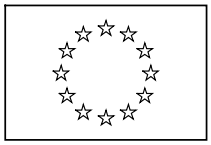

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION

ON THE COLLECTION AND USE OF EXPERTISE BY THE COMMISSION: PRINCIPLES AND GUIDELINES

"Improving the knowledge base for better policies"

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"Improving the knowledge base for better policies"

Summary

This Communication seeks to encapsulate and promote good practices related to the collection and use of expertise at all stages of Commission policy-making. It responds to a commitment made in the White paper on European Governance[1], reiterated in the Science and Society Action Plan.[2] The first objective is to help Commission departments mobilise and exploit the most appropriate expertise, with a view to establishing a sound knowledge base for better policies. The second objective is to uphold the Commission's determination that the process of collecting and using expert advice should be credible.

*There are three components. The **core principles** of quality, openness and effectiveness should underpin all activities of the Commission in this domain. The set of **guidelines** should be used to help departments implement the principles. Finally, a series of **practical questions** should help departments design methods for collecting and using expert advice appropriate to the circumstances of specific cases.*

The implementation of the principles and guidelines should be seen as an evolutionary process. A system for monitoring and review will therefore be needed to help improve methods on a continuous basis, and to judge how far objectives are being met.

1 COM(2001)428
2 COM(2001)714

1. INTRODUCTION

Background

Expertise forms an integral part of a dynamic knowledge-based society. Specialist know-how and skills help create new opportunities that can boost competitiveness and enhance our quality of life.

It is the task of policy-makers to set up a regulatory environment in which these opportunities can be exploited in a sustainable manner for the common good. As a condition for success, it is crucial that policy choices are based and updated on the best available knowledge. This requires access to the right expertise at the right time.

The European Commission, with its pivotal role in proposing and overseeing the execution of European policies, maintains a high level of in-house expertise, but also frequently calls on external experts.

Sometimes these experts are asked to perform "classical" scientific assessments,[3] rooted in the natural or social sciences. This is often a rather straightforward process in which the questions to be addressed, the evidence considered and the interpretations made are all largely uncontroversial.

On other occasions, however, these aspects are highly controversial. Recent history - from BSE to GMOs - has shown that difficult policy decisions must sometimes be made on contentious issues in the face of significant uncertainty. Scientific expertise is then as much about stating what is unknown, or uncertain with differing degrees of probability, as about setting out commonly agreed and accepted views. The Commission might be confronted by a panoply of conflicting expert opinions, coming variously from within the academic world, from those with practical knowledge, and from those with direct stakes in the policy issue. These opinions may be based on quite different starting assumptions, and quite different objectives. They may also link to issues that go beyond what is commonly regarded as 'scientific'.

Furthermore, no matter what seems to be the 'right' decision for those involved in the advisory process, it is essential that interested parties[4] and the public at large are themselves convinced that decisions are sound.

Increasingly, then, the interplay between policy-makers, experts, interested parties and the public at large is a crucial part of policy-making, and attention has to be focused not just on *policy outcome* but also on the *process* followed.

These issues were addressed by the Commission in its White Paper on European Governance, adopted in July 2001. In this, it was observed that:

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[3] A 'scientific assessment' implies recourse to methods and knowledge – no matter how uncertain - based on rigorous methods for testing hypothetical explanations of natural or social facts and systems.

[4] An 'interested party' is an individual or group that is concerned or stands to be affected - directly or indirectly - by the outcome of a policy process; or represents the general interest of groups concerned by such an outcome, within and outside the EU.

'It is often unclear who is actually deciding - experts or those with political authority. At the same time, a better-informed public increasingly questions the content and independence of the expert advice that is given. These issues become more acute whenever the Union is required to apply the precautionary principle and play its role in risk assessment and risk management.'

The European Community has, of course, already done much to address past difficulties, particularly by revamping the system of scientific committees in the areas of food safety and consumer protection in 1997. More recently, the Community has taken this further by establishing the European Food Safety Authority (EFSA).

