy performance of buildings mandatory when buildings are constructed, sold or rented out and requires minimum energy performance requirements for new buildings and existing building which undergo major renovation. Furthermore, the Directive requires regular inspections of boilers and air-conditioning systems in order to guarantee their energy efficient operation. An amended Directive could enlarge the scope of buildings, strengthen and specify some of these requirements and add, for instance, financing aspects. The changes under consideration aim at overcoming multiple barriers that hinder the utilization of the vast potential for energy demand reductions in the buildings sector.

The recasting of the Directive is part of a package on the Strategic Energy Review and included in the Energy Efficiency Action Plan. The planned amendments will cover some Articles of the Directive and add new ones. This will contribute to facilitate reading and comprehension for the implementing authorities and for the stakeholders affected.

What are the main problems identified?

Main problems:

- Due to versatile reasons MS have delayed the implementation of the current EPBD provisions; The Commission will continue to ensure a full implementation by assessment of the Member States' notifications and will start and respectively continue the infringement cases (currently: 20 cases) whenever appropriate.
- There are multiple barriers that hinder more ambitious energy performance requirements on national level and stronger activities with regard to the energy efficient refurbishment of the existing buildings stock. Financing concerns (imperfect and short sighted consideration when calculating the return of investment without taking the national economic benefit – creation of jobs, reducing CO<sub>2</sub> emissions, reducing energy import dependency - of these measures into account), no consideration by owners of the energy bill to be paid by the people renting their building, and shortage of administrative and technical capacity to enforce proper implementation for the huge number of buildings targeted, fears to bother property owners with any kind of requirements are in the front of these barriers on national level.

Main areas to be considered in the amended Directive:

- The current version of the EPBD 2002/91/EC focuses on new buildings and on existing buildings of more than 1000 m<sup>2</sup> floor area. Therefore, the expansion of the scope (e.g. lower the 1000 m<sup>2</sup> threshold of the current EPBD for minimum energy performance requirements when a building undergoes major renovation) and the strengthening of the requirements of the existing Directive would allow to realize the significant energy saving potential of the buildings sector: Since e.g. buildings smaller than 1000 m<sup>2</sup> represent 72 % of the total floor area in EU15 the expansion of the scope of the Directive would affect the main part of EU's buildings stock;
- Expanding the role of the public sector to demonstrate leadership by example on energy-efficient buildings;
- Reinforce the role of the energy performance certificates required by the Directive;
- Measures for Member States to facilitate financing of investments leading to energy performance improvements in the buildings sector.

Is EU action justified on grounds of subsidiarity?

Yes. Before the current EPBD has been adopted many Member States did not require (sufficient) energy performance standards for buildings, any energy performance certificates or inspection schemes for boilers and air-conditioning systems. As the experience of the most advanced Member States in this field points out, the issue is very complex and unlikely to be solved on national or regional level, in particular for smaller Member States.

Furthermore, the package of 31 CEN standards (developed in conjunction with the current EPBD since 2005) on the energy performance of buildings provides the industry with uniform specifications and calculation methodologies, which will have to be enhanced in the future, and therefore strengthens the European internal market.

Amending the existing EPBD would require co-legislation. The Directive sets the framework and leaves to the Member States sufficient autonomy of setting the efficiency requirement levels depending on their national/regional/local specificities (e.g. climatic conditions) as well as organizational tools to implement the Directive.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The objectives of the revised Directive are "rapidly improving the energy performance of the EU's existing buildings and taking the lead to make very low energy houses the norm for new buildings" as stated in *An Energy Policy for Europe* (COM (2007) 1).

By stimulating energy savings in the building sector the accomplishment of the three European Energy Policy strategic objectives, as outlined in the Commission Communication *An Energy Policy for Europe* (COM (2007) 1), will be supported:

- Reduction of greenhouse gas emissions and harmful impact of energy generation on the environment - sustainability
- Limiting the EU's growing exposure to increased volatility and prices for oil and gas - security of energy supply
- Economic growth and job creation – stimulating competitiveness.

The main objective of the existing EPBD is to promote the improvement of the energy performance of buildings within the Community, taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness.

Does the objective imply developing EU policy in new areas or of strategic importance?

No

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

- Policy options:
  - a) No revision of the EPBD but full implementation of the existing EPBD, leaving aside the cost-effective potential of energy savings in the main part of buildings sector (especially with regard to existing buildings).
  - b) Self regulating instruments such as guidelines, information campaigns, which could be developed in cooperation with e.g. national and regional energy agencies and energy services companies (ESCOs).
  - c) To extend the scope and to strengthen the requirements of the EPBD, including an integral methodology for the overall energy demand (heating, cooling, ventilation, domestic hot water etc.)

of a building. Based on the all-embracing experience with the longsome implementation by the Member States the crucial points for a further development of the requirements shall feed in a revision of the Directive – including the contributions from Member States and stakeholders. This can include e.g. a lowering of the threshold of 1000 m<sup>2</sup> of useful floor area for minimum energy performance requirements when a building is refurbished and financing aspects/instruments in combination with and a strengthening of the role of energy performance certificates.

- Strengthening of other existing policy instruments:
  1. Request Member States to calculate the energy performance of buildings within their national regulations, mandatory based on the application of CEN's 31 energy performance standards on buildings (Buildings Directive 2002/91/EC);
  2. Regulation on the inspection and the assessment of boilers/heating and cooling installations (Buildings Directive 2002/91/EC);
  3. Harmonization and strengthening of public procurement and promotion rules for buildings with regard to energy efficiency aspects (Buildings Directive 2002/91/EC);
  4. Support of financing instruments for energy efficiency improvements, such as subsidy schemes, public-private partnerships, tax rebates, awareness campaigns, to be considered (Buildings Directive 2002/91/EC).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes, DG ENTR: the Construction Products Directive; possibly DG EMPL: creation of an considerable number of new local jobs on national and regional level by requiring more ambitious energy performance standards for buildings what leads to an increased employment in the construction companies and industry; DG ENV: mitigation of climate change.

Do the options respect the proportionality principle?

Yes.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

a) No revision of the EPBD but only assess the full implementation of the existing EPBD:

Positive impact: No additional administrative efforts have to be made to adopt the legislation at EU institutional level, no transposition by the national/regional authorities. No "burden" on owners who do not want to invest.

Negative impact: The predominant part of the buildings stock will remain non-affected by the Directive when buildings of less than 1000 m<sup>2</sup> are not covered – with the consequence of not even realising a fraction of the cost-effective potential of energy savings in the buildings sector (especially with regard to existing buildings). Incomplete effect of the energy performance certificate on raising broad awareness on the energy performance quality of a building – what hinders a realization of a "pull market" for energy efficient buildings. No positive impact on local employment. No contribution to mitigating climate change.

b) Self regulatory approach:

Positive impact: No administrative costs for institutional process; more flexibility for the affected parties.

Negative impact: The effectiveness will be rather limited compared to the existing energy saving potential of the buildings sector. High cost for supporting activities (defining guidelines, information campaigns ...).

c) Regulatory approach

Positive impact: opens the way for implementing measures leading to energy savings for the inhabitant of a building; contribution to security of energy supply and mitigating climate change; creation of jobs in the construction sector and additional business for manufactures of energy efficient technologies such as isolation material manufacturers, heating system manufacturers, glass/windows industry.

Negative impact: Costs: Additional investment costs for property owners to comply with strengthened energy performance requirements (but– followed by reduced energy costs for the operation of the building over long-term and more value added buildings). Administrative costs for national administrations of co-decision process and national transposition.

Which impacts are likely to warrant further analysis?

The main issue will be to properly assess the actual cost-benefit ratio of (strengthened) energy performance requirements for buildings and the date when they make an impact on reducing the energy consumption compared to other (non-regulatory) energy policy options."

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Limited impact on administration to implement and control the requirements of a strengthened Directive.

Who is affected?

Building owners, tenants, construction and building services engineering industry, construction products industry, ESCOs, banks which offer loans for the construction and refurbishment of buildings.

**E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Several inputs (notifications, implementation reports, concordance tables) were received from Member States; exploratory discussions with the members of the Energy Demand Management Committee and with stakeholders. In principle access to the required information is ensured and there would be no need to require support by external contractors.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Representatives from Member States, industry affected, property/consumer and environmental NGOs will be consulted during the IA.

## ROADMAP

Title of the initiative: **Review of the Energy Taxation Directive (working title)**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Energy represents a major challenge for the EU, as regards environmental sustainability, as well as security of supply and competitiveness. In order to address these challenges, the EU Heads of State and Government set, in March 2007, very ambitious objectives for the EU, namely the objective of saving 20% of the EU's energy consumption compared to projections for 2020, the achievement of the quantitative targets for renewable energies in 2020 and the achievement of least a 20% reduction of greenhouse gas emissions by 2020 compared to 1990<sup>1</sup>.

In this context, and in line with the commitment in the Action Plan on Energy Efficiency<sup>2</sup>, the Commission issued, on 28 March 2007, a green paper on market-based instruments for environment and related policy purposes (COM (2007) 140), in which it, among other things, looked at further use of market-based instruments in the area of energy consumption with special focus on the role of energy taxation harmonised in the EU under Council Directive 2003/96/EC<sup>3</sup>. As one of the measures listed in the Action Plan (which is aimed at achieving the objective of the 20% energy savings by 2020), the Commission committed to issue the aforementioned green paper exploring possible options and subsequently to review, in 2008, the Directive 2003/96/EC to facilitate a more targeted and coherent use of energy taxation by integrating notably energy efficiency considerations and environmental aspects.

Is EU action justified on grounds of subsidiarity?

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community. The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

The Community has already laid down provisions on harmonisation of taxes levied on energy consumption, namely Council Directive 2003/96/EC. These provisions may only be amended or extended by a Community act and the legislations of the Member States cannot deviate from the harmonised rules.

Therefore, only Community action can achieve the objectives of an eventual proposal and ensure equal treatment of Member States in the European Union. The intended proposal therefore complies with the subsidiarity principle.

**B. Objectives of EU initiative**

What are the main policy objectives?

The main objective of the EU initiative is to adapt Council Directive 2003/96/EC to the new ambitious objectives of the EU in the area of energy and environment. To such an end

the review will concentrate on improving and facilitating the incentive role of energy taxation for energy savings and more cleaner energy consumption.

Moreover, there is a need to acknowledge that not only the policy framework changed over the last couple of years, but also that new market-based instruments emerged in particular in the EU environmental policy and that renewable energies became reality in the EU.

Does the objective imply developing EU policy in new areas or of strategic importance?

No. The Energy Taxation Directive already integrates environmental and energy objectives. The proposed action implies adapting the existing rules to the more ambitious policy framework set by the energy and climate change agenda of the EU.

<sup>1</sup> European Council 8/9 March 2007, Presidency conclusions.

<sup>2</sup> COM(2006) 545.

<sup>3</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for taxation of energy products and electricity (OJ L 283 of 31.10.2003 p. 51; Directive last amended by Directives 2004/74/EC and 2004/75/EC (OJ L 157 of 30 April 2004, p. 87 and p.100).

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

A proposal for a Council directive is the only possible way to amend Community provisions on the taxation of energy products and electricity.

The exact policy options to be examined in the impact assessment and in the underlying external study cannot be listed at this stage, but they will include considerations relating to the structure and the level of the minimum levels of taxation (in particular the possibility of splitting the minimum levels of taxation between energy and environmental counterpart), to the scope of the Directive and the possibilities for tax differentiation.

In general terms the policy options coming into consideration were explored in the green paper on market-based instruments and in the underlying commission staff working document (SEC (2007) 388).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Concerning the policies, the proposed action is aimed at adapting the EU energy taxation framework to the policy objectives and actions undertaken in particular in the area of energy and environment.

Concerning instruments, energy taxation is only one of the market-based instruments available in the above context and thus the proposed action, in the same way as works relating to any other policy instrument, should be done in close co-operation between all the Commission services concerned.

Do the options respect the proportionality principle?

Any action taken will be proportionate to the aim pursued.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Any action that concerns such key item as energy inevitably involves a wide range of environmental, economic and social impacts. Such impacts will be carefully analysed in the impact assessment and the underlying external study (an open call for tender was published in the OJ on 25 July 2007 TAXUD/2007/AO-011 and the study is to be undertaken in the first half of 2008).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No.

Who is affected?

Wide range of economic actors, in particular energy consumers.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The public consultation on the green paper on market-based instruments allowed gathering a number of views and a lot of information. All these together with an external study will support the impact assessment.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The public consultation on the green paper on market-based instruments gathered a lot of views and expertise from all actors concerned, in particular stakeholders, experts and Member States. No additional specific public consultation is foreseen.

## ROADMAP

Title of the proposal: "**Bilan de santé**" de la PAC

Expected date of adoption of the proposal: **Mai 2008**

**A. Initial impact assessment screening**

1. What are the main problems identified? Are they unlikely to be solved satisfactorily by the sole action of Member States? (principle of subsidiarity – necessity test)

Au cours des années 2007-2009, des "clauses de rendez-vous" prévoient un réexamen des éléments-clés des réformes décidées en 2003-2005 et mises en place à partir de 2005. Elles concernent divers aspects du système de découplage et de conditionnalité des aides et du régime de paiement unique par exploitation ainsi que l'examen de la situation de certains marchés agricoles dont en particulier celui des produits laitiers. Au vu de ce réexamen et d'une évaluation du besoin d'adapter le secteur agricole aux conséquences du changement climatique, de la raréfaction des ressources en eau et du développement des bioénergies, le "bilan de santé" dressera un état des lieux de la PAC dans la perspective du débat qui s'engagera en 2008-2009 sur l'avenir des politiques européennes et du financement de l'Union à l'horizon post- 2013.

Plus précisément, à la lumière de l'expérience des premières années d'application des réformes décidées en 2003-2005, les questions examinées porteront sur les difficultés liées:

- à la mise en place et au fonctionnement du régime de paiement unique;
- à la composition de l'ensemble des normes qui conditionnent l'octroi des aides directes et aux modalités d'application de la conditionnalité;
- à l'extension du nombre de petits bénéficiaires qui résulte de l'introduction de certains régimes de paiement unique et, inversement, à l'octroi de montants d'aide particulièrement élevés à certaines exploitations;
- au maintien d'aides couplées à la production;
- à l'évolution du rôle des instruments de régulation de l'offre, dont l'intervention, la jachère et les quotas de production;
- aux adaptations nécessaires pour prendre en compte les risques climatiques et sanitaires ainsi que les fluctuations excessives des prix dans le contexte d'une agriculture davantage libéralisée et orientée par le marché.

Les principes de subsidiarité et de proportionnalité guideront l'élaboration des propositions du "bilan de santé" pour répondre aux besoins et aux opportunités qu'il mettra en lumière de manière adaptée à la diversité des situations.

