

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
STRUCTURAL AND COHESION POLICIES **B**



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**REVIEW AND ASSESSMENT
OF SIMPLIFICATION
MEASURES IN COHESION
POLICY 2007-2013**

NOTE



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

REGIONAL DEVELOPMENT

**REVIEW AND ASSESSMENT OF
SIMPLIFICATION MEASURES IN
COHESION POLICY 2007-2013**

NOTE

This document was requested by the European Parliament's Committee on Regional Development.

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Abstract

This paper provides a review and assessment of the simplification measures in Cohesion policy in 2007-13. Simplification has been an ongoing feature of reform debates since 1988. The most recent simplification exercise responds to the economic crisis and involves measures for speeding up programme implementation. The measures have been at least partially effective, with some programmes playing a major role in dealing with the crisis, through accelerated spending or special instruments. The longer term focus of attention is on how the current, administratively complex management and control system can be simplified while maintaining assurance on the regularity of spending.

The issues covered by this note were presented and discussed in the framework of the Workshop "Simplification in Cohesion Policy", held at the European Parliament on 21 June 2010.

CONTENTS

LIST OF FIGURES	5
EXECUTIVE SUMMARY	7
1. INTRODUCTION	9
2. SIMPLIFICATION INITIATIVES IN COHESION POLICY	11
3. ASSESSMENT OF RECENT SIMPLIFICATION MEASURES	13
3.1 Simplification package: non-legislative measures	14
3.2 Legislative amendments to the General Regulation	16
3.3 Legislative amendments to ERDF and ESF Regulations	18
3.4 Amendments to the Implementing Regulation	19
3.5 Proposed amendments to the General Regulation	20
4. PROPOSALS FOR FUTURE SIMPLIFICATION	23
4.1 Different management and control system	23
4.2 Differentiation of procedures	23
4.3 Higher tolerable risk of error	24
4.4 Harmonisation of eligibility rules	24
4.5 Adjustments to the decommitment rules	24
4.6 Wider issues	24
REFERENCES	27

LIST OF FIGURES

Figure 1 Assessment of non-legislative measures (% rating of value by managing authorities)	15
Figure 2 Assessment of legislative amendments to the General Regulation (% rating of value by managing authorities)	17
Figure 3 Assessment of legislative amendments to the ERDF and ESF Regulations (% rating of value by managing authorities)	19
Figure 4 Assessment of legislative amendments to the Implementing Regulation (% rating of value by managing authorities)	20
Figure 5 Assessment of proposed amendments to the General Regulation (% rating of value by managing authorities)	22

EXECUTIVE SUMMARY

The aim of this paper is to provide a review and assessment of the simplification measures in Cohesion policy in 2007-13. It outlines the simplification initiatives taken over the past decade, in particular those introduced over the past three years. The paper then assesses the use and value of the recent simplification measures and concludes by discussing the longer term debate on the simplification of Cohesion policy after 2013.

Simplification initiatives in Cohesion policy

The quest for simplification is not new but has been an ongoing feature of reform debates since the landmark reforms of 1988. Simplification was one of the main objectives of Agenda 2000 which paved the way for the 1999 reforms of Cohesion policy. Several high-level debates ensued during the latter half of 2002, followed by the adoption of a Commission Communication on simplification in 2003. These measures had some positive impacts, but the experiences of Member States were mixed.

Some of the lessons of the simplification exercise were learnt and incorporated into the 2006 reform of Cohesion policy. The launch of the 2007-2013 programmes has been followed-up with another simplification initiative, the main impetus being the economic crisis. The Cohesion policy response was set out in the Communication *Cohesion Policy: investing in the real economy* of October 2008. This put forward a series of Commission recommendations for speeding up programme implementation and was promptly followed by supporting legislative proposals (to adapt the General, Fund-specific and Implementing Regulations) including a range of simplification measures. A second set of simplification measures were proposed in mid-2009.