Nevertheless, the Commission believes that it is now time to further consolidate lessons learned from the past. The White Paper accordingly went on to announce that it would publish:

'…guidelines on collection and use of expert advice in the Commission to provide for the accountability, plurality and integrity of the expertise used. This should include the publication of the advice given. Over time these guidelines could form the basis for a common approach for all Institutions and Member States.'

This commitment was reiterated in the Commission's Science and Society Action Plan, published in December 2001.

This communication responds to that commitment. The first objective is to help Commission departments[5] mobilise and exploit the most appropriate expertise, with a view to establishing a sound knowledge base for better policies. The second objective is to uphold the Commission's determination that the process of collecting and using expert advice should be credible.

As such, this communication will contribute to the objectives of the Commission's Better Regulation Action Plan.[6] In particular, it complements:

– the general principles and minimum standards for consultation of interested parties,[7] which will govern the way the Commission conducts public consultations. To the extent that interested parties and the public at large may need to interact with experts, and may indeed be themselves sources of expertise, there will be a careful articulation between those minimum standards and these guidelines;

– the plans to systematically assess the impact of policy initiatives – from inception to completion - by carrying out a thorough analysis of possible economic, social and environmental impacts, as well as an analysis of various regulatory options. Impact assessment may entail recourse to expertise[8] and help ensure that future policies are based on the best evidence available.

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5 'Department' refers to any administrative entity within the European Commission (e.g. units, directorates, specialised services, DGs) that may be responsible for seeking or using expertise.

6 COM(2002)275 and COM(2002)278

7 COM(2002) 704

8 COM (2002)276

At the same time, the Community is taking steps to boost European investment in research, with the aim of approaching 3% of GDP by 2010.[9] This will have an important effect on stimulating and maintaining a high level of scientific expertise, particularly in frontier technologies.

[9] Conclusions of Barcelona European Council, 15-16 March 2002, and Commission's initial response, COM(2002)499, 11 September 2002.

Current Practices

The European Union is constantly faced with policy questions that hinge to some extent on assessments embracing the natural or social sciences.

Whilst the Treaty establishing the European Community recognises the importance of facts and data in relation to health and safety, environment and consumer protection (Articles 95(3) and 174(3) of the TEC) [10], in reality, expert assessments underpin an enormous range of issues. Examples include setting targets for air quality, authorising cosmetic products, establishing automobile safety standards, determining sustainable fish catches, developing strategies to tackle unemployment, and designing European research programmes. Issues increasingly cut across disciplines and responsibilities, requiring the Commission to seek out and integrate knowledge from difference sources. Similar needs may flow from the EC's adherence to international agreements.

Expertise may take many forms, including both scientific knowledge and that derived from practical experience. It may also relate to specific national or regional situations. Expertise may be brought to bear at any stage in the policy-making cycle, although different forms of expertise may be needed at different stages. Sometimes experts and representatives of interested parties are brought together in single groups. Sometimes they interact by way of workshops or other deliberative mechanisms. In addition, complementary expertise may be gathered during open consultations such as the publication of green and white papers.

Acting at the European level introduces additional challenges. European approaches must accommodate the diversity of national situations. Questions of comparison, harmonisation, validation and interoperability are often key elements in the policy process.

Under the Commission's approach to the precautionary principle,[11] there is also a continuing need for the provision of expertise so that policies can be updated in the light of scientific and technical developments permitting a fuller risk assessment.

The measures set out in this communication must operate within the diversity of circumstances faced by the Commission. They should not be seen as imposing a 'one-size-fits-all' set of rules. Rather, they set out principles, guidelines and practical questions that encapsulate and promote good practices, helping to establish a more coherent approach across the directorates-general of the Commission within the context of existing legislation. By encouraging a pooling of effort, and by laying the groundwork for better policies, the application of the guidelines should result in a net saving of resources over the medium to long term.

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[10] Issues related to ionising radiation and the disposal of radioactive waste are also covered by the EURATOM treaty (articles 31 and 37).