2. What are the main policy objectives?

L'objectif du "Bilan de santé" est :

- d'évaluer les progrès et les difficultés pour atteindre les objectifs des réformes de 2003-2005 qui ont transcrits les priorités des stratégies de Göteborg et de Lisbonne dans les domaines de la PAC et, en tenant compte des nouveaux défis qui affectent l'avenir de l'agriculture et du monde rural,
- de proposer l'ajustement d'objectifs spécifiques et/ou de certaines mesures en vue de:
  - Faciliter et approfondir le mouvement engagé vers une agriculture orientée par le marché;
  - Limiter au strict nécessaire la régulation publique de l'équilibre des marchés;
  - Simplifier la mise en œuvre du régime de paiement unique;
  - Faciliter l'adaptation du secteur au changement climatique, au développement des bioénergies et aux contraintes nouvelles qui pèseront sur la gestion des ressources en eau.

3. What are the policy options? What regulatory or non-regulatory instruments could be considered?

Pour répondre aux difficultés identifiées, des options alternatives seront explorées pour chacun des domaines indiqués au point 1.

Schématiquement, leur étendue correspond aux situations types spécifiées ci-dessous :

- Régime de paiement unique: maintien de la diversité des régimes ; évolution vers un régime plus homogène ; introduction d'éléments de flexibilité et de transition entre les régimes actuels.
- Conditionnalité: maintien de l'ensemble des normes et des modalités actuelles du système; inclusion de nouvelles normes portant sur des enjeux environnementaux, sociaux et sanitaires prioritaires; concentration sur un nombre plus réduit de normes prioritaires; révision équilibrée de l'ensemble des normes et des modalités d'application;
- Limitation des aides: introduction d'un seuil minimal pour bénéficier du régime de paiement unique; plafonnement absolu ou progressif par exploitation;
- Aides couplées à la production: extension généralisée du découplage; extension limitée avec introduction de mesures ciblées du second pilier pour rémunérer la production des biens publics joints; extension des possibilités d'utilisation des ressources dégagées au titre de l'article 69;
- Intervention et jachère: maintien du système actuel; réduction substantielle du prix limitant l'intervention à un filet de sécurité; limitation progressive des quantités éligibles pour la plupart des produits; introduction d'incitants ciblés du second pilier pour le cas de mise en jachère bénéfique à l'environnement;
- Quotas laitiers: maintien du régime actuel; expiration anticipée du régime en 2009/10; augmentation progressive et possibilité d'échange des quotas entre 2010/11 et 2014/15; expiration du régime en 2014/15.
- Changement climatique: pas de facilitation spécifique à l'adaptation; adaptation incitée par des obligations réglementaires; mix de mesures réglementaires (conditionnalité) et de mesures incitatives ciblées du second pilier pour la réduction des émissions et l'adaptation;
- Gestion des risques: contribution au financement des primes d'assurance; soutien temporaire à la mise en place et au fonctionnement de fonds d'assurance mutuels; couverture généralisée des pertes exceptionnelles de revenu; autres mesures;
- Modulation: accroissement du taux de modulation obligatoire avec maintien de la clé de répartition actuelle; idem avec révision de la clé de répartition.

Pour faciliter le débat, les options par type d'intervention ou d'objectif pourront être regroupées en scénarios d'évolution stylisés, cohérents et contrastés de manière à favoriser la mise en évidence de l'étendue des choix possibles et de leurs conséquences sur différentes catégories d'acteurs et d'enjeux.

4. What are the impacts likely to result from each policy option and who is affected? Which impacts are likely to warrant further analysis (cf. list of impacts in the impact assessment guidelines)?

L'analyse d'impact évaluera les conséquences des options d'ajustement et des scénarios sur les principales données de la production et de l'équilibre de marché, sur le budget, les revenus, les ressources naturelles et l'environnement, la cohésion et l'activité des régions rurales ainsi que sur les différentes parties prenantes et partenaires extérieurs.

#### **B. Planning of further impact assessment work**

5. What information and data is already available? What further information needs to be gathered?

How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

La mise en œuvre de la PAC fait l'objet de travaux permanents de suivi et d'évaluation, conduits par les services de la Commission, en collaboration avec les experts et des représentants des Etats membres au sein de Comités. Des travaux spécifiques ont lieu dans ce cadre dans le contexte de la phase préliminaire du "bilan de santé".

Une étude sur l'avenir à long terme de l'agriculture et du monde rural selon différents scénarios d'évolution modélisés vient d'être conclue pour le compte de la Commission (Scenar 2020).

Des études axées sur l'échéance du "bilan de santé" sont inscrites au programme d'évaluation et d'études confiées à l'extérieur ([http://ec.europa.eu/agriculture/eval/index\\_fr.htm](http://ec.europa.eu/agriculture/eval/index_fr.htm)). Elles concernent le fonctionnement et l'impact des mécanismes horizontaux de la PAC (éco-conditionnalité, découplage, paiement unique, charge administrative), ses dispositions et mesures sectorielles, les mesures du développement rural et l'impact sur l'environnement.

Cinq projets du 6<sup>ème</sup> PCR portent sur les sujets du "bilan de santé" ou sur le développement d'outils d'évaluation de l'impact des mesures de la PAC et pourront être utilisés pour l'analyse d'impact (IDEMA, GENEDEC, CAPRI-DynaSpat, SEAMLESS et SENSOR).

6. Which stakeholders & experts will be consulted, how and at what stage?

Des experts et des représentants des Etats membres et des parties intéressées sont impliqués dans les travaux de suivi et d'évaluation mentionnés ci-dessus (point 5), qui sont à la base des travaux préliminaires du "bilan de santé".

Le démarrage de la phase formalisée de l'analyse d'impact donnera lieu à des auditions, dans le cadre des Comités consultatifs ou de manière ad-hoc, afin de valider et de compléter le diagnostic des problèmes identifiés lors de la phase préliminaire.

Afin de cadrer et d'initier le débat sur le "Bilan de santé", la Commission présentera fin 2007 une communication.

Deux séminaires, avec les parties prenantes et les porteurs d'enjeux, suivront la publication de la communication. Le premier, prévu pour décembre 2007, portera sur l'ensemble des sujets abordés. Le second, planifié pour janvier 2008, traitera plus spécifiquement de l'avenir des quotas laitiers.

7. Will an inter-service steering group be set up for the IA?

Oui.

**ROADMAP**

Title of the initiative: **Communication on Entry/exit system and other border management tools**

Expected date of adoption of the Communication: **February 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Since Tampere the management of the external borders is one of the cornerstones of the development of the EU as an area of freedom, security and justice. This initiative is to be seen in the context of the progressive establishment of a European model of integrated border management of the external borders.

What are the main problems identified?

In the current Community acquis on external borders, no mechanism is foreseen for an automated registering of third-country nationals when they enter or exit the territory of EU Member States. Member States are however obliged to systematically stamp travel documents of third-country nationals, both at entry and at exit, even when controls are relaxed.

Although searches in the Schengen Information System and in national databases are compulsory at entry (but not at exit) and discussions on the compulsory consultation of the VIS, once operational, are on-going, none of these systems provides for a mechanism to identify "overstayers", i.e. third country nationals who remain in the EU after their right to remain has expired.

The new proposal would thus constitute an additional tool to fight illegal immigration, by easily identifying 'overstayers' and to improve the management of legal migration by setting up a system to monitor the respect of the duration of authorised stay of seasonal workers (and possibly of other categories of workers), and helping identify *bona fide* migrants who could afterwards benefit from accelerated/simplified immigration procedures.

Closely connected with the entry/exit register and the use of biometrics at border is the "registered travellers programme". The idea behind it is to facilitate the border crossing for *bona fide* persons who voluntarily register to the programme and, when crossing the borders, use an automated or semi-automated system that is based on biometric identifiers (e.g., fingerprints).

The main advantage of this system would be the facilitation of travellers who do not constitute a threat neither in terms of security nor in terms of illegal immigration and allowing border authorities to focus the control on other categories of third-country nationals. Obviously such persons would be subject to a thorough background check in advance, in order to minimise risk of abuse of the system.

The two systems could be implemented together to achieve the best results. The entry/exit system, which should have a clear added value identifying "overstayers", is likely to impose certain time costs at borders associated with the accomplishment of the necessary procedures to register the exact dates of entry and exit of third country nationals at the borders. A registered traveller programme should be the logical counterpart to accompany such system, in order to facilitate the border crossings of low risk travellers who would become members of the programme after appropriate screening. On the other hand biometric technology is a new tool that brought increased reliability to the identification of travellers and made possible the use of automated recognition systems at borders. The introduction of biometrics in travel documents and the developments in VIS and SIS II are concrete examples that pave the way for an extended use of biometrics in the area of border control as it should be the case with the E/E system and the RTP.

Is EU action justified on grounds of subsidiarity?

Yes, it concerns Schengen related matters which should be discussed on the Community level.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main aims are to strengthen border control procedures on third-country nationals to help better management of migration flows, preventing illegal immigration, as well as any possible threats to the security of the EU and to facilitate border crossing (both on arrival and on departure from the EU) to both EU citizens and third-country nationals *bona fide* travellers, thus allowing to better focus resources on border controls.

Does the objective imply developing EU policy in new areas or of strategic importance?

Yes, it is an initiative of strategic importance

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The possible policy options include:

1. The status quo
2. The creation of entry-exit system (on the E/E system three sub-options are considered in relation with the group of travellers whose data should be registered should be registered): a) Third country nationals requiring visa; b) Third country national not requiring visa; c) All third country nationals.
3. The introduction of a registered traveller programme (on the RTP three sub-options are also considered):  
-a) RTP to which only EU citizens could apply; b) RTP available to third country nationals;-c) RTP available to EU citizens and third country nationals.
4. The creation of an Entry/exit system together with the introduction of a registered traveller programme.
5. The obligation on third country nationals to confirm their return to country of origin or Bond/tax scheme for TNC migrants (two sub-options: a) third country nationals requiring visas are obliged to provide proof of their return to country of origin or b) a system of bonds for those requiring visas to visit the EU.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

This initiative aims to fight illegal immigration and improve the management of legal migration. This is cross cut policy area involving other DGs such RELEX, DEV, EMPL

Do the options respect the proportionality principle?

Illegal immigration constitutes a major concern for MS. Proposed actions will provide for adequate tools to fight this phenomenon.

#### **D. Initial assessment of impacts**

What are the impacts likely to result from each policy option and who is affected? Which impacts are likely to warrant further analysis (cf. list of impacts in the impact assessment guidelines)?

Ongoing studies will provide the Commission with analysis of legal, economic, environmental, social and financial impacts of the different options.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

See previous point.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

They will have significant impact on possessions at the external borders regarding the checking of persons.

Who is affected?

Member States authorities, travelers

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A preliminary study to identify possible policy options is currently being undertaken.

A technical feasibility study on preferred options was launched in July 2007. Both studies are carried out by external contractors.

Which stakeholders & experts will be consulted, how and at what stage?

Law enforcement authorities in Member States and in third countries where appropriate, international organisations, migration authorities, airport operators and authorities, might be called to contribute with relevant information in the framework of the studies.

Will an inter-service steering group be set up for the IA?

Yes, with DG TREN, RELEX, DEV, EMPL

## ROADMAP

Title of the initiative: **Report on the evaluation and future development of Frontex**

Expected date of adoption of the initiative: **Feb 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Hague Programme as adopted by the European Council on 4/5 November 2004 requested the Commission to submit an evaluation of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to the Council before the end of 2007. The evaluation which will be of a political character, should contain a review of the tasks and mandate of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters, against the background of the overall development of the common border policy of the Community.

The current Report is the reply from the Commission to the aforementioned invitation by the Council. It should be noted that the current evaluation report is distinct from the 'Evaluation' foreseen in article 33 of Regulation 2007/2004 establishing the Frontex Agency. That evaluation will be carried out by the Management Board of the Frontex Agency and will take place during the year 2008. It will serve as the basis for recommendations to the Commission regarding changes to the Regulation, the Agency and its working practices.

The current EU approach addressing illegal immigration is based on an enhanced European approach to border controls at the entry points at the external borders of the European Union. In particular, the Communication Towards integrated management of the external borders of the Member States of the European Union<sup>4</sup>, served as the basis for the Plan for the management of the external borders of the Member States of the European Union of June 2002.

Important to underline is the policy context in which the evaluation takes place, especially regarding the evolving migration policies and the policy priorities which aim to tackle the different important aspects of a comprehensive Community migration policy.

What are the main problems identified?

The very purpose of the evaluation report will be to identify problems to be addressed. What is likely to be highlighted is the continuous pressure from the Council and the European Parliament on Frontex to expand and reinforce its activities while having been operational for only two years in order to meet in particular the high migratory pressure at the Union's southern maritime border, and the extent to which Member States are willing to put equipment at the disposal for operations to be coordinated by Frontex.

Is EU action justified on grounds of subsidiarity?

The current legal basis of the Agency respects the subsidiarity principle. Those recommendations for future actions that would involve an amendment of the legal basis will be carefully assessed from this angle. However, no recommendations will be made that would affect the current division of competences between the Union and its Member States.

**B. Objectives of EU initiative**

What are the main policy objectives?

Creating a truly integrated management of the external borders at European level. Improvement of the operational cooperation among the Services of Member States responsible for controlling the external borders of the European Union and managing migration. Curbing illegal immigration along the external borders, suppressing smuggling in human beings into the territory of the Union taking duly into account the

<sup>4</sup>

COM (2002) 233,7.5.2002.

humanitarian dimension (e.g. saving lives put at risk whilst crossing the external borders illegally) of this phenomena. On the basis of the evaluation of FRONTEX and in particular of the evaluation of the teams of national experts (RABIT), the feasibility of establishing a European system of border guards should be assessed.

Does the objective imply developing EU policy in new areas or of strategic importance?

This evaluation report does not imply developing EU policy in new areas since it is matter of assessing and possibly reinforcing current actions. However the proposal is of strategic importance related to the strengthening of the EU's external borders..

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The options to be covered in the Communication may include regulatory (e.g. aiming at amendment of Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing FRONTEX) and non-regulatory (e.g. exploring new ways and means of operative co-operation) measures. The former may go beyond a mere update. However, no legislative proposals will be attached to the report as an independent evaluation of Regulation 2007/2004 will be conducted on behalf of the Management Board of Frontex during the year 2008. As such , legislation could be announced for a later (unspecified) date.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

A limited number of the follow-up actions to be proposed may affect the policy areas of external relations and to a lesser extent customs respectively.

Do the options respect the proportionality principle?

The current legal basis of the Agency respects the proportionality principle. Those recommendations for future actions that would involve an amendment of the legal basis will be carefully assessed from this angle. However, no recommendations will be made that would go beyond what is necessary to reach the objectives.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

As the scope of the legal framework which is the subject of this report is specific and limited to border controls, the impacts could include reinforced solidarity among Member States and better management of migration flows, and better control of the Union's external borders to meet current and future legal requirements.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Certain options may call for a reinforcement of the budget of Frontex. However, no concrete proposals will be made to this effect.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No impact on simplification/administrative burden. Possible impact on relations with third countries, building on the current Frontex mandate for cooperation with third countries. It should be noted in this context that the relations e.g. conclusion of working arrangements with third countries are subject to approval by the Management Board of Frontex.

Who is affected?

The Frontex Agency, Member States and their border control authorities, immigrants from third countries.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Information is available from Frontex on activities carried out so far. This information forms the basis for the recommendations. No external contractor will be used.

Which stakeholders & experts have been/will be consulted, how and at what stage?

No other stakeholders will be consulted. Informal consultations with MS and Frontex experts have been held.