Assessment of recent simplification measures

As yet, there is no comprehensive assessment of the recent simplification measures in Cohesion policy. However, the available sources suggest that the legislative and non-legislative measures have been at least partly effective. Many managing authorities have welcomed the general thrust of the Cohesion policy measures. In several countries, the measures have helped Cohesion policy programmes to play a major role in responses to the crisis, especially through the acceleration of spending or the creation of special instruments and initiatives. However, the take-up of recovery plan measures has varied, often depending on the scale of Structural Funds resources available. Also, the implementation of crisis measures through Cohesion policy must be seen within the context of broader domestic recovery packages.

Notwithstanding a positive overall reaction by most managing authorities, concerns have been expressed that the additional responsibilities for programme authorities implied by some of the measures may generate implementation risks. Some authorities see scope for further procedural simplification and flexibility (some of which may be addressed by the forthcoming package of measures). A more general question is whether the flexibility provided for short-term, anti-crisis measures will threaten the longer-term performance and goals of Cohesion policy.

Proposals for future simplification

Looking beyond the recent simplification measures, all of the contributions to the debate on the future of Cohesion policy after 2013 highlight the need for a 'simpler, more efficient policy'. The main focus of attention is on how the current, administratively complex management and control system can be simplified while maintaining assurance on the regularity of spending.

Separate discussions of reforms to financial management are being conducted as part of the triennial review of the Financial Regulation, by the High-Level Group reflecting on future Cohesion policy, as well as within the Commission services. The agenda for reform encompasses a range of possible changes, including: the use of a different management and control system; differentiation of procedures; a higher tolerable risk of error; the harmonisation of eligibility rules; and adjustments to decommitment rules.

Beyond the issue of financial management and control, there are other aspects of the reform debate that have implications for the administrative efficiency of Cohesion policy. These include proposals for increased coherence in the delivery of strategic priorities and changes to monitoring and evaluation requirements.

In taking forward the simplification exercise in Cohesion policy, it is important to set the issue of administrative costs in context, notably the scale of funding involved, the constraints of a shared management system and the influence of national interpretation of EU regulations on administrative procedures. Further, in all areas of simplification, there is an underlying tension between the pressure to simplify the policy and the inertia of the current system, which is resistant to change. Future simplification measures, especially those involving radical alterations to structures or systems, will need to consider carefully the trade-offs between the costs and benefits of change.

1. INTRODUCTION

Cohesion policy is implemented under a shared management system between the Commission and Member States, which aims to ensure that the principles of regularity, legality and sound financial management are complied with. In practice, the lead responsibility for all aspects of programme design and delivery lies with Member State authorities through a highly devolved, multi-level governance model. At the same time, a wide range of regulatory requirements are codified in EU legislation to govern the use of EU funds in the Member States. These rules are seen as complex and administratively burdensome, prompting regular calls for simplification from both EU and national actors and stakeholders.

The quest for simplification is not new but has been an ongoing feature of Cohesion policy reform debates since the landmark reforms of 1988. It also has to be seen as part of the wider Commission programme for 'better regulation' which involves a rolling simplification programme, impact assessment of Commission proposals, the reduction of administrative burdens, and the consideration of alternative options for regulatory instruments¹.

A distinctive aspect of the last two reforms in 1999 and 2006 is that simplification packages were introduced shortly after the approval of the governing regulations. The latest simplification round is part of the EU's response to the economic crisis, which incorporated the twin objectives of accelerating payments from the Structural and Cohesion Funds and reducing the administrative burdens of policy implementation. To put these objectives into practice, non-legislative recommendations were set out by the Commission in a Communication during October 2008 (European Commission, 2008a), followed by proposals to amend the general, fund-specific and implementing regulations which were agreed between April and September 2009 (European Council, 2009a). A further series of amendments to the General Regulation were adopted on 24 June 2010 (European Council 2010). An expert group on simplification and a high-level working group with Commission and Member State representatives were also set up to support these simplification efforts and to examine reform ideas for the post-2013 period.

In this context, the aim of this paper is to provide a review and assessment of the simplification measures in Cohesion policy in 2007-13. It begins by outlining the simplification initiatives taken over the past decade, in particular those introduced over the past three years. The paper then assesses the use and value of the specific simplification measures introduced since 2008, based on different information sources. Lastly, the paper discusses the simplification of Cohesion policy after 2013, focusing on management and control systems, and highlights some of the wider issues that need to be considered.