[11] COM(2000)1

2. WHEN DO THE CORE PRINCIPLES AND GUIDELINES APPLY?

The core principles and guidelines apply whenever Commission departments collect and use advice of experts coming from outside the responsible department.

The principles and guidelines thus cover the collection of advice though *ad hoc* and permanent expert groups; external consultants (individuals, groups or companies, possibly using study contracts); and instances when these mechanisms are used in conjunction with in-house expertise (residing in Commission departments and in the Joint Research Centre).

As far as appropriate, the delivery of advice from one Commission department to another should be done in a manner consistent with the principles and guidelines, particularly when such advice would form a major input to a sensitive policy question. Advice received from EU agencies (e.g. European Environment Agency, European Food Safety Authority) should, where appropriate, be used in a manner consistent with the principles and guidelines.

The principles and guidelines are relevant to the involvement of expertise at all stages in the policy-making cycle, embracing the initial identification of the need for a policy action or response (including foresight exercises); shaping policy options (including impact assessment); policy proposal; policy implementation; and policy monitoring and review.

The principles and guidelines are not legally binding. Nor do they apply to the formal stages of decision-making as prescribed in the Treaty and in other Community legislation. Therefore, both formal legislative procedures and the formal exercise of the Commission's implementing powers with the assistance of 'comitology' committees[12] are excluded.

The Commission's minimum standards on public consultation (mentioned in section 1) apply in consultations of the public at large, and also when the Commission seeks the views of civil society groups and other interested parties because of the constituencies they represent, rather than because of the expertise they possess. Whenever there may be doubts as to whether the minimum standards on consultation or the guidelines on expertise apply, the Commission departments responsible will provide detailed guidance to the relevant external parties.

At certain stages in the policy process it may be important to provide opportunities for experts to interact with interested parties, for example through conferences. This is shown diagrammatically in figure 1.

[12] Council Decision 1999/468/EC

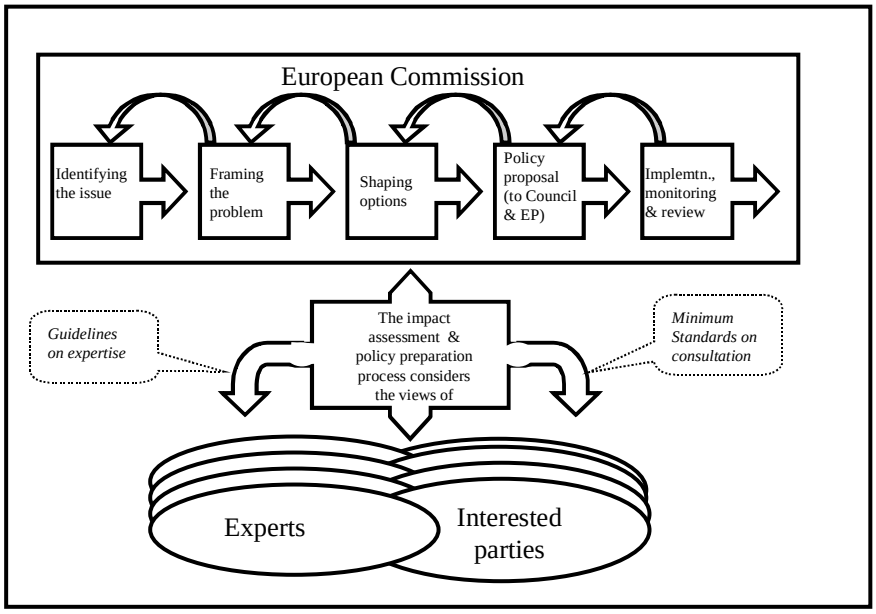

Figure 1: The Commission may consult both experts and interested parties. Consultation of experts can take place at any stage in the policy cycle. The minimum standards apply to consultation processes through which the Commission wishes to trigger input from interested parties to its policy-shaping prior to a decision of the College of Commissioners.

The present guidelines will apply from 1 January 2003.