## ROADMAP

Title of the initiative: **Communication on a European Border Surveillance System**

Expected date of adoption of the initiative: **February 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In the Communication COM(2006)733final of 30 November 2006 on Reinforcing the Management of the EU's Southern Maritime Borders, the Commission proposed to establish a permanent *Coastal Patrol Network* for the southern maritime external borders and to create a *European Surveillance System for Borders*. The European Council of 14/15 December 2006 stated that "*priority will also be given to examining the creation of a European Surveillance System for the southern maritime borders*".

The Communication will identify the appropriate follow-up to be given to the MEDSEA and BORTEC studies prepared by the FRONTEX Agency by outlining how a European Border Surveillance System could be set up in three phases between 2008 and 2013. The works on the part concerning maritime surveillance are carried out in close coordination with the Maritime Policy Task Force.

While the conclusions of the European Council focussed on the southern maritime border the Communication will analyse the need for addressing also other parts of the EU's maritime border as well as the land border, having regard to the longer term objective of ensuring a uniform level of surveillance for the entire Schengen area and the risks of changing migratory flows.

What are the main problems identified?

Member States located at the southern maritime and eastern land borders of the EU are confronted with illegal immigration, trafficking of human beings, etc.. In addition, some Member States are facing a considerable and tragic death toll of illegal immigrants trying to reach their shores.

In particular in the maritime domain a number of national, European and international reporting and surveillance systems, are currently being set up or upgraded, but so far they are only partially interlinked. Surveillance tools (e.g. satellites, UAVs) are currently used in a common manner only by the military, but not by the different national authorities involved in border control. In an area with common external borders the challenge of border management is shared by the Member States. Cooperation and coordination between their operational activities is therefore essential, as evidenced by other instruments adopted in this field. Sharing of information on border surveillance between Member States, which today takes place on an ad hoc and fragmented basis, could assist in ensuring that all parts of the borders are covered adequately while at the same time avoiding overlaps and duplication of investments.

As of 2007, the necessary financial tools are now available to improve this situation: Long-term investments in the protection and surveillance of the external borders can now be financed from significantly increased Community funding, in particular from the External Borders Fund.

Finally, the latest technological developments, e.g. in satellite technology, can also contribute to improve border surveillance and thus the internal security of the EU as a whole.

Is EU action justified on grounds of subsidiarity?

The development and setting up the *European Border Surveillance System* as envisaged by the Commission shall neither affect the division of tasks and competences between Member States nor replace any existing systems. By upgrading and connecting existing national surveillance systems, it shall rather be seen as a "*system of systems*" which enhances the sharing of information and thereby the co-operation between Member States in securing the Schengen external borders.

## **B. Objectives of EU initiative**

What are the main policy objectives?

There are three general policy objectives:

### **1.Reduction of the number of illegal immigrants who manage to enter the EU undetected.**

EUROSUR should provide a common technical framework to support Member States' authorities to act at local level, command at national level, coordinate at European level and cooperate with third countries in order to detect, identify, track and finally intercept persons trying to enter the EU illegally outside border crossing points.

### **Reduction of the tragic death toll of illegal immigrants by rescuing more lives at sea.**

EUROSUR should increase the capacity of Member States' authorities to detect small boats in the open sea, leading to more search and rescue activities and thereby saving more lives at sea, while also monitoring third country costs in order to prevent immigrants from using such boats.

### **Increase internal security of the EU as a whole by contributing to the prevention of trafficking in human beings, drug smuggling, terrorism etc.**

EUROSUR should assist the Member States in reaching full situational awareness on the situation at their external borders and increase the reaction capability of their national law enforcement authorities, thereby increasing the internal security of the EU as a whole.

Does the objective imply developing EU policy in new areas or of strategic importance?

The aim is to enhance co-operation and to streamline procedures among Member States authorities and optimise the use of surveillance tools and systems for the benefit of the EU.

This proposal is of strategic importance.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

### **Policy Option 1: A status quo policy option involving no new actions.**

No changes are made to the current situation other than those that are already planned and confirmed.

### **Policy Option 2: Interlinking and streamlining existing surveillance systems and mechanisms at Member States level**

**General description:** This option includes mainly actions that could be implemented within the existing legislative framework, are based to a large extent on actions already under preparation and that should therefore be relatively uncontroversial and straightforward to implement in the short term.

It would consist of the following measures:

Providing the essential infrastructure at national level through streamlining of command and coordination mechanisms by setting up a national coordination centre and a national surveillance system in each of the Member States located at the EU southern maritime and eastern land borders to cover all or selected parts of the external borders.

Interlinking the national infrastructures in a communication network for regular information exchange and coordination of activities between Member States' authorities as well as with FRONTEX.

Logistical and financial support of neighbouring third countries in setting up an infrastructure comparable to the one described above (surveillance system; coordination centre; assets for interception).

### **Policy Option 3: Development and implementation of common tools and applications for border surveillance at EU level**

**General description:** An option including all of the actions of policy option 2 plus additional, mainly non-legislative actions that would require either further time for implementation respectively further specification and that would entail some expenditure.

It would consist of all measures mentioned under Policy Option 2 plus:

Research and development to improve the performance of surveillance tools (e.g. UAVs, buoys, etc.) to increase the area covered and the number of suspicious activities detected within as well as to improve confidence in identification of potentially suspicious targets so as to optimize the subsequent interventions.

Common application of surveillance tools (e.g. satellites, UAVs, planes) to provide Member States' authorities with surveillance information on their external borders and the pre-frontier area on a more frequent and reliable basis. FRONTEX could act as a facilitator e.g. to liaise with service providers in order to receive satellite imagery or to co-ordinate the use of UAVs along the eastern land borders.

Common pre-frontier intelligence picture to enable a targeted intelligence reaction: For example on the basis of intelligence received from third countries authorities, a target (e.g. lorry, vessel) utilised for a criminal activity has been identified abroad and is being tracked by using satellites or ship reporting systems) until interception on EU territory.

#### **Policy Option 4: Creation of a common information sharing environment**

**General description:** An option including all actions of policy options 2 and 3 plus a number of additional actions that are legally and technically complex and need more examination and are likely to be long term in nature.

It would consist of all measures mentioned under Policy Options 2 and 3 plus:

Common information sharing environment for Mediterranean Sea and Black Sea, in which information from ship reporting systems, surveillance systems and tools and other sources is being collected, fused, analyzed and disseminated for internal security purposes, linking not only the border control authorities, but all authorities involved in maritime affairs together through a "common operational picture".

Extension of the above mentioned common information sharing environment for Mediterranean Sea and Black Sea to the Atlantic Ocean, North and Baltic Sea with special emphasis on creating a common information sharing environment for the EU maritime domain, covering all aspects of maritime safety and security with the general framework of the EU Maritime Policy.

Completing the common information sharing environment for external borders by including also the eastern land borders and air borders/airports within a general concept for integrated border management.

A more detailed description of the possible options will be included in the Communication, based on the results of ongoing consultations and meetings with other Commission services and EU agencies and the Member States.

The consultations and meetings mentioned above will provide the Commission with the analysis of the legislative impacts, including data protection issues, relating to the different options.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Therefore a close co-operation with the relevant Commission services has been established.

Do the options respect the proportionality principle?

Differentiated approach - yes. By upgrading and connecting existing national surveillance systems, the European Border Surveillance System shall rather be seen as a "*system of systems*" which enhances the sharing of information and thereby the co-operation between Member States in securing the Schengen external borders. The proportionality of the fully harmonised approach will be subject to further examination during impact assessment.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Policy option 1 - status quo: Traffickers and illegal immigrants will continue targeting the Member State which is the least prepared to prevent illegal immigration into the Schengen area. Without a common strategy the substantially increased Community funding available as of 2007 (External Borders Fund, FP7 – Security Research) will be used in an uncoordinated way, leading to duplication of efforts and waste of resources in Member States.

Policy options 2 to 4: The different possible impacts of the policy options 2 to 4 are currently scrutinised and will be included in the Impact Assessment. However, it can already be said that the preliminary envisaged approach of full harmonisation, including the replacement of national and the integration of other European national systems would be extremely expensive. This approach would not take into account that for different locations and situations different solutions have to be found. A full centralisation would not necessarily result in an increase in security, but might even lead to serious co-ordination and reaction capacity problems when surveillance of thousands of kilometres of EU external borders is done from one centre only.

Therefore the result will be a differentiated approach, leading nevertheless to a considerable improvement of the co-operation and co-ordination of Member States authorities involved in border surveillance.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The setting up of the system will be financed from different Community programmes (External Borders Fund, FP7) and national budgets.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Not for the time being. The co-operation with third countries will be one issue still to be further investigated.

Who is affected? – Member States, FRONTEX

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

In the BORTEC Study presented by the FRONTEX Agency in January 2007 the surveillance systems of the Member States situated at the southern external borders of the EU have been analysed. DG FISH is currently working on an inventory of the surveillance systems in the maritime domain. DG JLS is collecting further information from Member States and from the above mentioned services in a continuously on-going process.

Which stakeholders & experts have been/will be consulted, how and at what stage?

In a number of bilateral contacts and in two meetings organised by DG JLS, other relevant services and Member States have already been consulted. Further contacts and meetings are planned to ensure that the proposals to be made in the Communication will be of added value for the stakeholders.

## ROADMAP

Title of the initiative: **Policy plan on the Common European Asylum System**

Expected date of adoption of the initiative: **July 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The instruments of the first phase of the Common European Asylum System (CEAS) are already in place. The Hague Programme provided for a second phase of the CEAS, which would lead to a common procedure and a uniform status for refugees in the European Union by 2010. In order to launch a debate about the form the second phase of the CEAS should take, the Commission adopted on 6 June 2007 a Green paper on the future of the CEAS. The outcome of the public consultation will inform future Commission work in this area, in particular the policy plan to be adopted in 2008. The policy plan will list the initiatives the Commission will take from 2008 onwards in order to fulfil the mandate of the Hague Programme and improve the functioning of the CEAS.

The decreasing trend of the last 5 years in asylum applications has led to asylum issues being somewhat sidelined in favour of more attention devoted to irregular migration and economic migration. However, there are signs that 2007 could end with more asylum applications than 2006; regional conflicts like the war in Iraq explain this increase and have put the spotlight on asylum issues again.

What are the main problems identified?

During the first phase of the CEAS, agreement was found on common minimum standards on issues like procedures, reception conditions for asylum-seekers, establishment of the figure of subsidiary protection, etc. However, the common standards are in many cases set very low, the degree of protection varies greatly from one Member States to the other, and recognition rates vary enormously depending on the Member State and the origin of the asylum-seeker, thus causing asylum-shopping and secondary movements, despite the mechanisms of the Dublin system (as asylum-seekers will always try to reach the Member States which are perceived to have more 'generous' asylum systems). Secondary movements overburden and increase costs for the asylum systems of Member States and also pose a problem for the asylum-seekers themselves: travelling takes away their meagre resources and prevents their integration in the society of a Member State. Other identified problems include the increase in mixed flows, where persons in need of protection travel together with other migrants and have difficult access to the protection they deserve, and integration problems of refugees and other persons enjoying protection.

In recent years there has been a sharp decrease in the number of asylum-seekers, although 2007 could see more asylum applications in the EU than 2006. It is necessary to assess whether this decrease is due to a fall in the number of conflicts which generate refugees or to more restrictive policies in the Member States, which may discourage potential refugees from seeking protection; and whether the possible increase in 2007 signals a new trend.

Is EU action justified on grounds of subsidiarity?

In a Europe without internal borders, migration and asylum issues need to be treated jointly by all the Member States at EU level. Diverging national policies on asylum can only lead to asylum-shopping and secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers. Having a common high level of protection throughout the EU should lead to less secondary movements and ensure that the rights of asylum-seekers and refugees are protected in accordance with international instruments like the Geneva Convention.

## **B. Objectives of EU initiative**

What are the main policy objectives?

To define a general framework for the Common European Asylum System and present which are the future measures the Commission will propose in order to complete the second phase of the CEAS.

The priority objectives in the second stage should be to achieve both a higher common standard of protection and greater equality in protection across the EU as well as to ensure a higher degree of solidarity between EU Member States.

Moreover, in this second stage, it is important to adopt an integrated, comprehensive approach to asylum, seeking to improve all aspects of the asylum process, starting from the moment individuals seek access to protection in the EU until the moment a durable solution is found for those in need of international protection. Finally, it should be stressed that the centrality of the Geneva Convention to addressing European and global refugee issues, its purpose of defining who is a refugee, and its laying down of a common approach to be taken towards refugees has been and will continue to be the essential foundation of the CEAS. The full and inclusive application of this Convention has been a constant theme in the preparation, presentation and negotiation of the first phase instruments and its relevance will be similarly essential to the development of future policy.

Does the objective imply developing EU policy in new areas or of strategic importance?

Asylum policy has been an area of Community competence since 1999. The new initiatives will therefore continue the development of the Common European Asylum System.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are:

- 1) no new Policy Plan, modifications of Asylum Policy at different points in time without a strategic framework
- 2) the development of a new Policy Plan, in which issues could be addressed as follows:
  - a) To amend the existing legislation in order to address identified shortcomings, avoid diverging national practices which hamper the objective of harmonisation and work towards a common procedure and a uniform status.
  - b) To devise new legislation in order to address areas not currently covered by the common asylum policy
  - c) To develop practical cooperation with new fora and/or new coordination bodies
  - d) A combination of the three above
  - e) no action where current practices are judged satisfactory

The Impact Assessment will give an overview and analysis of the main policy options available to reach the objectives outlined above. The policy options to be considered should regard, inter alia, to the following:

The nature of the EU action that will be necessary to achieve these objectives (legislative or non-legislative instruments, other non-regulatory options, cooperation, funding instruments, other). To the extent that legislative action appears to be necessary, the Impact Assessment should further examine which specific form it could take (regulation, directive, other) and how it could relate to the existing acquis (proposals for the amendment of the existing instruments, merging of certain instruments, consolidation of the whole asylum legislation in a single instrument, other).

The scope of the EU action to be undertaken, based inter alia on an identification of possible further policy areas that should be covered in the construction of the second phase of the Common European Asylum System (e.g. where necessary, proposals for new additional instruments).

- The level of harmonisation to be achieved (common minimum standards, further harmonisation, or even complete harmonisation).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Do the options respect the proportionality principle?

Yes, given the explicit objective of the Hague programme for the completion of the Common European Asylum System (common procedure and uniform status). Prior to the implementation of measures, the appropriate intensity of community intervention will be judged separately.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

It can be anticipated that more harmonisation will lead to less secondary movements and less 'asylum shopping'. Higher standards of protection through the EU could also increase the costs for Member States, although such costs could also be lowered through increase efficiency and more streamlined procedures. It can be expected that these impacts would not or to only a very limited extent materialise in case no future policy plan was envisaged.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The most visible impact on the EU budget could arise from further modifications of the European Refugee Fund in order for it to cover new objectives and fund new activities. The IA of the Policy Plan would not decide on the details of such modifications. The ex ante evaluation would be carried out in connection with the concrete follow-up proposals only.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The options could certainly have an impact on administrative procedures in the Member States. The detailed implications of these will be assessed at a later stage of policy development for each relevant instrument prior to its implementation.