¹ http://ec.europa.eu/governance/better_regulation/index_en.htm.

2. SIMPLIFICATION INITIATIVES IN COHESION POLICY

Simplification was one of the main objectives of Agenda 2000 which paved the way for the 1999 reforms of Cohesion policy: “making the Structural Funds more effective will require simplification of management and greater flexibility and decentralisation in implementation” (European Commission, 1997, p22). Despite the decentralisation of some programme management responsibilities, the practice of implementing the Structural Funds actually became more complex. This was due not only to the introduction of an additional management instrument (the Programme Complement) but also because of the stricter regulatory requirements in the areas of financial control, audit, monitoring and evaluation (Bachtler and Mendez, 2007). The early experiences with implementation in 2000-07 led Member States to pressure the Commission to simplify the implementation process. Several high-level debates ensued during the latter half of 2002, followed by the adoption of a Commission *Communication on the simplification, clarification, coordination and flexible management of the structural policies 2000-06* (European Commission, 2003a). The main areas of simplification covered: procedures for revising the programmes; procedures for audit and control; mid-term evaluations and reviews; reporting activities; monitoring indicators; Performance Reserve allocation; annual meetings with the Commission; the Commission’s role in monitoring committees; and financial management and automatic decommitment procedures.

An early assessment by the Commission showed that some of the measures had positive impacts on programme management (European Commission, 2003b). Several Member States simplified their indicator sets along with those used to allocate the Performance Reserve, and the time needed to amend the programmes and Programme Complements was reduced. On the other hand, the reception from managing authorities was not uniformly positive, with criticisms including the limited scope of the reform, its inappropriate timing, and doubts about the measures feeding through into genuine simplification on the ground (Polverari *et al*, 2003).

The lack of practical effects is illustrated by the simplification package audit measure, which enabled ‘contracts of confidence’ to be set up, implying fewer controls by the Commission where it could rely on the audit work of national bodies. However, only seven contracts were ultimately signed (with AT, CY, DK, EE, PT, SI and UK (Wales)) between 2006 and 2008, and it is recognised that audit and control rules were enforced with increasing vigour throughout the period (Davies *et al*, 2008). In addition, the simplification measures did little to alleviate the financial management pressures emanating from the new n+2 rule, which became an overriding concern for many programme managers. Indeed, there is evaluation evidence that a pre-occupation with financial absorption diverted attention from strategic policy management in some programmes (Bachtler *et al*, 2009).

Some of the lessons of the simplification exercise were learnt and incorporated into the 2006 reform of Cohesion policy. For the 2007-13 period, the Programme Complement was eliminated, and programmes became more streamlined with simpler financial tables. Evaluation requirements are more flexible, with responsibility for the content and timing of evaluations devolved to the Member States, and the Performance Reserve is voluntary. The key principle underlying the contract of confidence was built into the regulations, although the new compliance assessment exercise has not been without difficulties and has increased workloads at the start of the current period.

As in the early 2000s, the launch of the 2007-2013 programmes has been followed by another simplification package. However, the main impetus this time was the economic crisis. The Commission's response was provided through two Communications setting out *A European framework for action* and *A European economic recovery plan* approved by the December 2008 European Council (European Commission, 2008b). The specific response of Cohesion policy was set out in the Communication *Cohesion Policy: investing in the real economy* of October 2008 (European Commission, 2008a). It put forward a series of Commission recommendations for speeding up programme implementation and was promptly followed by supporting legislative proposals, including a range of simplification measures.

3. ASSESSMENT OF RECENT SIMPLIFICATION MEASURES

As yet, there is no comprehensive assessment of the simplification measures contained in the Communication *Cohesion Policy: investing in the real economy*. However, some partial insights are available from three sources. First, Member States were asked about their usage of the measures in the Strategic Reports submitted at the end of 2009, although the information provided is of variable quality. Second, research on the views of some managing authorities was undertaken over the period 2009-10 under the auspices of the IQ-Net network² (published in Mendez and Kah, 2009; Kah, 2009; 2010). Programme management staff were asked about the relevance, usage and value of the individual measures in Spring 2009, Autumn 2009 and Spring 2010. Third, for this Note, requested by the Committee on Regional Development of the European Parliament, an online questionnaire survey of IQ-Net managing authorities was undertaken in May 2010 to provide a retrospective assessment of the value of each of the measures based on standard categories (high, medium, low).³

This section of the paper discusses the results of this research, beginning with a general assessment of the simplification packages followed by a review of the individual groups of legislative and non-legislative measures.