3. CORE PRINCIPLES TO BE APPLIED BY COMMISSION DEPARTMENTS

The White Paper on European Governance highlighted the principles of accountability, plurality and integrity to be used when collecting and using expert advice. This is set in the context of other general principles for better governance: openness, participation, effectiveness, coherence, proportionality and subsidiarity. In the section below, these principles have been regrouped into three core principles. These should always underpin the activities of the Commission departments whenever they collect and use expert advice within the scope defined in section 2. Each core principle is accompanied by a short explanation, including related principles and determinants.

Quality

The Commission should seek advice of an appropriately high quality.

Three determinants of quality of advice can be distinguished: excellence; the extent to which experts act in an independent manner; and pluralism.

In many cases, the quality of scientific expertise can be based simply on the excellence of scientists, as endorsed by the judgement of peers, and taking account of indicators such as the number and impact of refereed publications. However, in ensuring that the breadth of assembled expertise is adequate and relevant for the task in hand, it may also be beneficial to include experts whose reputation stems from other factors. This includes, for example, those possessing practical knowledge.

It is a truism that no one is entirely 'independent': individuals can never entirely set aside all thoughts of their personal background – family, culture, employer, sponsor, etc. Nevertheless, as far as possible, experts should be expected to act in an independent manner. Experts can, of course, still bring to the table knowledge they hold by virtue of their affiliation, or nationality: indeed, experts may sometimes be selected for this very reason. Nevertheless, the aim is to minimise the risk of vested interests distorting the advice proffered by establishing practices that promote integrity, by making dependencies explicit, and by recognising that some dependencies – varying from issue to issue – could impinge on the policy process more than others.

The final determinant of quality is pluralism. Wherever possible, a diversity of viewpoints should be assembled. This diversity may result from differences in scientific approach, different types of expertise, different institutional affiliations, or contrasting opinions over the fundamental assumptions underlying the issue.

Depending on the issue and the stage in the policy cycle, pluralism also entails taking account of multi-disciplinary and multi-sectoral expertise, minority and non-conformist views. Other factors may also be important, such as geographical, cultural and gender perspectives.

Openness

The Commission should be open in seeking and acting on advice from experts.

Transparency is a key precondition for more accountability for all involved. Transparency is required, particularly in relation to the way issues are framed, experts are selected, and results handled. It also implies a strategy for proactive communication - adapted according to the issue - in which the Commission should constantly seek ways to better publicise and explain its use of expertise to interested parties and the public at large. As part of this, both the issues and the advice received should be made understandable to non-specialists. General principles for public access to documents have been established.[13]

Within the institutional framework, the Commission is politically responsible for its initiatives; it must not appear to 'hide behind' expert advice. Instead, the Commission must be capable of justifying and explaining the way expertise has been involved, and the choices it

13 Disclosure of information should be in accordance with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, and Regulation (EC) 1045/2001 regarding data protection.

has made based on advice. In a similar way, accountability also extends to the experts themselves. They should, for example, be prepared to justify their advice by explaining the evidence and reasoning upon which it is based.

However, the pursuit of openness requires care. There are circumstances when too much openness could be detrimental to the quality of advice, or may damage the legitimate interests of those concerned with the process. The level of openness should also be tailored in proportion to the task in hand (see below). Nevertheless, in all these circumstances it is important to be as transparent as possible about the *reasons for not being open*.

Effectiveness

The Commission should ensure that its methods for collecting and using expert advice are effective.

In following the measures introduced in this Communication, departments should strive to use limited resources effectively by weighing short-term costs (e.g. staff time) against anticipated longer-term gains (e.g. smoother implementation of robust policies).

This means that arrangements for collecting and using expertise should be designed in proportion to the task in hand, taking account of the sector concerned, the issue in question, and the stage in the policy cycle.

For example, methods designed to flag issues for attention and policy response at an early stage are unlikely to apply to the monitoring of existing policies. Methods suitable for minor technical changes to regulations will probably be inadequate in sensitive cases, when the underlying science may be highly uncertain and when also the 'stakes are high' in terms of the political, social, economic or environmental consequences of an eventual policy decision.