Who is affected? Officials in national administrations, asylum-seekers, refugees, NGOs which support them

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Certain statistical data are already available in Eurostat and UNHCR databases; they will need to be analysed as part of the IA to better understand current trends in asylum applications and status determination. The contributions from the different stakeholders to the Green paper on the future of the Common European Asylum System will provide useful information about the position of the main actors (Member States, NGOs, international organisations, etc.); such information will be analysed by an external contractor and by the Commission. Questionnaires will be sent to Member States in order to obtain further information.

The external study will be launched in October 2007. The level of analysis will remain at a high level of aggregation and not enter into details for each measure. The analysis will have to show the interlinkage between the different measures and provide a general analytical framework for the whole Common European Asylum System (CEAS). The detailed impact of each of the proposed changes in the specific legislative instruments will be assessed in the impact assessments attached to each of the proposals for modification. Given the tight deadline imposed by the Hague Programme (the second phase of the CEAS must be achieved by 2010), the Commission is obliged to present the policy plan together with some of the specific modifications of existing measures.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Green Paper (COM (2007) 301) launched a wide consultation. Contributions are expected from the different stakeholders and will provide important information for the preparation of the IA. A hearing on the future of the CEAS will be organised in Brussels on 7 November 2007. Further consultations will take place with, *inter alia*, Member States and academics.

## ROADMAP

Title of the initiative: **Proposal for a Directive of the European Parliament and the Council amending Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers ('amended Reception Conditions Directive')**

Expected date of adoption of the initiative: **July 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Reception Conditions Directive was designed to harmonise the laws of the Member States concerning the reception conditions applicable to asylum seekers, thus contributing to the establishment of an EU-wide level playing field in the area of asylum and to reduce secondary movements. However, since it was adopted at the initial stage of the building of the CEAS, the subsequent evolution of the acquis makes it necessary to ensure consistency with newer instruments.

On the basis of the experiences of its application by Member States, a Commission report was drawn up, highlighting points where clarification of the existing provisions and/or further harmonisation are needed.

The modifications of the Directive take these developments into account with a view to contributing to the second generation of asylum law instruments, on the basis of the mandate of the Hague Programme of November 2004.

The Dublin Regulation (also currently under revision, and subject to a separate impact assessment) also aims at the prevention of asylum shopping (ie. secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers), but while it only constitutes procedural rules for the allocation of the responsibility for the assessment of asylum application of the MS (on the basis of family unity, documentation, illegal entry/stay, legal entry), the Reception Conditions Directive provides for the provision of rights for asylum seekers, therefore the flexibility of its rules results in still existing divergences among the practices of MSs in applying the 'common rules', and maintains an interest for asylum interest to choose one's entry point/destination in the EU territory, ie. picking a MS where more advantageous conditions are deemed to be found by the asylum seeker

What are the main problems identified?

As a directive adopted at the initial stage of the creation of the first phase of the CEAS, the Reception Conditions Directive sets common minimum standard provisions. However, the wide discretion allowed by the Directive in a number of areas, notably in regard to access to employment, health care, level and form of material reception conditions, free movement rights and needs of vulnerable persons, undermines the objective of creating a level playing field in the area of reception conditions.

These problems will need to be addressed in order to avoid triggering asylum-shopping and secondary movements. These phenomena undermine the effectiveness of asylum procedures and therefore prevent genuine asylum seekers from receiving the protection they need since the resources available for the determination of their status and their reception is derogated by the costs of multiple applications. (According to statistics, 17% of asylum applications in MSs were multiple applications in 2006.<sup>5</sup>) Therefore, existing differences between the practices of Member States will be proposed to be properly addressed in the form of EC legislation aiming at their harmonisation.

Is EU action justified on grounds of subsidiarity?

In a Europe without internal borders, migration and asylum issues need to be treated jointly by all the Member States at EU level. Diverging national policies on asylum can only lead to asylum-shopping and secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers. Ensuring at an early stage of the asylum process a common level of reception standards is essential to avoid this phenomenon.

<sup>5</sup> Annual report to the Council and the European Parliament on the activities of the EURODAC Central Unit in 2006, SEC(2007) 1187, p. 9.

## **B. Objectives of EU initiative**

What are the main policy objectives?

To amend the Reception Conditions Directive so as to achieve a more substantial level of harmonisation which is more in line with the objective of the CEAS, notably the creation of a common level playing field in the area of asylum.

Does the objective imply developing EU policy in new areas or of strategic importance?

The initiative fits into the completion of the Common European Asylum System as envisaged by the Hague Programme.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are:

- a) To amend the existing legislation in order to address identified shortcomings, avoid diverging national practices which hamper the objective of harmonisation
- b) To enhance practical cooperation between Member States, which should lead to commonly agreed practices
- c) to preserve the status quo, which is the current Council Directive

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Do the options respect the proportionality principle?

The preferred option is to amend legislation by same-level legislation

The proposal will not go beyond what is necessary to reach its objectives, based on the mandate of the Hague programme.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

It can be anticipated that more harmonisation will lead to less secondary movements and less 'asylum shopping'. Higher standards of protection through the EU could also increase the costs for Member States, although such costs could also be lowered through increased efficiency and more streamlined procedures.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The options could certainly have an impact on administrative procedures in the Member States. The detailed implications of these will be assessed at a later stage of policy development, prior to the implementation of the Directive.

Who is affected?

Member States asylum authorities and asylum seekers.

## **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

- The *report of the Commission*,<sup>6</sup> and the two studies conducted to gather the necessary information on the state of implementation and application of the Directive, ie.
- the *report of the European Migration Network* (EMN) "Reception Systems, their Capacities and the Social Situation of Asylum Applicants within the Reception System in the EU Member States" and
- the *study contracted to the Academic Network for Legal Studies on Immigration and Asylum in Europe* ("*Odysseus*" Network)
- *experiences of the EQUAL programme* regarding the promotion of the inclusion of asylum seekers to the labour market.

Furthermore, the contributions from the different stakeholders to the Green paper on the future of the Common European Asylum System will be assessed.

All input will be analysed by the external contractor and by the Commission.

Expert meetings will be convened on the subject.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Green Paper (COM (2007) 301) launched a wide consultation. Contributions are expected until 30 September 2007 from the different stakeholders and will provide important information for the preparation of the IA. A hearing on the future of the European asylum policy will take place on 7 November in Brussels. Further consultations will also take place.

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<sup>6</sup> Report from the Commission to the Council and to the European Parliament on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

## ROADMAP

Title of the initiative: **Proposal for a Regulation of the Council and the European Parliament amending Council Regulation 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ('amended Dublin Regulation')**

Expected date of adoption of the initiative: **July 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

After 3 years of operation, the application by the Member States of the 'Dublin Regulation' has been evaluated (report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system – COM(2007)299 and SEC(2007)742). While generally satisfied, the evaluation has identified a series of issues related to the effective application of some provisions of the Dublin Regulation and to its consistency with the other asylum acquis. This initiative aims at addressing those issues.

This exercise also fits into the building up of the second phase of the Common European Asylum System (CEAS), as called for in the Hague Programme of November 2004.

What are the main problems identified?

The main problems identified by the evaluation report of the Dublin system relate on the one hand to the effective application of some provisions of the Dublin Regulations, such as those related to family unity or those obliging Member States to respect certain procedural rules, and on the other hand, to the harmonised application of certain provisions, such as in particular discretionary clauses which allow Member States to derogate from the general principles laid down in the Dublin Regulation. Finally, as the Dublin Regulation (and the Eurodac Regulation) was adopted before other building blocks of the CEAS, some adjustments need to be made in order to ensure consistency between the different asylum instruments.

Is EU action justified on grounds of subsidiarity?

The purpose of this proposal is nothing more than adjusting what has already been laid down in Community law, consisting of criteria and mechanisms for determining the Member State responsible for examining an asylum application which create mutual rights and obligations between the Member States. By their very nature these rights and obligations cannot be created by the Member States acting in isolation. In a Europe without internal borders, migration and asylum issues need to be treated jointly by all the Member States at EU level. Diverging national policies on asylum can only lead to asylum-shopping and secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers.

**B. Objectives of EU initiative**

What are the main policy objectives?

To amend the Dublin Regulation in order to ensure more effective and harmonised application and to adapt it to the rest of the asylum acquis.

Does the objective imply developing EU policy in new areas or of strategic importance?

The initiative fits into the completion of the Common European Asylum System by 2010 as foreseen by the Hague Programme.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are:

- a) To amend the existing legislation in order to address identified shortcomings, avoid diverging national practices which hamper the objective of harmonisation
- b) To address only some of the issues identified through comitology action
- c) To enhance practical cooperation between Member States, which should lead to commonly agreed practices

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Do the options respect the proportionality principle?

The preferred option is to amend legislation by same-level legislation

The proposal is designed to replace an existing regulation creating mutual rights and obligations between all Member States in identical terms for all Member States. The only instrument which meets these conditions in Community law is another Regulation.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The IA will show the impacts of each of the options are. It can be anticipated, however, that the amendment will improve the application of the Dublin rules and will decrease the number of disputes between Member States concerning such an application. Asylum seekers will have more legal certainty. The long-term impact should meet one of the primary objectives of the Dublin Regulation: avoid secondary movements of asylum seekers.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No, apart from possible small-scale adjustments of the Commission-run secure electronic communication system (DubliNet).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The options could have an impact on administrative procedures in the Member States.

Who is affected?

Member States asylum authorities / asylum seekers

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

- The report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system – COM(2007)299 and SEC(2007)742).
- Certain statistical data are already available.
- The contributions from the different stakeholders to the Green paper on the future of the Common European Asylum System will provide useful information about the position of the main actors (Member States, NGOs, international organisations, etc.); such information will be analysed by the external contractor and by the Commission.
- National administrations will be invited to expert meetings on the subject

Which stakeholders & experts have been/will be consulted, how and at what stage?

National asylum authorities have been consulted with a questionnaire, in preparation of the Evaluation Report, as well as at the occasion of informal experts meetings.

Other stakeholders (UNHCR, NGO's) have also contributed to the evaluation of the Dublin system.

The Green Paper (COM (2007) 301) launched a wide consultation. Contributions are expected from the different stakeholders and will provide important information for the preparation of the IA.

National administrations will be invited to expert meetings on the subject

## ROADMAP

Title of the initiative: **Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status.**

Expected date of adoption of the initiative: **December 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The basic layout of the Common European Asylum System (CEAS) according to the Tampere and the Hague Programme consists in the establishment of a common asylum procedure and a uniform status valid throughout the EU. The instruments of the first phase of the CEAS are already in place. Amongst these instruments, the Asylum Procedures Directive is the one which approximates national rules on procedures for granting and withdrawing refugee status by establishing common requirements for the decision-making process and procedural guarantees for the asylum seekers. However, to achieve the objective of a "a common asylum procedure", as set out by the Hague programme, further harmonization will be necessary, regarding aspects of asylum processing which were not - or not sufficiently - covered by its current provisions.

The Green Paper on the future Common European Asylum System, issued by the Commission on 6 June 2007, launched a wide consultation and debate on the future architecture of the CEAS, including on questions regarding the scope and level of harmonisation to be pursued in the second phase through an amendment of the Asylum Procedures Directive.

This Directive will therefore be amended based on the results of this consultation process and according to the Policy plan that will subsequently be adopted.

What are the main problems identified?

This Directive allows a large degree of flexibility in many areas. In particular, several of its provisions, such as the provisions on accelerated procedures, border procedures and inadmissible applications set out whole lists of procedures or practices that Member States may introduce or retain in their national systems, instead of bringing about genuine harmonization of the national legal frameworks. Indeed, the Directive allows Member States such a large margin of discretion that, in the end, it does not eliminate asylum seekers' motivation to look for the Member State with the more "generous" policy. Specific data on the size and nature of the asylum-shopping phenomenon and the current secondary movements taking place between Member States will be collected as part of the research conducted under the Impact Assessment. Clearly, if the objective of the EU wide common procedure set by the Hague Programme is to be met, we will need to restrict the extensive possibilities for derogations and alternative practices currently allowed by the Directive.

It might also be necessary to re-assess the content and added-value of certain procedural devices introduced at the first stage of harmonisation, such as the concepts of safe countries of origin, safe third countries, and safe European third countries. These concepts mainly reflect national practices and experiences modelled in the early and mid-nineties. They were not designed on the basis of a thorough geopolitical analysis of potential migration flows, but to reflect the wish of some Member States to avoid secondary movements for the sole reason of different safe-country policies. Some of the concepts may have had their use in the past, but in terms of the numbers of asylum seekers affected, they may not be of much use nowadays. More precise data on this point will be provided through the Impact assessment. In addition, the Asylum Procedures Directive currently provides for varied and rather complicated modalities for the establishment of the lists of such safe countries, which has created difficulties for the practical implementation of these concepts. It is therefore necessary to reflect on whether such lists are a necessary and adequate means to achieve the objectives pursued by the current EU asylum policy and if yes, on how they could best be modelled to achieve these objectives, taking into account recent EU enlargements and current realities and migration flows

With a view to establishing a common asylum procedure it might also be necessary to include as a mandatory element in the CEAS a single procedure for assessing applications for refugee status and for subsidiary protection. It will also be necessary to extend the scope of application of this Directive so as to make its rules applicable also to procedures for granting or withdrawing subsidiary protection.

An additional possibility for further harmonisation envisaged by the Hague Programme is the establishment of a mechanism for the joint processing of asylum applications. On the basis of the conclusions of the relevant study that will be conducted, reflection might be necessary on what could be possible models for such a mechanism.

Is EU action justified on grounds of subsidiarity?

In a Europe without internal borders, migration and asylum issues need to be treated jointly by all the Member States at EU level. Diverging national policies on asylum can only lead to asylum-shopping and secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers. The further approximation of rules on the procedures for granting and withdrawing international protection can be expected to limit the secondary movements of applicants for asylum between Member States, caused purely by differences in national legislations.

### **B. Objectives of EU initiative**

What are the main policy objectives?

To achieve a fuller harmonisation - based on high standards - of the procedures for granting and withdrawing international protection applicable in all Member States. Such a high degree of harmonisation should ensure that persons seeking protection in the EU enjoy the same guarantees of an effective access to fair and efficient asylum procedures, regardless in which Member State they lodge their application. The end result would be the achievement of the ultimate goal of the EU asylum policy: to make the European Union a single protection area for refugees, based on the full and inclusive application of the Geneva Convention and on the common humanitarian values shared by all Member States.

Does the objective imply developing EU policy in new areas or of strategic importance?

Asylum policy has been an area of Community competence since 1999. The new initiatives will therefore continue the development of the Common European Asylum System, in accordance with the mandate of the Hague Programme.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are:

- a) To amend the existing directive in order to address identified shortcomings and to reduce the margin for diverging national interpretations and practices which hamper the objective of harmonisation
- b) To propose new legislative instruments in order to address areas not currently covered by the acquis, for instance for the establishment at Community level of a mechanism for the joint processing of asylum applications
- c) To develop practical cooperation with new fora and/or new coordination bodies
- d) A combination of the three above

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No, whatever option is chosen, there is no interaction or impact on actions by other Commission departments; the subject matter of the proposal is limited to regulating internal national procedures.