The overall message from the above sources is that the simplification measures have been effective. Many managing authorities have welcomed the general thrust of the Cohesion policy measures agreed as part of the recovery packages (Mendez and Kah, 2009; Kah, 2009; 2010). The measures have been frequently characterised as positive support for accelerating spending and easing implementation obstacles. In several countries, Cohesion policy programmes have played a major role in responses to the crisis, especially through the acceleration of spending or the creation of special instruments and initiatives. Clearly, the perception and take-up of individual recovery plan measures varies, often depending on the scale of Structural Funds resources available. Also, the implementation of crisis measures through Cohesion policy must be seen within the context of broader domestic recovery packages.

Notwithstanding a generally positive reaction by many managing authorities, there are also critical views. In particular, concerns have been expressed that the additional responsibilities for programme authorities implied by some of the measures may generate implementation risks. In some countries, the advanced state of programme implementation means that the measures could not be exploited fully. Some authorities see scope for further procedural simplification and flexibility - some of which may be addressed by the forthcoming package of measures. A more general question is whether the flexibility provided for short-term, anti-crisis measures will threaten the longer-term performance and goals of Cohesion policy.

² IQ-Net involves a structured programme of exchange of experiences on the management of Structural Funds programmes. It involves a network of 22 national and regional managing authorities (responsible for both Convergence and Regional Competitiveness programmes) in 16 Member States – AT, BE, CZ, DE, DK, ES, FI, FR, GR, HU, IT, PL, PT, SE, SI and UK. Together, they are wholly or partly responsible for managing or implementing €127 billion, some 36 percent of Structural and Cohesion Funds in the EU27. For further information, see: <http://www.eprc.strath.ac.uk/iqnet/default.cfm>.

³ The IQ-Net online survey and fieldwork research should not be considered representative of all managing authorities in the Member States concerned; the results are intended to be indicative of some views of how the measures are perceived and used.

3.1. Simplification package: non-legislative measures

The overarching aim of the non-legislative measures set out in the Communication *Cohesion Policy: investing in the real economy* was to support accelerated spending of EU funding. The six sets of measures provided flexibility in the closure of the 2000-06 programmes as well as more rapid implementation of the 2007-13 programmes by:

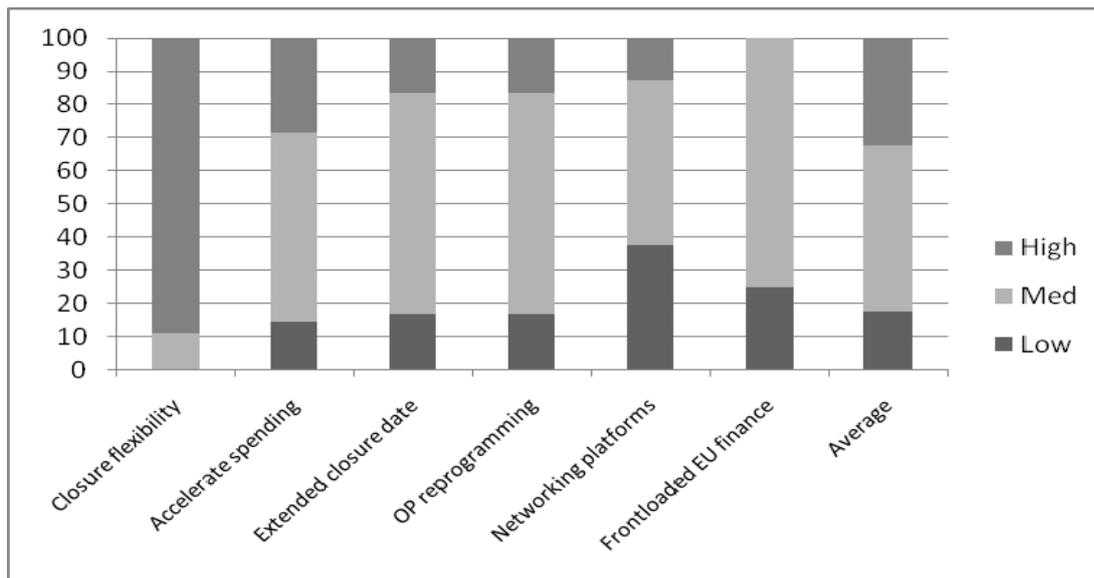
- extending the date for eligibility of expenditure for the 2000-06 period (by six months);
- adapting Commission guidelines on 2000-2006 closure, by raising the flexibility of calculations at priority level;
- encouraging the front-loading of Community co-financing in 2009;
- enabling the reprogramming of funds under the 2007-13 programmes to accelerate spending;
- increasing the leverage of JEREMIE and JESSICA through additional technical assistance and setting up networks to encourage initiatives to become operational; and
- recommending accelerated spending in certain areas deemed to support economic recovery, such as national flexicurity strategies, addressed skill mismatches and long-term challenges for SMEs.