In any case, a system of routine monitoring, evaluation and review will be needed to help improve methods on a continuous basis. Such as system should focus on both process and outcome. Depending on the nature of the issue, this needs to be done from the perspective of the Commission departments, the experts, and interested parties, recognising that these different stakeholders may not judge effectiveness by the same criteria.

The core principles

In summary, the Commission should always:

i) seek advice of an appropriately high quality

ii) be open in seeking and acting on advice from experts

iii) ensure that its methods for collecting and using expert advice are effective and proportionate.

4. GUIDELINES TO BE APPLIED BY THE COMMISSION DEPARTMENTS

The following guidelines implement the above principles. Practical questions for departments to consider when applying the guidelines are given in the annex.

Planning ahead

1. The Commission should maintain an adequate level of in-house expertise. This enables it to act as an 'intelligent customer' when organising and acting on external expertise. If departments lack the necessary expertise, they should seek to have access to it in other departments.

2. Policy issues that require expert advice should be identified as early as possible. The use of foresight exercises may be helpful in this respect.

Preparing for the collection of expertise

3. The manner in which experts are involved (in-house, consultancy, expert group, conference, etc.) should be determined by the urgency, complexity and sensitivity of the policy issue.[14]

4. Other departments liable to be interested in the policy issue should be invited to contribute.

5. Departments should first assess the extent to which their needs can be met by any existing mechanisms conforming to the core principles. This may include permanent scientific committees, and in-house expertise, such as that available in the Joint Research Centre (JRC). Suitable mechanisms may also be found in the Member States, partner countries or international organisations.

6. The scope and objective of the experts' involvement, and the questions they will address, should be set out clearly. Departments may wish to consult interested parties on the framing of the questions and underlying assumptions, particularly on sensitive issues[15]. These assumptions may need to be revisited as the policy process runs its course.

7. A scoping exercise should determine the profile of expertise required. The nature of the issue in question should determine the optimum mix. Nevertheless, departments should aim to ensure that the different disciplines and/or sectors concerned are duly reflected in the advice provided. This may involve, for example, those with practical knowledge gained from day-to-day involvement in an activity.

Identifying and selecting experts

8. Departments should cast their nets as widely as possible in seeking appropriate expertise. As far as possible, fresh ideas and insight should be sought by including

14 Without prejudice to cases where the consultation of specific scientific committees is required under existing legislation.

15 However, this may not be appropriate for study contracts if the interested parties may later tender for the work.

individuals outside the department's habitual circle of contacts. Departments should also strive to ensure that groups are composed of at least 40% of each sex.[16]

9. Both mainstream and divergent views should be considered. However, it is important to distinguish proponents of theories that have been comprehensively discredited from those whose ideas appear to be supported by plausible evidence.

Managing the involvement of experts

10. When using expertise, departments should maintain a record of the process including the terms of reference and the main contributions of different experts or groups of experts.

11. The Commission should, in consultation with the experts themselves, determine whether the assembled expertise covers the topics to be addressed and whether sufficient pertinent background information and data are available and ensure that there is a clear understanding of the tasks assigned.

12. Experts should declare immediately any direct or indirect interest in the issue at stake, as well as any relevant change in their circumstances after the work commences. The Commission must decide whether any conflict of interest would jeopardise the quality of the advice.

Ensuring openness

13. The main documents associated with the use of expertise on a policy issue, and in particular the advice itself, should be made available to the public as quickly as possible, providing no exception to the right of access applies.[17] Departments should aim to provide translations of documents – at least in summary form - insofar as this is practically possible, and in particular on sensitive issues. Possible delays or practical constraints in providing translations should not preclude documents being made available in their source language.

14. Departments should consider allowing the public to observe certain expert meetings, particularly on sensitive policy issues.

15. Departments should insist that experts clearly highlight the evidence (e.g. sources, references) upon which they base their advice, as well as any persisting uncertainty and divergent views.

16. Departments should consider how to promote an informed and structured debate between policy-makers, experts and interested parties (e.g. workshops, consensus conferences), particularly on sensitive issues.