Do the options respect the proportionality principle?

Yes, given the explicit objective of the Hague programme regarding the establishment of a common asylum procedure

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The IA will demonstrate the impacts of each of the options. It can be anticipated, however, that more harmonisation on the basis of high standards will lead to less secondary movements and less 'asylum shopping'. Higher standards of protection through the EU could also increase the costs for Member States, although such costs could also be lowered through increased efficiency and more streamlined procedures.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The options could have an impact on administrative procedures in the Member States.

Who is affected? The persons seeking asylum in Member States, those who are recognised as qualifying for protection, as well as those whose applications are rejected; the competent national authorities.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Informal contacts with the competent national authorities, as well as the Contact Committee on the Asylum Procedures Directive provide useful information on how this Directive is being implemented in practice in the various Member States. The contributions from the different stakeholders to the Green paper on the future of the Common European Asylum System will also provide useful information about the position of the main actors (Member States, NGOs, international organisations, etc.). All this information will be analysed by the external contractor and by the Commission. Questionnaires may be sent to Member States in order to obtain further information.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Green Paper launched a wide consultation. Contributions are expected from the different stakeholders and will provide important information for the preparation of the IA. Further consultations will take place with relevant experts.

## ROADMAP

Title of the initiative: **Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The basic layout of the Common European Asylum System (CEAS) according to the Tampere and the Hague Programme consists in the establishment of a common asylum procedure and a uniform status valid throughout the EU. The instruments of the first phase of the CEAS are already in place. Amongst these instruments, the Qualification Directive is the one which establishes common criteria for the identification of third country nationals who qualify for international protection and should therefore be granted refugee or subsidiary protection status in a Member State as well as the rights and benefits attached to each of these statuses. However, to achieve the objective of a "uniform status", as set out by the Hague programme, further harmonization will be necessary, regarding both the qualification criteria and the content of the protection status granted.

The Green Paper on the future Common European Asylum System, issued by the Commission on 6 June 2007, launched a wide consultation and debate on the future architecture of the CEAS, including on questions regarding the scope and level of harmonisation to be pursued in the second phase through an amendment of the Qualification Directive.

This Directive will therefore be amended based on the results of this consultation process and according to the Policy plan that will subsequently be adopted.

What are the main problems identified?

For the Hague objectives to materialize, the Qualification Directive will need to be amended with a view to achieve inter alia a fuller harmonisation of the eligibility criteria for protection, the clarification of the concepts used to define the grounds for protection as well as a further approximation of the rights and benefits attached to the protection statuses granted.

The common criteria for eligibility for protection agreed in the first phase and formulated in the current provisions of the Qualification Directive - in particular with regard to the subsidiary protection regime established by this Directive - allow a certain margin for divergent interpretations and applications in different Member States, which should be limited, if uniformity of protection is to be achieved. For instance, certain Member States have given different interpretations to the requirements of the existence of "a serious and individual threat to a civilian's life of person", as a reason for granting subsidiary protection, as well as to other elements of the relevant definitions contained in this Directive. Such divergent interpretations have as a result that the scope of the Directive itself differs in the various Member States, and therefore that asylum seekers with similar claims may qualify for protection in some Member States but not in others. This does not only negate the desired harmonization effect, but also does not eliminate asylum seekers' motivation to look for the Member State with the more "generous" policy. Specific data on the size and nature of the asylum-shopping phenomenon and the current secondary movements taking place between Member States will be collected as part of the research conducted under the Impact Assessment. Moreover, certain notions used in this directive, such as "particular social group", "gender specific persecution", "actors of protection" or "internal protection" would benefit from further elaboration and, consequently, from a more uniform application; further legislative harmonisation pursued in this context should also achieve a higher common standard of protection.

In order to give flesh to the concept of a "uniform status", the further approximation of the rights and benefits attached to the protection granted should also be considered. Options to be considered include the establishment of one uniform status for refugees and another for beneficiaries of subsidiary protection or to grant all persons who under the current legal framework would be eligible either for refugee status or for subsidiary protection one single uniform status, i.e. a protection status comprising a uniform set of rights for both categories.

Moreover, it might be necessary to establish a mechanism for the transfer of protection responsibilities once a beneficiary of protection takes up residence in another Member State or to harmonise the status granted to categories of persons who are not eligible for international protection, but who nonetheless are protected against removal.

Is EU action justified on grounds of subsidiarity?

In a Europe without internal borders, migration and asylum issues need to be treated jointly by all the Member States at EU level. Diverging national policies on asylum can only lead to asylum-shopping and secondary flows of asylum-seekers trying to reach the Member States which are considered to have the most liberal policies towards asylum-seekers. The further approximation of rules on the recognition and content of the protection granted by the Member States can be expected to limit the secondary movements of applicants for asylum between Member States, caused purely by differences in national legislations.

### **B. Objectives of EU initiative**

What are the main policy objectives?

To achieve a fuller harmonisation of the eligibility criteria for protection applicable in all Member States and a further approximation of the rights and benefits attached to the protection statuses granted – on the basis of high standards. Such a high degree of harmonisation should ensure that persons seeking protection in the EU have the same chances of finding such protection and that they will subsequently enjoy the same rights and benefits, regardless in which Member State they lodge their application. The end result would be the achievement of the ultimate goal of the EU asylum policy: to make the European Union a single protection area for refugees, based on the full and inclusive application of the Geneva Convention and on the common humanitarian values shared by all Member States.

Does the objective imply developing EU policy in new areas or of strategic importance?

Asylum policy has been an area of Community competence since 1999. The new initiatives will therefore continue the development of the Common European Asylum System, in accordance with the mandate of the Hague programme.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are:

- a) To amend the existing directive in order to address identified shortcomings and to reduce the margin for diverging national interpretations practices which hamper the objective of harmonisation
- b) To propose new legislative instruments in order to address areas not currently covered by the *acquis*, for instance for the establishment at Community level of a mechanism for the mutual recognition of national asylum decisions and the possibility of transfer of protection responsibilities once a beneficiary of protection takes up residence in another Member State
- c) To develop practical cooperation with new fora and/or new coordination bodies
- d) A combination of the three above

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Do the options respect the proportionality principle?

Yes, given the explicit objective of the Hague programme regarding the establishment of a uniform protection status valid throughout the EU

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The IA will demonstrate the impacts of each of the options. It can be anticipated, however, that more harmonisation on the basis of high standards will lead to less secondary movements and less 'asylum shopping'. Higher standards of protection through the EU could also increase the costs for Member States, although such costs could also be lowered through increased efficiency and more streamlined procedures.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The options could have an impact on administrative procedures in the Member States.

Who is affected?

The persons seeking asylum in Member States, those who are recognised as qualifying for protection, as well as those whose applications are rejected; the competent national administrations.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Beginning of 2008, the academic network who undertook a study on the implementation of the Qualification Directive in the different Member States will issue its final report. This report will provide useful information on the difficulties encountered in the transposition of this directive and on the gaps and shortcoming that should be addressed through its amendment. The contributions from the different stakeholders to the Green paper on the future of the Common European Asylum System will also provide useful information about the position of the main actors (Member States, NGOs, international organisations, etc.). All this information will be analysed by the external contractor and by the Commission. Questionnaires may be sent to Member States in order to obtain further information.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Green Paper launched a wide consultation. Contributions are expected from the different stakeholders and will provide important information for the preparation of the IA. Further consultations will take place with relevant experts.

## ROADMAP

Title of the initiative: **Communication and Council Recommendation on Patient Safety and Quality of Health Services**

Expected date of adoption of the initiative: **November 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Ensuring a higher level of safety patients using EU health systems is increasingly being seen by Member States and other interested parties as an important health goal. Whilst the delivery of health services is primarily the responsibility of Member States, the same types of adverse events happen in all Member States and shared experience and learning can help to find solutions and reduce levels of harm. The current initiative on health services which is looking at clarifying key issues around the mobility of patients within the EU raises the need to address key patient safety issues such as the availability of information on the safety of health systems and compensation and other redress for patients when things go wrong at the EU level.

What are the main problems identified?

Data from national reports and studies from around the world estimate that approximately one in ten patients using health care systems experience some form of harm resulting from that health care, and that perhaps 50% of those incidents were preventable. All Member States need to take action through improved reporting, systems and cultures to reduce their levels of preventable harm (including death) to patients in all health care settings. Some Member States, however, are much further ahead in their efforts to do so than others.

Is EU action justified on grounds of subsidiarity?

Yes. In order to ensure a minimum level of safety for patients across the European Union, a clear Community framework for patient safety would support Member States to ensure that patient safety is a core element of the quality of healthcare services throughout the EU. The pooling of resources, the exchange and sharing of information and experiences and the development of a common framework to clarify legal uncertainties on liability and compensation issues are all key elements of the overall objective. With increased cross-border mobility of EU patients, a common EU framework to support Member States in their efforts to reduce harm to patients is sensible. By sharing experience and evidence from many different health systems throughout the Union, action at Community level can provide additional knowledge and support that Member States alone cannot provide. Establishing a clear reference point from outside any specific system will provide a clear political signal of shared commitment throughout the Union for all health systems, regardless of their form of organisation or state of development.

**B. Objectives of EU initiative**

What are the main policy objectives?

The two primary objectives of this initiative are to support Member States in ensuring the highest possible levels of patient safety throughout EU health systems by providing necessary and relevant practical and legal tools and mechanisms for the Member States, as well as the key stakeholders, to take appropriate actions to improve safety and quality of care and to improve EU citizens' confidence on the safety of EU health systems, regardless of the Member State in which the care is being provided

Does the objective imply developing EU policy in new areas or of strategic importance?

Although EU policy has long had an impact on health systems, this has mainly been through actions whose primary aim was directed at achieving other aims, such as freedom of movement or health and safety at work. Specific action to support Member States in achieving their health objectives through health systems is less developed, but there are sound arguments, made elsewhere, to suggest this is necessary in this case. The objective certainly relates to strategic priorities, including:

**Security and freedom** - Managing risk in the modern world. An effective European framework for patient safety will minimise the risk of patient harm in all EU Member States, thus protecting EU citizens, leaving them free to pursue active lives and careers.

**Europe as a world partner** – The EU will be a stronger actor in the world economy if it can minimise the economic costs of harm to patients through unsafe care, in terms of compensation payments, higher insurance premiums, lost working days, lower productivity, higher state benefits, longer hospital stays and the costs of putting right injuries caused to patients. WHO, CoE and OECD will be vital international partners in our patient safety initiative.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The instrument eventually chosen to attempt to improve the levels of patient safety and reduce harm in individual Member States and across the EU is, in part, dependent upon the outcome of proposals emerging from the Health Services initiative, referred to earlier.

The main options, listed below, include possibilities available either by following on the back of possible Health Services legislation or through alternative mechanisms.

#### **a) Do Nothing**

Some Member States, the key stakeholders and relevant international organisations are very active and engaged in different activities to improve patient safety. If SANCO did not develop anything further in the field of patient safety, it is likely that all the key players would continue their actions and work anyway.

However, the risk in this scenario would be an overlap of member State activities, resulting in the inefficient use of resources and a lack of coordination of efforts. Opportunities to share best practice, particularly in the area of solutions and interventions, would also be missed. Work would be taken forward to a greater extent in some Member States than others, increasing the health inequalities among EU citizens.

#### **b) Cooperation with Member States and Other Bodies**

The patient safety working group, referred to earlier, is the main platform for patient safety information-sharing and learning at the European level, bringing together Member States, the key stakeholders and the relevant international organisations. The involvement of all the key players in this group has helped to ensure that synergies are developed and that overlap of efforts can be avoided.

In addition, wider civil society groups, which meet regularly in the EU Health Policy Forum, has also initiated meetings on patient safety to ensure that all interested organisations (including representatives of the pharmaceutical and medical device industry) have an opportunity to use their expertise and knowledge to promote patient safety in different sectors and levels of healthcare services.

Even if stronger measures are not introduced, as a minimum, it is essential that the Commission continues to provide platforms for patient safety, thus ensuring that European level activities are developed in cooperation between Member States and the other key players who have an essential role in this field.

#### **c) Guidelines**

The key challenge for patient safety (as with many issues in health services) is not just defining the best practices, but in effectively implementing them within the very large and complex health systems of the Member States. Community guidelines could provide clear visibility and leadership to support Member States to ensure that patient safety is integrated more widely in quality of care policies and programmes, as well as other relevant national programmes (e.g. in the education of health professionals).

This instrument could also include guidance for setting up effective national, regional and local programmes and policies on patient safety, in collaboration with all the key stakeholders, including patient representatives and health professionals. This multi-sector dialogue could help to improve the safety culture of healthcare organisations.

**d) 'Soft' Legislation**

However, if further legislation was required – for example to cover areas such as requiring national reporting and learning systems to be set up in Member States and systems to compensate those harmed by healthcare systems - this could take the form of a Council Recommendation, building on the current recommendation from the patient safety working group to the High Level Group. Although still not binding on Member States, a Council Recommendation would still be a stronger instrument than guidelines because, as it would be coming from the Council rather than the Commission (as guidelines would be), Member States would feel more of a collective ownership for them. This could enhance the probability of implementation of the Recommendation in Member States.

**e) Follow-up to a Framework Directive on Health Services**

If the Community Action on Health Services places a duty of safe healthcare systems on Member States through use of a Directive (currently the preferred option)<sup>7</sup>, there may not be a need for further legislation in the form of a Regulation or a Directive in the area of patient safety. There would already be a legal framework covering patient safety (and other areas such as healthcare quality, information on healthcare, guarantees for protection of patient rights such as right to privacy, right to complain or right to redress, collection of healthcare data etc). And further implementing tools such as a Council Recommendation (accompanied perhaps by technical guidelines and/or standard operating procedures) could be developed through the comitology procedures. This would help to provide support to Member States in implementing action in the areas identified by the patient safety working group, such as the establishment of reporting and learning systems and compensation systems, and the mainstreaming of patient safety into medical and other healthcare professionals' curricula.

A Health Services Committee could replace the High Level Group on Health Services and Medical Care. Analytical support could come from working with the European Observatory on health systems, and hard data and information could be obtained through Eurostat and a EU network for patient safety when established.

**f) 'Hard' Legislation on specific issues of patient safety**

Specific legislation (a Directive or Regulations) in the area of patient safety could provide a more effective drive toward implementing a clear legal framework for enhancing patient safety systems and cultures in Member States, through, for example, legal obligation for the Member States to set up reporting and learning systems on adverse events at the Member State level, with a view to the learning from those systems, in areas such as successful interventions, being shared at the EU level. Rapid alert systems, again at Member State level, could also be made a requirement through legislation, and again those alerts could be shared at the EU level, to help avoid similar mistakes happening in other Member States. In this context, the issues of the legal liability of health professionals, patients' rights to information and compensation mechanisms would also need to be clarified

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Although there are links to the work of other DGs, as already described, it is not anticipated that this proposal will 'cut' across' their work. Other services are regular attendees at meetings of the patient safety working group and this work should complement theirs.

Do the options respect the proportionality principle?