According to the online survey of managing authorities, all of the non-legislative measures were rated as being of 'high' or 'medium' value by some three-quarters of the authorities (see Figure 1). Of greatest value was the **increased flexibility introduced into the closure guidelines** for the 2000-06 programmes, which facilitated reallocations across priorities by allowing the final contribution at priority level to exceed ten percent (instead of two percent) of the last Commission decision on the programme. This was rated as being of 'high value' by around 90 percent of the respondents, and it addressed a rigidity in the Commission's closure guidelines which had been heavily criticised by some managing authorities when first published (Davies and Gross, 2007).

The **extension of the eligibility date** for the 2000-06 programmes was foreseen in the General Regulation and has been a widely-used measure across the EU. According to the Commission, requests for an extension to the eligibility period have been made for 385 Cohesion policy programmes (out of a total of 555) in 2000-06, covering all four Funds (ERDF, ESF, EAGGF and FIFG) (European Commission, 2009c). Interviews with managing authorities also indicate that this was considered to be the most important and well-received change (notably by authorities in BE, CZ, DE, ES, PT, SI) (Mendez and Kah, 2009). The perceived key benefits were that: it allowed unforeseen programme absorption challenges to be addressed and objectives to be fully achieved; it provided more time for finalising the closure procedure; it allowed more (and major) projects to be closed; and it allowed programme authorities to deal with unexpected financial corrections. Not all authorities in the survey shared these views, some arguing that the extension was unnecessary, and even unwise, as it risked postponing the actual implementation of the 2007-13 programme. Others (as in the UK) considered that the potential funding offered was not enough to justify the administrative costs involved, particularly given the limited resources of the authorities managing the 2000-06 programmes.

The **frontloading of Community expenditure** has been actively considered or adopted in several programmes, though not always in response to the crisis. Among the key perceived benefits are: increasing the amount of public funding available in a period of fiscal restraint; assisting compliance with the n+2 rule; and reducing the pressure associated with spending at the end of the programme period and thereby allowing programme actors to focus on closure. In other cases, the measure was seen as unnecessary and potential disadvantages were noted. While front-loading may be positive in terms of spending, it can also mean that the projects would not necessarily be focused on tackling the new problems. Also, it may store up funding constraints for future projects.

Figure 1: Assessment of non-legislative measures (% rating of value by managing authorities)



Source: EPRC online survey of IQ-Net managing authorities, May 2010.

Two related recommendations by the Commission to address the impacts of the crisis are to **modify OP objectives and priorities** and to **accelerate spending in areas with more growth potential**. For most programme authorities, significant strategic modifications to programme objectives or priorities have not been made, although shifts in funding across and within priorities have been undertaken or considered in some cases. This is confirmed by several of the Strategic Reports, e.g. AT, BG, ES, FR, IE, UK. In most cases, however, the programmes were considered to be broadly in line with the key challenges faced, or the administrative efforts required to make changes were considered to be too high.