17. As a general rule, any proposal submitted by departments for Commission decision should be accompanied by a description of the expert advice considered, and how the proposal takes this into account. This includes cases where advice has not been

16 In line with Commission decision of 19 June 2000 (OJ L 154/34, 27.6.2000) relating to gender balance within committees and expert groups established by it.

17 Regulation (EC) No 1049/2001 of May 2001 regarding public access to European Parliament, Council and Commission documents.

followed. As far as possible, the same information should be made public when the Commission's proposal is formally adopted.

5. IMPLEMENTATION, MONITORING AND REVIEW OF THE PRINCIPLES AND GUIDELINES

Implementation of the principles and guidelines should be seen as an evolutionary process. A system for monitoring and review will therefore be needed to improve methods on a continuous basis, and to judge how far objectives are being met. The system will include the following functions:

– Inter-departmental collaboration will pool experience and promote a culture of mutual learning, including developing training actions as needed. Information tools will be used to help collect and share relevant information.[18]

– Directorates-General will establish procedures to assess the experience gained in implementing the guidelines, including lessons learned and problems encountered.

– Directorates-General will report on their experience in implementing the guidelines as part of their input to the annual reporting on the implementation of the Commission's "Better Regulation" Action Plan.

– In 2005, the Commission will organise an independent evaluation of the application of the present guidelines, including benchmarking with respect to good practices in the Member States. Meanwhile, it will also be necessary to examine the extent to which the Commission's guidelines could form the basis of a common approach of wider application, as flagged in the White Paper on European Governance.

18 The Science and Society Action Plan includes a number of relevant initiatives in this respect, including the pilot system 'Scientific Information for Policy Support in Europe' (SINAPSE), and a single web-portal ('one-stop-shop') providing access to information on advisory procedures Commission-wide.

ANNEX

PRACTICAL QUESTIONS

This section complements the core principles and guidelines by suggesting practical questions and best practices for departments to consider when collecting and using expertise. These are indicative and intend to help Commission departments design arrangements appropriate to the circumstances of specific cases.

The content of this section will be updated as needed in the light experience in implementing the principles and guidelines.

Planning ahead

Department's human resources

Is there adequate in-house expertise to meet the department's needs and to allow the department to act as an 'intelligent customer' of external advice?

What is the long-term trend in the department's human resources? Is the process of staff mobility likely to reinforce or reduce the available in-house expertise? Can national experts on detachment play a role? In which case, might this affect the department's 'corporate memory' and perceived independence?

Need for external advice in the first place

Has there been a proper scanning of what is already available both within and beyond the Commission? What background information or assistance could be provided from other departments? Has pertinent knowledge accumulated in European research programmes? Are there relevant information tools[19] that would help deliver information on, for example, the state of the art, or earlier advice etc?

Can pertinent expertise be found in other departments, such as the JRC? Would the inclusion of external expertise enhance the credibility of the process?

Making the process more cost-effective

Should other departments be invited to contribute (e.g. when there is a common interest in tackling cross-cutting issues)? Has information on previous expert input relevant to the issue in question been exchanged? Is there a need for departments to co-ordinate their approaches to experts to avoid unnecessary duplication?

Can resources be used more economically by grouping issues to be addressed? Can this be done during the screening of the Annual Policy Strategy (at the same time as policy initiatives requiring impact assessments are identified)?

Have arrangements been made to make the department's own knowledge-base (in-house expertise, studies, programmes, etc.) readily available in an understandable form?

19 e.g. the pilot open internet-based network 'SINAPSE' (see Science and Society Action Plan)

Early warning mechanisms to detect emerging issues

Is the department actively 'scanning the horizon' for emerging issues? Is your department informed about Science and Technology Foresight activities?

➲ *Practical tip:*

European, national and regional Science and Technology Foresight and assessment activities provide a range of analyses of developments in science and technology and their socio-economic implications.[20]

Preparing for the collection of expertise

Framing the questions

Have all the facets of the problem been correctly analysed and formulated in the questions put to the experts?