Yes

<sup>7</sup> The other options currently under consideration are "no action"; "soft action only"; "detailed binding rules at the European level". However, the preferred option for the moment is a framework directive accompanied by soft-law measures aimed to support Member States in implementation of the general principles.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

##### **Economic Impacts**

Implementing and improving patient safety systems and processes will of course have financial implications for Member States. However, there are also huge economic savings to be realised, both in terms of savings to healthcare systems through shorter patient stays and less re-admissions but also to Member States' economies in general through a fitter, healthier, more productive workforce, paying more taxes and claiming less state benefits resulting from a reduction in iatrogenic harm. This aligns well with the Lisbon agenda to make the EU an economically stronger and more productive region. The economic cost of unsafe care has not been quantified in each in each Member State. Our data collection exercise will include questions on economic factors.

##### **Environmental Impacts**

Wrongly prescribed medicines lead to wastage of products (and the packaging) which has an adverse effect on the environment. Longer hospital stays for patients harmed by healthcare systems mean a greater use of energy resources in healthcare settings. Healthcare-associated infections not identified on discharge can easily be spread to other locations in the environment.

##### **Social Impacts**

A fitter, healthier, longer-living population in all EU Member States, leading to a better quality of life for EU citizens, would result from a reduction in patient safety incidents. EU citizens would also feel more empowered if the collection of data on patient safety incidents was routinely collected and made public. The aim is not just to increase the safety of EU healthcare systems but also to increase citizens' confidence in the safety of those systems

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Learning can be shared with third countries to help them reduce adverse incidents and harm to patients in their own healthcare systems, including EU citizens in those countries. Those countries bordering the EU in particular may experience benefits in relation to cross-border healthcare

Who is affected?

Potentially all EU citizens and their families.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Which stakeholders & experts have been/will be consulted, how and at what stage?

We are currently consulting the patient safety working group of the High Level Group on Health Services and Medical Care, which includes representatives from all 27 Member States as well as doctors, nurses, pharmacists, patients, hospitals and dentists. This will be an ongoing process through regular meetings and outside those meetings.

## ROADMAP

Title of the initiative: **Improving patient safety by prevention and control of healthcare-associated infections**

Expected date of adoption of the initiative: **December 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The objective builds on Council Recommendation (2002/77/EC) on the prudent use of antimicrobial agents in human medicine which focused on the importance of using antimicrobials prudently to contain the problem of antimicrobial resistance, primarily by containing the emergence of resistance. The Council has invited the Commission to keep matters covered under review and to submit further proposals, as appropriate. Not only emergence, under selective pressure of antibiotics, but also spread is an important driver of the problem of resistance. Therefore the Commission believes it is appropriate to make recommendations in the area of infection control.

What are the main problems identified?

**Problems**

- **Healthcare-associated infections (HCAI) affect an estimated one in ten (10%) hospital patients**
- These infections lead to increase in length of stay, illness, mortality and costs
- The HCAI-problem receives considerable media- and political attention as it seems the problem is growing and likely to increase further
- Infections caused by these pathogens are often difficult to treat due to antimicrobial resistance; for antimicrobial resistance a Council Recommendation (2002/77/EC) is in place
- Organisational and behavioural changes are needed to make an impact
- All health systems in EU face the problem and some Member States (MS) introduce regulation
- Implementation of preventive measures varies greatly among MS; **studies and impact assessments show that intervening is cost-effective!**

Is EU action justified on grounds of subsidiarity?

## Subsidiarity

Following the high level reflection process, the Commission proposed the 'open method of coordination' for healthcare and long-term care that was agreed by Council in October 2004 and provides a framework for MSs to exchange experience and to compare policies and performance. This does not put into question the primary responsibility of the MS for health in general and for health systems in particular but it shows expectations now exist for the Union to support MS. Citizens are free to seek healthcare in other MS so it is essential to ensure proper quality / safety in all MS. The value of European cooperation in helping MS achieve their health objectives is now recognised. The patient safety working group of the High Level Group on health services and medical care welcomed the initiative of the Commission on this subject.

**B. Objectives of EU initiative**

What are the main policy objectives?

HCAI are not constrained by national boundaries and can rapidly spread between countries as evidenced by international spread of MRSA as well as SARS. The European Union provides freedom for citizens to seek healthcare in other MS, as confirmed by the European Court of Justice. When patients do seek healthcare in other MS, it is essential to ensure that the well-being and safety of the patient is properly protected. **The main**

**objective is to ensure that MS have in place the proper and adequate strategies to prevent and control HCAI.**

To achieve this there is a need for behavioural and organisational changes, making sure that all MS adopt the necessary preventive measures. This was acknowledged also by the epidemiological surveillance component of the Community network, established by Decision 2119/98/EC. However, before proposing specific recommendations the Commission has organised a public consultation on a draft text to get feedback from relevant stakeholders and professionals in order to strike the right balance between safety requirements and feasibility. **Specific objectives** that the Commission proposes are that MS will:

- give priority to the implementation of infection control measures and lay down standard measures and precautions.
- organise infection prevention and control programmes in healthcare institutions and ensure that proper organisational and structural arrangements are in place.
- establish / strengthen active surveillance systems on HCAI, pathogens, risk factors as well as process and structure indicators measuring compliance.
- foster education, training, research and information exchange on HCAI prevention and control.

**This should result in fewer deaths and illnesses and a reduction in costs of treating patients that became ill unnecessarily.**

Does the objective imply developing EU policy in new areas or of strategic importance?

As described above, the objective builds on Council Recommendation (2002/77/EC) on the prudent use of antimicrobial agents in human medicine. Not only emergence, under selective pressure of antibiotics, but also spread is an important driver of the problem of resistance. Therefore the Commission believes it is appropriate to make recommendations in the area of infection control.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

#### **a) No intervention - rely on existing expert guidance**

Maintenance of status quo where professional groups provide non-statutory guidance.

#### **b) Strengthen further coordination of MS on HCAI**

This option is focused on stimulating MS to cooperate on the issue of HCAI.

#### **Actions:**

- 1) The Regulation establishing the ECDC (article 5) stipulates that: *the Centre, through the operation of the dedicated surveillance networks and the provision of technical and scientific expertise to the Commission and the MS shall support the networking activities of the competent bodies recognised by the MS.* MS have designated such bodies for HCAI under Decision 2003/542/EC and the ECDC could coordinate these bodies to:
  - identify main problems at European level and facilitate mutual information, consultation, cooperation, and action through the Community network (Decision 2119/98/EC)
  - establish / strengthen EU-wide surveillance on HCAI and develop a strategy for access to data from surveillance systems for HCAI, risk factors and indicators
  - foster the establishment of texts on principles and guidelines of best practice on the prevention and control of HCAI, recommend on outbreak control strategies
  - foster training, research and education initiatives
- 2) Co-funding projects under the public health programme to strengthen cooperation. Already a number of projects addressing the problem of HCAI have been financed (HELICS, EARSS, SIMPATIE, Marquis, IPSE, BURDEN).

**c) Propose Commission Decision under Decision 2119/98/EC adopting guidelines on HCAI**

Decision 2119/98/EC established a Network for the epidemiological surveillance and control of communicable diseases in the Community and Decision 2000/96/EC provided that surveillance of HCAI within this Community network will be performed by standardised collection and analysis of data in a way that will be determined when specific Community surveillance networks are put in place.

- Article 3 c), d), and e) of Decision 2119/98/EC foresees that case definitions and operating procedures for the nature and type of data and information to be collected as well as epidemiological and microbiological surveillance methods can be determined.
- Article 3 f) foresees that guidelines on the protective measures to be taken can be determined.

**Action:** Propose Commission Decision adopting guidelines on HCAI

**d) Propose Council Recommendation on HCAI**

This option aims for a formal adoption by Council at political level so that MS will put in place proper strategies to prevent and control HCAI.

**Action:** Propose a Council Recommendation on improving patient safety by prevention and control of HCAI by which MS are asked to address specific objectives mentioned above.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

For possible impacts on other areas, see 'D. Initial assessment of impacts.'

Do the options respect the proportionality principle?

A Commission Decision under Decision 2119/98/EC adopting guidelines on HCAI may exceed proportionality as:

- Proposing common case definitions and methods has not been feasible until present because of large differences among MS.
- Proposing common protective measures would not fit all health systems.

**D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

**Economic, social and environmental impacts**

**Social/Health impacts**

Prevention and control of HCAI will have an impact on the improvement of productivity and on the quality of life and reduction of suffering of many patients and their families. It should reduce length of stay, morbidity and mortality. Overall in the EU it has been estimated that there are approximately 3 million HCAI and 50,000 attributable deaths per year.

**Environmental impacts**

No environmental impacts expected.

**Economic aspects**

1) Overall cost estimates: HCAI prolong the suffering of the patients, increase health care costs and have other direct and indirect economic implications, such as loss of productivity and disability. Although measurement of costs is difficult, the cost of hospital acquired infection is high, for example the UK National Audit Office estimated it at £1 billion per year for the UK. Costs will be different for other countries and will change with

time, however, the relative magnitudes will be similar.

2) Cost benefit of infection control: Although HCAI is a multifaceted problem ways to control it are understood and assessment of the cost of control programmes shows major savings can be achieved. Data available from the US show that the costs of maintaining one hospital bed for a year would support a full hospital infection control programme in a 250-bedded hospital. The Study on the Efficiency of Nosocomial Infection Control (SENIC)<sup>8</sup> estimated that the cost of infection control teams was only 7% of the infection costs. Therefore, if infection control programmes were effective in preventing only 7% of nosocomial infections, the costs of the programmes would already be covered. A UK study from 2000 indicated that a 10% reduction in the number of nosocomial infections could result in a saving of 150 million euros per year.<sup>9</sup>

### Comparison of impacts of the different policy options

#### a) No intervention - rely on existing expert guidance

<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>
No extra resources needed.	<ul style="list-style-type: none"> <li>Professional guidelines have so far not achieved the necessary behavioural and organisational changes.</li> <li>This will not bring down the increasing HCAI rates.</li> <li>Failure to profit from Community added value in addressing the increasing challenge to control HCAI.</li> </ul>

#### b) Strengthen further coordination of MS on HCAI

<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>
<ul style="list-style-type: none"> <li>ECDC could provide added value in networking MS activities.</li> <li>Mechanisms to fund projects addressing HCAI are in place (PHP and RTD).</li> </ul>	<ul style="list-style-type: none"> <li>This area relates intrinsically to healthcare and thus is primarily responsibility of the MS.</li> <li>Already number of projects are financed that address HCAI. Although projects increase understanding of the problem they cannot overcome structural differences among MS nor influence regulation.</li> <li>Coordination between MS alone may <u>not</u> be sufficient to control HCAI since it may fail to make the needed behavioural and organisational changes.</li> </ul>

#### c) Propose Commission Decision under Decision 2119/98/EC adopting guidelines on HCAI

<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>
Legal basis and structures in place for preparing Commission Decision.	<ul style="list-style-type: none"> <li>Proposing common case definitions and methods has not been feasible until present because of large differences among MS.</li> <li>Proposing common protective measures would not fit all health systems: would be limited to principles on protective measures.</li> <li>Adopting guidelines may fail to make the behavioural and organisational changes that are needed.</li> <li>Comparable to option d) but does not carry same high level political commitment from MS that is particularly important in healthcare area.</li> <li>It would miss the invitation from Council to monitor the implementation by MS of the Recommendation.</li> </ul>

<sup>8</sup> Haley RW, Culver DH, White JW, et al. The efficacy of infection surveillance and control programs in preventing nosocomial infections in U.S. hospitals. Am J Epidemiol 1985;121:182-205.

<sup>9</sup> Plowman R, Graves N, Griffin M, Roberts JA, Swan A, Cookson B, et al. The socio-economic burden of hospital acquired infection. London: PHLS, 2000.

**d) Propose Council Recommendation on HCAI and take forward option b) and c)**

<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>
<ul style="list-style-type: none"><li>• <b>Studies and impact assessments show that intervening is cost-effective!</b></li><li>• Proposal would bring benefit to patients in protecting them better from acquiring HCAI and thus preventing illness and death.</li><li>• All health systems in Europe face HCAI problem, cooperation will bring benefits also to health systems</li><li>• HCAI problem is linked to problem of antimicrobial resistance for which Council Recommendation (2002/77/EC) is in place.</li><li>• Report on the implementation of 2002/77/EC shows that MS have taken wide range of actions that were recommended. This proposal is complementary.</li><li>• The problem receives increased media- and political attention so Commission and Council should act.</li><li>• Community regulation would ensure compatibility and proper quality of MS strategies plus monitoring of implementation.</li></ul>	<p>This proposal will have practical implications for MS and will require investing resources.</p>

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation? No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries? Not applicable

Who is affected?

Healthcare services and their personnel

**E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

HCAI incidence data: Scientific data on incidence and prevalence of HCAI is available but is mostly local. Although many MS have some form of national surveillance system in place comparison of national data remains very problematic. The HELICS project provides HCAI incidence data (surgical site and ICU infection) from 10 MS. Comparable indicator data for all MS (MRSA rates in bacteraemia patients) are available on-line through: [www.earss.rivm.nl](http://www.earss.rivm.nl).

Health Impact data. There are data available that show a cost-effective impact on survival and costs of introducing measures to prevent and control HCAI.

Existing legislation: Many MS have national legislation in place that specifically addresses HCAI. Legislation in third countries is available. Proposing a Council Recommendation should bring this problem on national political agenda's and stimulate MS to put in place strategies (through legal instruments or other means) on prevention and control of HCAI.

Centre for Disease Prevention and Control (ECDC) is planned to be addressed to carry out the impact assessment for the present initiative, because of its capacity in disease surveillance in the EU.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Experts in the field of healthcare-associated infections have been consulted to produce a draft document on strategies for improving patient safety by prevention and control of healthcare-associated infections. A public consultation has been carried out in the period December 2005 - January 2006

## ROADMAP

Title of the initiative:

**Communication from the Commission to the Council and the European Parliament on the 2008 Enlargement Package** composed of:

- Strategy Paper on Enlargement (Commission Communication to Council and Parliament)
- Progress Reports on Croatia, Turkey, the former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro and Serbia and Kosovo (under UNSCR 1244)

Expected date of adoption of the initiative: **October 2008**

**A. Context and problem definition**

What is the political context of the initiative?

How does this initiative relate to past and possible future initiatives, and to other EU policies?

Article 49 of the Treaty on European Union, together with its Article 6, sets the legal framework and conditions with regard to the application of European states to become new Member States of the Union.

The Copenhagen European Council of June 1993 stated that those associated countries of Central and Eastern Europe who wish to do so shall become members of the Union if they meet the following conditions:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the ability to cope with competitive pressures and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

What are the main problems identified?

The European Council has given the countries of the Western Balkans and Turkey the perspective of joining the EU once they are ready and able to fully assume the obligations of Union membership. Fulfilling this condition requires the countries to undergo substantial reforms and change. This annual proposal aims to facilitate the reform efforts and the pre-accession process of the enlargement countries, namely Croatia, the former Yugoslav Republic of Macedonia, and Turkey, as well as of Albania, Bosnia and Herzegovina, Montenegro, Serbia, and Kosovo (under UNSC 1244).