Finally, the **launch of the two networking platforms** under the JEREMIE and JESSICA initiatives was not considered to be of major significance for most programme authorities, especially where the instruments are not being used and/or where managing authorities have similar domestic instruments which are perceived to be less bureaucratic (e.g. AT, BE, CZ, DE, ES). However, some programme authorities are currently planning to develop these instruments or may do so in the future (CZ, GR, PL, UK), and the exchange of information across countries and regions could prove to be useful, especially given the perceived time and technical difficulties involved in introducing them into Structural Funds programmes.

3.2. Legislative amendments to the General Regulation

The non-legislative measures outlined above were accompanied by a further set of legislative measures to accelerate implementation, by improving cash flow and the simplification of certain administrative procedures. The amendments were limited to five articles of the General Regulation:⁴

- the provision of an additional tranche of pre-financing in 2009 (Art. 82);
- accelerating the reimbursement of expenditure incurred under major projects without Commission approval (Art. 78.4);
- the scope for State aid advances to reach 100 percent of the total amount of aid, instead of only 35 percent (Art. 78.2b);
- clarification of provisions facilitating the launch of financial engineering instruments with a view to accelerating the use of access to finance measures – by allowing in-kind (non-cash) contributions to be declared as eligible expenditure in the constitution of, and contribution to, financial engineering funds (Art. 56);
- the simplification of eligibility rules in relation to broadening the use of flat rates and lump-sums costs for certain overheads (e.g. shared cleaning and security services in business parks), which could be declared as paid expenditure on a flat rate basis (to allow public authorities to prepare projects and measures more quickly (Art.56).

Again, there is considerable support among managing authorities for this package of legislative amendments to the General Regulation, according to the online survey of managing authorities (see Figure 2). Most highly valued are the provisions for additional advance payment and the overhead costs measures.

It is clear that one of the key legislative measures in response to the crisis was the **increase in programme advances** through a cash injection of €6.25 billion. Interview research conducted under the IQ-Net programme (Mendez and Kah, 2009) supports the results of the online survey. While this measure aims to support liquidity, a frequently reported benefit is the contribution towards the achievement of n+2 targets for 2009 (AT, BE, DE, FI, FR, UK). However, it was also noted that the receipt of additional advance payments will not necessarily have the intended effect. In some cases, domestic legislation does not permit the transfer of the advances to final beneficiaries, and there may be risks in doing so without having formally certified the expenditure.

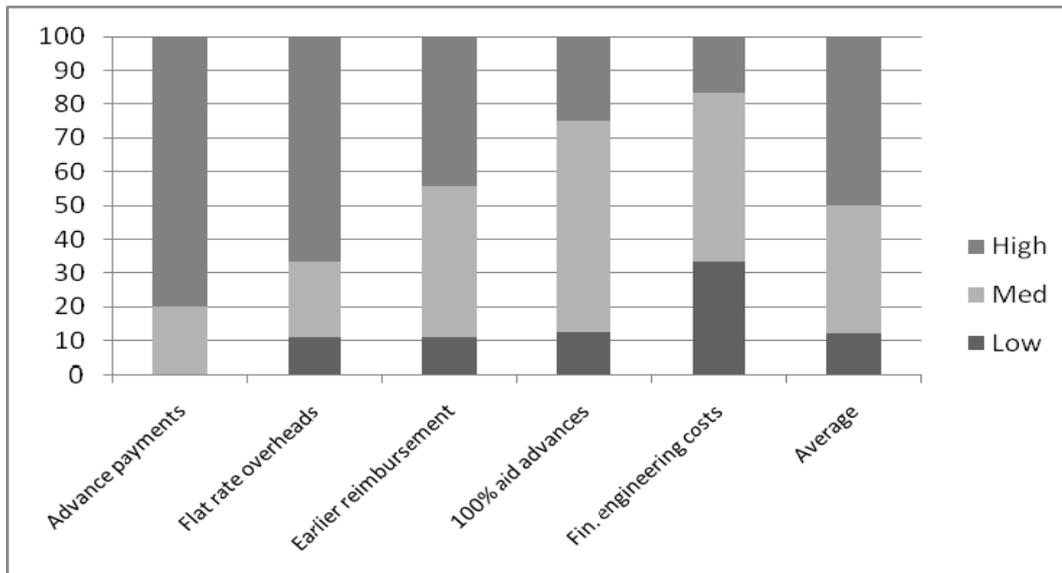
A mixed assessment of this measure is also provided in the Strategic Reports. Some note the positive impacts on liquidity and the easing of n+2 tensions but do not specify to what extent funds are being used to pre-finance projects (e.g. FR). In CZ, for instance, half of all managing authorities view the additional advance payments as a positive step, but only one managing authority has been paying them out. Similarly, in AT, the additional advances have not been used to pre-finance projects, although domestic funding has been used for this purpose. The Strategic Report for ES notes that advance payments have been made to a wide range of public bodies; it also highlights the difficulty in assessing the impact of the measure because there are no data available on certified payments prior to