➲ *Practical tip:*

When assessing risks, have all plausible hazards been considered? Do the questions put to experts reflect this? In practice, the benefits of a broad-based approach may need to be balanced against resource limitations.

Should different groups (e.g. interested parties, representatives of civil society) be associated with the formulation of the issue – and how?

Choosing the right method

Can the issue be adequately handled through contacts with individual or multiple experts (including questionnaire methods, expert contracts etc), or, alternatively, would the issue benefit from interactive and collegial discussions within carefully constituted expert panels?

➲ *Practical tip:*

Informal contacts may provide rapid results, and are often appropriate at very early stages in the policy process, and for non-sensitive questions. On the other hand, multidisciplinary and multi-sectoral groups encourage a cross-fertilisation of ideas, stimulate debate and lead to sharpened opinions. This should result in better quality advice, as well as adding to the credibility of the process.

Determining the expertise required

Who should be involved in the scoping exercise to determine the range of expertise required? Would internal discussions be sufficient? Would it be beneficial also to involve interested parties?

Does the issue require expertise from different disciplines or sectors? How should the right mix be established?

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20 More information on foresight exercises can be found at http://cordis.lu/rtd2002/foresight/home.html and http://www.jrc.es/welcome.html

What should be the criteria for selection (e.g. level of academic achievement), and possible exclusion (e.g. those working for a company liable to be affected by an eventual policy decision)?

How should diverging views be reflected? To what extent have any emerging views been represented?

➲ *Practical tip:*

One approach is to ensure that adherents to different schools of thought are represented among the experts. Another is to arrange hearings whereby those with 'maverick' views can enter a dialogue with those from the mainstream.

Does the policy issue require one or more experts from each Member State? This may be necessary when the emphasis is on assessing and comparing national situations.

Is it appropriate to mobilise experts beyond the scientific community? These may include, for example, lawyers, ethicists, or those with practical knowledge gained from day-to-day involvement in an activity.

➲ *Practical tip:*

In some cases, it may be appropriate to bring together experts and scientists in the same group. In others, two or more groups may work independently, but be given opportunities to interact at appropriate junctures. The choice may depend upon the stage in the policycycle.

Would it be relevant to involve experts from beyond Europe?

➲ *Practical tip:*

When the implications of a policy issue go beyond Europe, it may well be beneficial to bring in experts from appropriate third countries. Such experts may usefully complement European expertise in other cases too.

Identifying and selecting experts

Should open calls for candidates be published when seeking expertise for expert groups? Have any such calls been publicised as widely as possible, including by electronic means? Open calls may be particularly appropriate when dealing with sensitive issues and when groups are liable to stand for a reasonable period of time.

Should the expertise be collected in the form of consultancy work (studies following open calls for tender according to the relevant rules for public procurement)?[21]

Can existing networks, such as those created through national and European research programmes, be usefully exploited?

Should a selection committee, possibly including external 'peers', be convened to help select suitable experts?

21 Special rules may apply to EU agencies.

Managing the involvement of experts

How will any modifications suggested by experts to their work plan be dealt with (e.g. because of recent scientific developments or other unanticipated issues)? What if the experts consider that they can only deal with part of the proposed work in the time available? If a modification to the work plan seems necessary, can it be agreed within any limits that may apply to the procurement of the expert services? Alternatively, should other arrangements be made to investigate the questions not covered?

Do the experts need additional data or information? Can the department make reasonable endeavours to supply whatever is missing? Can other departments help (e.g. by tapping into research networks of the Framework Programme)?

➲ *Practical tip:*

Experience has shown that departments may have to go to some effort to provide the information and data upon which the experts will base their advice – it cannot assumed that the experts will seek and collect the information themselves. This should also be considered at the planning stage.

In what circumstances should additional experts be permanently or temporarily co-opted to the group? Can in-house expertise be mobilised to fill the gap in knowledge?

Should further research be financed to tackle significant gaps in knowledge?

Are all the experts suitably engaged in the process? Is the mandate well understood?