In order to assess progress achieved by each country in preparing for accession, following the 1997 Luxembourg European Council, the Commission submits Progress Reports to the Council and the European Parliament. The reports serve as a basis for the Council to take decisions on the overall conduct of the negotiations.

Is EU action justified on grounds of subsidiarity?

Decisions about EU enlargement inherently have to be taken at the European level, since they affect the shape of the EU. Based on a Commission Opinion, accession to the EU must be decided unanimously by the member states acting in the Council and receive the assent of the European Parliament, as provided for in article 49 of the Treaty establishing the European Union. In the meantime, the Heads of State and Government of the member states invited the Commission to report annually on progress achieved by each enlargement country.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main policy objectives of enlarging the Union to include the candidate countries Croatia, the former Yugoslav Republic of Macedonia, Turkey and the potential candidate countries are the following:

The extension of the zone of peace, stability and prosperity in Europe will enhance the security of the whole continent.

Rapidly growing economies would boost economic growth in general and should contribute to creating jobs in both old and new Member States.

There will be a better quality of life for citizens throughout Europe as the new members adopt EU policies for protection of the environment and the fight against crime, drugs and illegal immigration.

The arrival of new members will enrich the EU through increased cultural diversity, interchange of ideas, and better understanding of other peoples.

Enlargement will strengthen the Union's role in world affairs - in foreign and security policy, trade policy, and the other fields of global governance.

In the case of the other Western Balkan countries Albania, Bosnia and Herzegovina, Montenegro and Serbia (including Kosovo as defined by UNSCR 1244), the Stabilisation and Association Process (SAP) has been designed to help them transform their aspiration to join the Union into reality, and to establish a strategic framework for their relations with the EU.

The components of the SAP are the following:

- I. Stabilisation and Association Agreements (SAA), modelled on the Europe Agreements and also containing SAP related specificities.
- II. Autonomous Trade Measures (ATMs). In November 2000 the EU unilaterally granted almost totally free access to its markets for goods from the Balkans. In 2005, the ATMs were prolonged until 2010. An enlarged and modernised Central European Free Trade Agreement was signed between countries of the region in December 2006.
- III. Assistance (through CARDS which is replaced, as of 2007, by the pre-accession instrument for all enlargement countries, IPA), designed to bring a more strategic approach to the support to the countries of the region and to reinforce the objectives of the Stabilisation and Association Process.

Regional co-operation also constitutes an essential element of the SAP and is a specific requirement under the Stabilisation and Association Agreements. The Thessaloniki Agenda made available to the Western Balkans several instruments developed earlier for the candidate countries, such as access to EU programmes and agencies, as well as twinning.

Does the objective imply developing EU policy in new areas or of strategic importance?

No. The basic concept of enlargement is to ensure that *existing* EU policies can be properly applied in candidate countries by accession.

## **C. Options**

What are the policy options?

What legislative or 'soft law' instruments could be considered?

Would any legislative initiatives go beyond routine up-date of existing legislation?

An important impact assessment element is inherently built into the enlargement process since its inception.

The Copenhagen criteria set out clear criteria (political, economic, and regulatory or acquis-related) against which applications from non-member European countries are to be assessed by the Union on a case-by-case basis.

The Treaty and the Copenhagen criteria thus effectively set the framework for the whole of the enlargement processes and narrow down the assessment criteria that can be used against forward and actual impacts of the implementation of this policy.

The Commission opinions on each country's application have further explored, within the framework of the applicable criteria, the likely and foreseeable impacts for the country and the Union.

Within this precisely charted terrain, the enlargement process for each country runs as a continuous feedback loop, whereby compliance gaps relative to the criteria are identified, the countries then take commitments and measures to address these shortcomings – which the Commission again monitors, supports financially, and eventually evaluates in various reports.

Towards the end of the accession process, in the run-up to the Accession Treaties, this feedback loop culminates in the final Commission opinion, and Council decision, on the country's readiness for accession, including a date and any transition measures, safeguard clauses, and technical adaptations to EU legislation.

In the case of the Western Balkan countries, the Stabilisation and Association process (SAP) is the specific policy framework for relations with the EU. Since its inception in May 1999<sup>10</sup>, the aim of the Stabilisation and Association process has been to equip the countries of the Western Balkans with the means, based on European practice and standards, to maintain stable democratic institutions, to ensure that the rule of law prevails and to sustain open and prosperous economies. Underlying this is the desire to replicate the successful transition achieved by the countries of Central and Eastern Europe before beginning negotiations on accession to the EU.

The countries of the region will gradually move towards eventual EU membership in line with the road map set out in the Commission's October 2005 Strategy Paper. Each will be judged upon its own merits. The roadmap specified that a country's satisfactory track-record in implementing its obligations under the Stabilisation and Association Agreements, including trade related provisions, is an essential element for the EU to consider any membership application, as also confirmed by the European Council in December 2006.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The basic principle of enlargement is to ensure that *existing* EU legislation can be applied properly in candidate countries by accession. The European Council of December 2006 invited the Commission to provide impact studies on the key policy areas in the Commission's Opinion on a country's application for membership and in the course of accession negotiations. The European Council also stated that as the Union enlarges, successful European integration requires that EU institutions function effectively and that EU policies are further developed and financed in a sustainable manner. This largely confirmed the approach put forward in the Commission's 2006 Enlargement Strategy Paper. Impact studies will help Member States to define EU common positions for the negotiations of the key chapters concerned (movement of persons, border management, transport, energy policy, foreign and security policy), including, where relevant, transition periods or other arrangements. In addition, when assessing the budgetary impact of accession, the Commission will examine the impact on key policies, in particular agriculture and cohesion policies.

Do the options respect the proportionality principle?

N/A

<sup>10</sup> Conclusions of the General Affairs Council of 21 June 1999, based on the Commission *Communication to the Council and the European Parliament on the Stabilisation and Association process for countries of South-Eastern Europe* [COM(99)235 of 26.5.99].

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Benefits from previous enlargements are already visible and provide a good basis for assessing potential benefits of future enlargements: in Central and Eastern Europe, stable democracies have emerged, with democratic institutions and increased respect for minorities. The economic reforms in these countries have led to high rates of economic growth (higher than in the EU) and better employment prospects. The impacts of enlarging the Union are political, economic, and cultural:

The extension of the zone of peace, stability and prosperity in Europe will enhance the security of the entire continent.

Rapidly growing economies would boost economic growth in general and should contribute creating jobs in both old and new Member States.

There will be a better quality of life for citizens throughout Europe as the new members adopt EU policies for protection of the environment and the fight against crime, drugs and illegal immigration.

The arrival of new members will enrich the EU through increased cultural diversity, interchange of ideas, and better understanding of other peoples.

Enlargement will strengthen the Union's role in world affairs - in foreign and security policy, trade policy, and the other fields of global governance.

Could the options have impacts on the EU-Budget (above € 5 million) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The budgetary impact of any EU accession is likely to exceed € 5 million. The budgetary impact of Turkey's accession – on the basis of present policies – would be substantial. It is, however, impossible to know now how EU policies will evolve until Turkish accession which, in all events, will not take place before 2015. In any case, the financial cost of Turkey's accession will ultimately be determined by the negotiations on the basis of what the EU Member States are willing to accept. The accession of the remaining countries on the enlargement agenda will have a considerably lower budgetary impact than that of Turkey. The Commission will present budgetary impact studies before the final financial package for concluding the accession negotiations with Croatia and Turkey. The Commission will present an impact assessment in its Opinion on any future applications for membership.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Enlargement will make the Union a stronger actor in the World. Businesses both in the EU and in third countries will benefit from the expansion of the single market and the corresponding simplification of regulatory issues.

Who is affected?

The basic principle of enlargement is to ensure that existing EU legislation can be applied properly in candidate countries by accession. Enlargement therefore affects all stakeholders of EU policies both in existing Member States and in the candidate countries.

### **E. Planning of further impact assessment work**

What information and data is already available?

What further information needs to be gathered?

How will this be done (e.g. internally or by an external contractor) and by when?

What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The Commission opinions on each country's application, the Commission annual Progress Reports providing a detailed analysis of where each country stands in the various areas. Commission Communication on the establishment of the SAP and the annual SAP reports. Commission Working paper on the effects of Turkey's integration in EU policies.

In addition, the European Council of December 2006 invited the Commission to provide impact studies on the key policy areas in the Commission's Opinion on a country's application for membership.

Concerning negotiating countries, the European Council of December 2006 invited the Commission to provide impact assessments on the key policy areas in the course of accession negotiations. This largely confirmed the approach put forward in the Commission's 2006 Enlargement Strategy Paper. Impact studies will be made available in such time as to help Member States to define EU common positions for the negotiations of the chapters concerned (movement of persons, border management, transport, energy policy, foreign and security policy), including, where relevant, transition periods or other arrangements. In addition, when assessing the budgetary impact of accession at the end of negotiations, the Commission will examine the impact on key policies, in particular agriculture and cohesion policies.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Progress Reports draw on expertise available within the Commission services as a whole but also on information and opinions gathered from a range of external official and non-official sources.

The Commission receives contributions from the governments of the countries concerned and of Member States, from the major international organisations and a number of NGOs which are active in the countries concerned and in the fields covered by the assessment (such as rule of law and public administration; fundamental rights; economic policy). The sources used also include Council deliberations and European Parliament reports and resolutions.

## ROADMAP

Title of the initiative: **European Neighbourhood Policy (ENP): Review of the implementation of the 12 ENP Action Plans (“Progress reports”) and of progress by the policy**

Expected date of adoption of the initiative: **April 2008**

**A. Initial impact assessment screening**

## 1. What are the main problems identified?

With enlargement, the Union has acquired new external borders bringing new challenges and opportunities. The EU has an interest in being surrounded by stable, prosperous neighbours. For the EU, supporting the political and economic development of its neighbours is the best guarantee for peace and security and long-term prosperity.

It is furthermore in the enlarged Union’s interest that its external border does not create new dividing lines in an area that is closely connected by historical, cultural and economic ties. Some neighbouring countries had apprehensions about potentially negative effects enlargement might have on them. The Union therefore needed a structured way of dealing with neighbours who do not (or do not currently) have an accession prospect.

To respond to these issues the Commission launched the idea of a specific Policy for EU neighbours in march 2003 with the “Wider Europe” communication. The Strategy for the European Neighbourhood Policy was laid down in a Communication issued in may 2004. Since then the Policy has moved in its implementation phase and the focus is now on reviewing regularly the progress made, in particular the one made by the partner countries in implementing the policy.

## 2. What are the main policy objectives?

ENP aims at reform through the creation of an area of prosperity, stability and security encompassing the Union’s neighbours to the East and the South that. To these neighbours the EU a privileged relationship, building upon a mutual commitment to common values (democracy and human rights, rule of law, good governance, market economy principles and sustainable development). The level of ambition of the relationship depends on the extent to which these values are effectively shared and the wish for reform in each participating partners. ENP also facilitates regional co-operation and cross-border co-operation at the Union’s external borders. A new financial instrument, the European Neighbourhood and Partnership Instrument, underpins the policy for the period 2007-13.

## 3. What are the policy options? What regulatory or non-regulatory instruments could be considered?

To achieve its objectives the ENP uses, as its main operational tool, jointly agreed bilateral Action Plans. These establish ambitious targets, ranging from cooperation on political and security issues, to economic and trade matters, common environmental concerns, integration of networks, and scientific and cultural cooperation, etc. Implementation is supported through EC financial and technical assistance. For the partner countries, the prospect of moving closer to the EU gives significant incentives for economic and political reform. Currently, twelve Action Plans are under implementation (ARM, AZE, EGY, GEO, ISR, JOR, LBN, MAR, MDA, PA, TUN, UKR).

In December 2006 the Commission issued a first set of reports reviewing the progress in the implementation of the first 7 Action Plans. These reports document the progress which has been made, and provided a basis for the suggested enhancements to ENP which were put forward in the Communication on “Strengthening the European Neighbourhood Policy”. The suggestions in the overall Communication was developed into more detailed proposals throughout the first half of 2007 and will be consolidated in a further Communication by end 2007.

In spring 2008, the Commission will further review progress in the implementation of all twelve Action Plans.

For Ukraine, Moldova and Israel, there is a need for determining the legal form of a suggested roll-over of the Action Plans which all expire in 2008.

4. What are the impacts likely to result from each policy option and who is affected? Which impacts are likely to warrant further analysis (cf. list of impacts in the enclosed guide)?

In general, impacts of foreign policy are difficult to measure and always depend on a variety of assumptions about future developments, many of which are beyond the Union's influence.

Nevertheless, the Union faces the choice either to export stability or to import instability. Obviously, the latter could entail enormous yet incalculable costs in the future. Therefore, a constructive and coherent approach that can be implemented at reasonable cost is to prefer.

The EU's relationship with each neighbour will depend on the degree of the partner's commitment to common values and its capacity to implement jointly agreed priorities. The analysis of these relations will be provided through a regular monitoring process and adaptation of Action Plans.

ENP provides incentives for reforms that will bring benefits in terms of economic and social development. The convergence of economic legislation, the opening of partner economies to each other, and the continued reduction of trade barriers stimulate investment and bring economic growth. This in turn has a positive impact on prosperity within the Union itself through increased trade, and more generally, positive exchanges of people and ideas, ideally creating a virtuous circle.

#### **B. Planning of further impact assessment work**

5. What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when?

For each partner country actively engaged in ENP, the Commission had elaborated Country Reports that describe the current situation in all sectors of particular interest, as well as the impact of recent policy measures. Thereafter, joint Action Plans were negotiated with each third country in question. Yearly, a progress report, i.e. a review outlining progress in the implementation is issued. To draw up this report, the Commission draws on a wide range of information sources, including through the relevant sub-committees, government information, and contributions from Commission delegations, international institutions, media and civil society. The first set of progress report was issued by the Commission in December 2006. The second set of reports will be produced in Spring 2008.

6. Which stakeholders & experts will be consulted, how and at what stage?

See previous question + Member States and European Institutions, notably EP and EESC

7. Will an inter-service steering group be set up for the IA?

An ENP Inter-Service Group already exists. It ensures coordination through formal as well as informal cooperation between services.

## ROADMAP

Title of the initiative: **Communication on the implementation of the Joint EU-Africa Strategy.**

Expected date of adoption of the initiative: **Septembre 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

La Communication proposée par la DG DEV sera destinée à présenter un rapport concret, accessible au grand public de la mise en œuvre de la Stratégie de l'UE pour l'Afrique adoptée en 2005 ainsi que des actions prioritaires arrêtées dans le cadre de la Stratégie Conjointe UE-Afrique et de son plan d'action. Elle permettra de fusionner le suivi de ces deux exercices et de présenter un état des lieux du partenariat stratégique entre l'Europe et l'Afrique

Sur le modèle du rapport annuel réalisé par la Commission en ce qui concerne le suivi des engagements de Monterrey sur l'augmentation de l'aide au développement et des objectifs d'efficacité de l'aide de l'UE, cette communication sera la première d'une série de publications permettant de présenter un rapport systématique de l'état de la mise en œuvre au niveau européen des objectifs du partenariat stratégique entre l'Europe et l'Afrique. Ce rapport contribuera et complétera l'exercice d'évaluation de mise en œuvre du partenariat stratégique qui sera conduit conjointement par l'UE et l'Union Africaine (UA) selon les modalités agréés dans le cadre de la Stratégie Conjointe Europe-Afrique.