⁴ Reg. 284/2009 - General Regulation 1083/2006 amendments, 7 April 2009.

the allocation of the advances. By contrast, in IE, advances have been clearly targeted on a specific intervention, the so-called Gateways and Hubs Investment Scheme, while the UK report notes that, in Wales, advances are being paid to non-profit-distributing private sector and third sectors. Lastly, the PT Strategic Report notes that three-quarters of the advance payments have been transferred to beneficiaries and highlights the critical importance of the measure for some programmes given that Commission payments in this new period could not be made until management and control systems had been formally approved.

The take-up and usefulness of the measure on **major project reimbursements without Commission approval** varies depending on the nature of the programmes and the extent to which this form of assistance is used. In GR, several programmes planned to implement major projects and the measure was regarded as a positive decision, not least given previous experiences when it could take up to two years from the initial request to get approval from the Commission. Although viewed as a positive development in DE and FR, some managing authorities considered the impact to be modest due to the small number of major projects planned, and several of the authorities responsible for Regional Competitiveness programmes did not anticipate any major projects. Nevertheless, several Strategic Reports confirm that it has helped to ease n+2 risks, even where the provision has only been used in a small number of projects (e.g. four projects in FR and one in IE). From a more critical perspective, the IQ-Net research and (some) Strategic Reports indicate that certain managing authorities (e.g. CZ, UK) consider the use of the facility to be too financially risky, as it would be the managing authorities, not the Commission, which would ultimately bear the responsibility if problems emerged with project approval later in the process.

Figure 2: Assessment of legislative amendments to the General Regulation (% rating of value by managing authorities)



Source: EPRC online survey of IQ-Net managing authorities, May 2010.

The measure on the eligibility of expenditure - to allow **overhead costs to be declared on a flat rate basis for all the Funds**⁵ - is seen as one of the most important innovations by a number of programme authorities (AT, DK, FI, SI). It should allow public authorities to prepare projects more quickly and will reduce the administrative burden for beneficiaries, as is already the case under the ESF and Seventh Framework Programmes. More generally, it is viewed as part of a move from the auditing of accounts to efficiency control, with a focus on outputs instead of inputs. On the other hand, it was noted that it also implies a further administrative workload and obligation needing Commission approval (BE, CZ, FR).

Additional eligibility flexibility has also been introduced in relation to financial engineering schemes, where **contributions in-kind (non-cash) may be considered as eligible expenditure**. The measure is not considered to be of major importance by most of the programme authorities interviewed, not least where financial engineering schemes do not feature significantly in the programmes (AT, BE, DE, ES). In the UK, by contrast, the decision was described as an 'important breakthrough' in the context of incorporating JESSICA funding into programmes; allowing asset values (e.g. land, housing) to be used instead of cash for co-finance was reported to be of particular interest to local authorities and was also considered essential for some programmes to achieve their n+2 targets.

Lastly, in order to support enterprises, particularly SMEs, the conditions governing the payment of advances within the framework of EU State aid rules have been made more flexible by **allowing State aid advances to reach 100 percent of the total aid until 2010**, instead of only 35 percent. The measure was reported to be a particularly positive development in GR, and there were plans to use it in FR and SI, although its impact was considered to be diluted by the temporary nature of the measure. Several other managing authorities (in AT, BE, DE, ES) did not perceive the measure to be particularly important or relevant.