➲ *Practical tip:*

The dynamics of the group are important, and especially the role of the chairperson. Some individuals may contribute less than expected, or even withdraw completely, if they feel their contributions are not being sufficiently recognised.

Should experts be required to sign a statement declaring possible conflicts of interest? Has the department considered what action to take if conflicts emerge?

➲ *Practical tip:*

A possible general rule would be to exclude an expert declaring a conflict of interest from chairing a group, or acting as its rapporteur. It may also sometimes be necessary to replace such experts, or to require them to abstain from part of the discussion.

Ensuring openness

What documents should be made directly available?

➲ *Practical tip:*

A checklist of documents to make directly available might include:

– *an explanatory note on the policy issue and the use of expert advice, including the timeframe and information on possible opportunities for open consultation;*

– *terms of reference;*

– *criteria used for selecting the experts;*

– *names of experts;*[22]

– *declarations of interest;*

– *summary record of meetings;*

– *advice given (including any dissenting views).*

➲ *Practical tip:*

It may be appropriate, in some circumstances, to withhold the identity of experts, for example to protect them against undue external pressures or to protect the legitimate interests of those concerned with the process. Any embargo on the identity of experts should normally be limited in time, and duly justified.

Has care been taken to ensure that no exception to the right of access is likely to apply? Has commercially sensitive information been suitably protected?

Have the full consequences of disclosing information been considered? Might there be unintended negative effects (e.g. triggering public panic)? Would it nevertheless be more harmful to withhold information? What information will be provided on the reasons for any non-disclosure? Have these questions been considered as part of a plan for risk communication

Where should information and documents be made directly available? Is it sufficient to post relevant documents on the EUROPA website of the lead department? Can this be done without delay once they have been finalised, or a decision taken to release them in draft form? Is the website sufficiently user-friendly? Can information be provided through a single web portal dealing with all occasions when expertise is used in Commission departments (a one-stop-shop)?[23]

Is the status of the documents sufficiently clear (e.g. draft or final; revision number; under the responsibility of the experts or approved by the Commission department).

Is it appropriate, particularly in sensitive cases, to initially publish the experts' advice in provisional form for a specified consultation period? Have any such arrangements been clearly announced at the start of the process? Are arrangements in place for the experts to respond to comments received?

Should the public be allowed to observe at meetings?

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22 The disclosure of the identity of experts should be consistent with Regulation (EC) 45/2001 regarding data protection.

23 Such a portal has been envisaged in the Science and Society Action Plan. It could be implemented in the context of 'Science & Society', complementing the 'Your Voice in Europe' portal on public consultations.

➲ *Practical tip:*

One approach for standing expert groups could be to arrange for public access to at least one meeting a year. Public access may be restricted during any part of the meetings dealing with confidential information. It may also be necessary to allow a period for experts to build up a mutual trust outside the limelight.

Is the advice properly substantiated and documented?

Should the advice be submitted to other persons for comments or validation? Will this be a scientific peer review? Is it appropriate to submit the advice to scrutiny and comments from a wider circle of experts and interested parties (a process sometimes known as 'extended peer review')? Have arrangements been put in place to record and assess unsolicited comments once advice has been published?

Does the issue require interaction between the experts, interested parties and policy-makers? This may be particularly important in sensitive cases. Participatory procedures[24] have been used successfully at national and regional level; some issues may benefit from European-level debates.

Acting on the advice received

When is the involvement of experts finished?

➲ *Practical tip:*

At a certain point, the Commission must make a judgment on the advice and views it has received. In the face of persisting uncertainty on sensitive issues, options include a decision to seek yet further advice, to commission further research, or to make a provisional proposal in line with the precautionary principle.

How does the Commission's policy proposal show how input from experts has been taken into account? Can this be described in the explanatory memorandum, or in an annex to the proposal? Have the experts themselves been informed of this, as well as the outcome of the process to which they have contributed?

Have appropriate arrangements been made to communicate the outcome of the policy process to interested parties and to the public at large? Has a communication strategy been established, including relations with the media? This is particularly important in sensitive cases.

24 The Commission's Science and Society action plan will promote initiatives of this kind.