Cette Communication fera l'objet d'une discussion au Conseil Affaires Générales et Relations Extérieures et servira de base pour les conclusions du Conseil en ce qui concerne la mise en œuvre du partenariat Stratégique Europe-Afrique.

Enfin, cette Communication sera présentée aux acteurs non étatiques, aux assemblées parlementaires, et aux comités économiques (culturels) et sociaux des deux continents. Elle pourra ainsi participer à leur travail de suivi du partenariat Stratégique Europe-Afrique et contribuer à la formulation des recommandations qui seront adressées par ces acteurs aux Commissions et Etats Membres des deux continents.

What are the main problems identified?

- La nécessité de maintenir l'Afrique au cœur de l'agenda politique européen
- La nécessité de disposer d'un outil politique et technique permettant d'évaluer régulièrement l'état d'avancement de la mise en œuvre de la Stratégie de l'UE pour l'Afrique et de la Stratégie Conjointe
- La nécessité d'impliquer et de garantir l'appropriation de l'ensemble des acteurs européens et africains dans la mise en œuvre du partenariat stratégique.

Is EU action justified on grounds of subsidiarity?

Une intervention de la Commission est justifiée par le fait qu'il s'agit de suivre l'avancement de la mise en œuvre d'engagements qui incombent à l'UE dans son ensemble (Etats Membres, Commission). La Commission, en collaboration avec le Secrétariat Général du Conseil, est le seul acteur qui pourra collecter l'ensemble des données fournies par ces acteurs afin de proposer une cartographie globale de l'action de l'UE.

**B. Objectives of EU initiative**

What are the main policy objectives?

- 1 Le développement d'un outil accessible au grand public permettant de suivre l'évolution de la mise en œuvre des engagements pris par l'UE en faveur de l'Afrique.

- 2 La création d'un outil de suivi permettant de réévaluer régulièrement les priorités de mise en œuvre du partenariat Euro-Africain.
- 3 La nécessité de maintenir l'Afrique comme priorité de l'agenda politique européen entre les grands rendez-vous politiques que constitueront les Sommets UE-Afrique.

Does the objective imply developing EU policy in new areas or of strategic importance?

Non, cette Communication ayant une vocation de suivi d'engagements pris dans le cadre d'initiatives politique préalables.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

L'UE ne met pas en place de mécanisme permettant de suivre de manière intégrée la mise en œuvre du partenariat Stratégique Europe-Afrique.

L'UE procède, en poursuivant un objectif d'efficacité et de cohérence, à un suivi intégré et publique de l'évolution de ses engagements afin de garantir le maintien de la plateforme politique nécessaire pour le dialogue Europe-Afrique.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Les actions proposées dans le cadre des initiatives précédemment agréés ont un impact sur la plupart des départements de la Commission. Cette Communication aura donc un impact indirect sur les différents domaines politiques de la Commission impliqués dans la mise en œuvre du partenariat Europe-Afrique étant donné qu'elle présentera un état des lieux du travail effectué et proposera éventuellement certaines réorientations/amélioration à apporter.

Do the options respect the proportionality principle? Oui

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Impact politique: le respect des engagements mutuels pris par les deux partenaires dans le cadre du développement du partenariat stratégique Europe-Afrique est la base politique fondamentale de la Stratégie Conjointe qui sera adoptée à Lisbonne en décembre 2007. La présente initiative de la Commission permettra de présenter une évaluation annuelle du respect des engagements européens et servira de base à la société civile et aux parlements pour le suivi de la mise en œuvre du partenariat stratégique. De plus, il servira également de base pour les évaluations conjointes de mise en œuvre qui seront effectuées lors des troikas ministérielles Europe-Afrique ainsi que lors des Sommets Europe-Afrique.

Cette Communication n'aura pas en tant que telle d'impacts environnementaux, économiques ou sociaux puisqu'elle visera à présenter l'état d'avancement d'initiatives spécifiques. Elle visera par contre à s'assurer que la mise en œuvre de ces initiatives permet une maximisation de leurs impacts économiques, sociaux et environnementaux respectifs.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Le financement des initiatives prioritaires identifiées dans le cadre du partenariat stratégique Europe-Afrique sera assuré par: le 10ème FED, le budget communautaire (programmes thématiques); l'Instrument de voisinage, les contributions bilatérales des Etats Membres dans le cadre de l'augmentation de l'aide publique au développement; l'aide au commerce; les contributions des Etats Africains partenaires ainsi que, de manière appropriés, des financements de la BEI et de la Banque Africaine de Développement.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Cette Communication facilitera le suivi et la transparence de la mise en œuvre du partenariat stratégique Europe-Afrique pour les acteurs institutionnels et non institutionnels des deux continents. Ce format apparaît également comme plus approprié que la matrice conjointe qui avait été mise en place suite à l'adoption de la Stratégie de l'UE pour l'Afrique en 2005. Enfin, elle pourrait constituer une base utile pour la conduite d'un dialogue avec d'autres partenaires internationaux.

Who is affected?

Au niveau européen: Etats Membres, Commission européenne, Secrétariat Général du Conseil, Parlement européen, Comité économique et social et Banque européenne d'investissement.

Au niveau Africain: Union Africaine et ses différentes institutions, Etats Membres de l'UA (Afrique du Nord, Afrique du Sud et Afrique Subsaharienne.)

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Cette initiative s'inscrit dans la suite logique de la dynamique amorcée par la publication de la Communication de la Commission "*Du Caire à Lisbonne: le partenariat stratégique Europe-Afrique*". Les évaluations qui avaient été conduites dans ce cadre sont toujours valides. Une nouvelle analyse d'impact n'apparaît en effet pas nécessaire étant donné que cette Communication de la Commission aura pour but de présenter un état des lieux de l'avancement des travaux du partenariat stratégique Europe-Afrique dont les bases avaient été jetées par la Communication ci-dessus.

Which stakeholders & experts have been/will be consulted, how and at what stage?

L'ensemble des services de la Commission participant au groupe interservices Afrique créé il y a deux ans.

**ROADMAP**

Title of the initiative: **Better Regulation – Strategic Review**

Expected date of adoption of the initiative: **January 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In March 2007, the European Council acknowledged progress accomplished in 2006 towards improving the regulatory environment and underlined that further efforts are required to consolidate and build on achievements in the areas of simplification, reduction of administrative burdens and impact assessment. It announced that it will, in spring 2008, consider on the basis of a review by the Commission whether further action is needed

The present Strategic Review will follow the approach of the November 2006 Strategic Review. It will in particular update and strengthen the Commission's Simplification Rolling Programme (see separate Roadmap), advance the implementation of the action programme for reducing administrative burdens, and announce further improvements to the Commission's impact assessment system. The strategic review will also address the review of the Common Approach to Impact Assessment

What are the main problems identified?

Need to maintain momentum of the Better Regulation agenda.

Is EU action justified on grounds of subsidiarity?

Better Regulation is a shared responsibility with the Member States exercised at the initiative of the Commission within the existing institutional framework. The Commission relies on the cooperation of the other European institutions, the Member States and local administrations to achieve Better Regulation goals within the Strategy for Growth and Jobs

**B. Objectives of EU initiative**

What are the main policy objectives?

Present the state of play of the Commission's better regulation agenda (including the first experiences with the Impact Assessment Board) and announce new initiatives within that agenda

Does the objective imply developing EU policy in new areas or of strategic importance?

No, the Strategic Review will propose initiatives within the existing broad Better Regulation agenda

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The present initiative is a strategic policy document in the form of a Commission Communication, not a legislative instrument.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other commission departments?

Yes. This is a major policy coordination framework under the responsibility of the President and the Vice President responsible for enterprise and industry.

Do the options respect the proportionality principle?

This Communication is of strategic and political character, setting out priority objectives for delivery of the five year strategic objectives of the present Commission, on which it relies for its proportionality.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Apart from the impacts on working procedures in the Commission and inter-institutionally, the initiatives should –following subsequent concrete action, hereunder legislative action – translate into a simple and better quality regulatory environment in the EU.

Could the options have impacts on the EY-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

That is part of the explicit objectives of the initiative.

Who is affected?

The institutions (primarily the Commission) should deliver policy and legislation. In the end, a broad range of economic operators and citizens as well as public administrations should be affected.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportional analysis)?

Information is available from multiple sources, including an external evaluation of the Commission's Impact Assessment system, progress in realisation of the Commission's Rolling Simplification Programme and the indicative codification programme, and various stakeholder input.

What stakeholders & experts have been/will be consulted, how and at what stage?

Consultation takes place on separate components of the initiative rather than the initiative as a whole. In particular concerning the Commission's impact assessment system, a public consultation and a targeted consultation took place as part of an external evaluation and the Commission subsequently held and will again organise public hearings.

## ROADMAP

Title of the initiative: **Second progress report on simplification Better Regulation – Strategic Review**

Expected date of adoption of the initiative: **January 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The European Council has invited the Commission to regularly update its simplification programme with a view to achieving concrete results while not compromising the political aims of regulation and respecting the Community acquis.

The Commission's November 2006 Better Regulation package evaluated progress since the launch of the simplification strategy and further reinforced the rolling programme. The present initiative, which will accompany the Commission's strategic review on Better Regulation (see separate Roadmap) will include an overview of the state of play of the simplification rolling programme as well as new proposals for simplification. It will also present a state of play of the indicative codification programme 2006-2008.

What are the main problems identified?

The success of the simplification rolling programme depends on:

- stakeholders' input to identify unnecessary burdens or complexity,
- the capacity of the Commission to deliver on its commitments through an ambitious rolling programme,
- the involvement of the Council and the European Parliament to carry the simplification work forward to the final stages,
- the capacity of Member States to advance simplification at national level.

Is EU action justified on grounds of subsidiarity?

Better Regulation is a shared responsibility with the Member States exercised within the existing institutional framework on the initiative of the Commission. The Commission relies on close cooperation of the other European institutions, the Member States and local administrations to achieve Better Regulation goals within the Strategy for Growth and Jobs.

**B. Objectives of EU initiative**

What are the main policy objectives?

The EU has repeatedly confirmed the objective of simplifying and improving the quality of its legislation and action to this end has been underway for some years. The present initiative will reinforce the simplification programme across the board. It will review progress and update planning for adoption by the Commission of simplification proposals. At inter-institutional level, progress of adoption of simplification proposals will also be reviewed.

Does the objective imply developing EU policy in new areas or of strategic importance?

The Commission has decided in the context of the 2006 SRP update that all Commission departments should complete the review of their *acquis* by 2009 to check the relevance of their instruments, the choice of regulatory technique and the scope for applying one of the simplification techniques set out in the simplification strategy of October 2005. This will lead where necessary and appropriate to the identification of new simplification initiatives and the updating of the rolling programme in the following years.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

This is not a legislative instrument but a policy document aimed at strengthening action for simplifying the regulatory environment by providing the programmatic framework

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. This is an important policy coordination framework across the board under the responsibility of the President and the Vice President responsible for enterprise and industry.

Do the options respect the proportionality principle?

This initiative aims at advancing to the greatest possible extent simplification action while not compromising the political aims of regulation and respecting the Community acquis. The proportionality principle is also to be applied to each of the concrete initiatives planned.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Strengthening of the Simplification Rolling Programme will impact on the volume and shape of the acquis and on its impacts on operators, citizens and public administrations. This will have knock-on effects e.g. on the competitiveness

No specific impact assessment is envisaged for the present Communication as a whole. Individual initiatives will be assessed according to applicable Commission rules.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Some specific actions may.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Simplification is the very purpose of this initiative.

Who is affected?

Ultimately, a broad range of economic operators, citizens and public administrations.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Past and on-going consultations of stakeholders, including Member States, provide necessary information. Individual measures, resulting from the present programming, will be prepared according to applicable Commission rules on impact assessment and consultation

Which stakeholders & experts have been/will be consulted, how and at what stage?

It is not feasible to report here on the scope and content of the many consultations related to individual measures under the simplification programme.

## ROADMAP

Title of the initiative: **Progress report on the implementation of the Action Programme for Reducing Administrative Burdens in the European Union (annex to the Strategic Review on Better Regulation)**

Expected date of adoption of the initiative: **January 2008**

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In January 2007, the Commission presented an ambitious Action Programme to reduce by 25% administrative burdens imposed by legislation in the EU. This reduction should be achieved jointly by the EU and Member States by 2012. It is part of the "Growth and Jobs" strategy pursued by the Commission (Better Regulation pillar). The Spring 2007 European Council endorsed the target for EU legislation and invited the Member States to set their own national targets of comparable ambition within their spheres of competence by 2008.

The Action Programme sets out how to identify, assess and reduce information obligations put on business. It provides a list of approx. 40 pieces of legislation and 13 priority areas believed to account for 80% of administrative costs on businesses. In order to produce concrete results on the short term, the Programme also identifies a first series of 'fast track actions'. These actions are intended to generate significant benefits through relatively minor changes in the underlying legislation.

What are the main problems identified?

Not applicable (progress report).

Is EU action justified on grounds of subsidiarity?

Not applicable (progress report on an EU programme).

**B. Objectives of EU initiative**

What are the main policy objectives?

The overall policy objectives have been defined in the Communication adopted by the Commission in January 2007 (COM/2007/23). The progress report will accompany the Strategic Review on Better Regulation due for adoption in January 2008.

It will provide information on the implementation of the Action Programme (methodology, database, new consultation tools, intermediary results of information obligations' mapping and assessment, number of fast track actions adopted for reduction envisaged in January 2007).

The report will also provide the contours of a second series of fast track actions to be prepared in the first half of 2008. These items will contribute to reaching the reduction target by producing quick results. In addition the report could announce, among other things, an extension of the list of legislative acts under measurement.

Does the objective imply developing EU policy in new areas or of strategic importance?

Not applicable (progress report).

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Not applicable (progress report).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Do the options respect the proportionality principle?

The European Council deals with the Growth and Jobs strategy on its spring session. Therefore providing an annual report in time for the Spring European Council does not go beyond what is necessary.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Not applicable (progress report).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Not applicable (progress report).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Not applicable (progress report).

Who is affected?

Not applicable (progress report).

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Information on new structures and processes are already available. Further information on the mapping and measurement will mainly be provided by the consultants hired in July 2007 for that purpose.

As for the second series of fast track actions, all services concerned with the Action Programme have been invited in July 2007 to present preliminary ideas. A first compilation, review and selection of these ideas will be conducted in September. The objective and the type of reduction measures will be broadly defined in October, followed by a rough assessment of their reduction potential. Where appropriate, full impact assessments will be conducted in 2008 (fast track actions are relatively straightforward to adopt because, normally, they only introduce minor changes in existing obligations and do not challenge the overall purpose of the legislation; in many cases a full impact assessment might therefore not be justified).

Which stakeholders & experts have been/will be consulted, how and at what stage?

Stakeholders will be consulted on the implementation of the Action Programme via workshops in the Member States, via EUROPA ENTR website and the High Level Group of Independent Stakeholders on Administrative Burdens. The Progress Report will take the results of these consultations into account.