3.3. Legislative amendments to ERDF and ESF Regulations

The modifications to the Fund-specific regulations⁶ focused on the eligible spending methodology (ESF) and eligible investments (ERDF). Under the ESF, the aim was to add a further, simpler method of spending by extending flat-rate financing to direct costs (indirect costs were already eligible since 2007), widening its scope to scales of standardised units of cost and introducing the use of lump sum payments (Art.1). Under the ERDF, the regulatory amendment sought to permit and facilitate energy efficiency and renewable energy interventions in the housing sector in all Member States (which only the EU12 were eligible to fund previously) (Art.7).

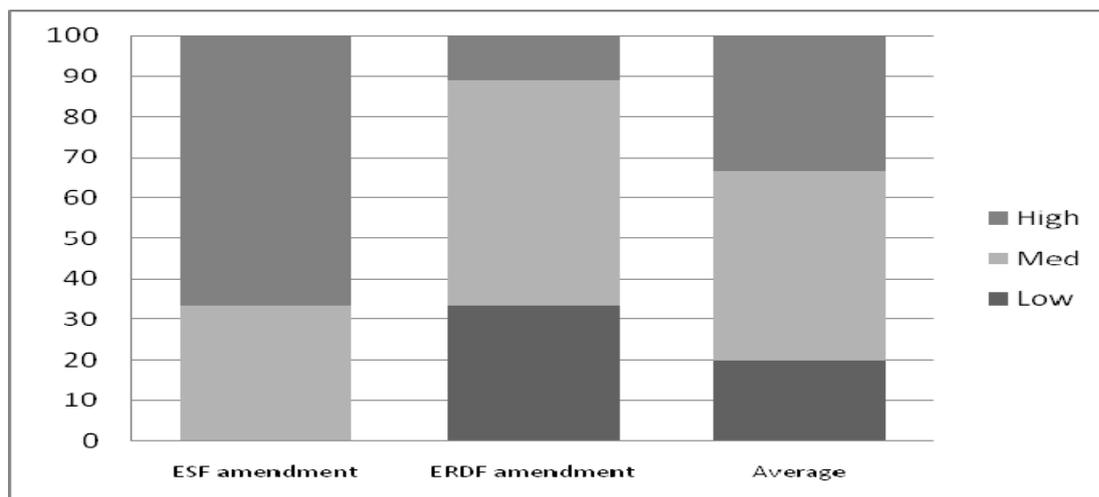
The online survey suggested that the ESF changes were considered most important; the changes to eligible costs were rated as being of 'high' value by two-thirds of respondents (see Figure 3). By contrast, the ERDF amendments received a less enthusiastic response. This is confirmed by the fieldwork research among managing authorities (Mendez and Kah, 2009), which found varied levels of interest and take-up in the ERDF changes. In some cases, OP revisions were required, and it was considered as preferable to implement the

⁵ The amended regulation distinguishes between three different kinds of flat rates: (i) indirect costs, declared on a flat-rate basis, of up to 20 percent of the direct costs of an operation; (ii) flat rate costs calculated by the application of standard scales of unit cost as defined by the Member State; and (iii) lump sums to cover all or part of the costs of an operation.

⁶ Reg. 396/2009, ESF Regulation 1081/2006 amendment, 6 May 2009, and Reg. 397/2009, ERDF Regulation 1080/2006 amendments, 6 May 2009.

measure following a mid-term review (e.g. FR). In other cases, amendments to eligibility guidance were viewed as sufficient to pilot the measure (UK), and provisions had been promptly drawn up for immediate implementation in at least one case (GR). By contrast, other authorities saw the changes as less relevant because of a pre-existing strategy to enhance energy efficiency in Cohesion policy (DE) or in domestic policy (DK), or because the extension of Structural Funds activity into housing was not supported.

Figure 3: Assessment of legislative amendments to the ERDF and ESF Regulations (% rating of value by managing authorities)



Source: EPRC online survey of IQ-Net managing authorities, May 2010.

3.4. Amendments to the Implementing Regulation

The amendments made to the Commission Implementing Regulation⁷ aimed to align the provisions with the above changes in the general and fund-specific regulations, to correct some technical errors in the text as well as to simplify and clarify existing requirements based on the early experiences of implementation. The scope of these changes covered five main areas: publicity and communication; financial engineering; eligibility issues; information requirements; and management and audit. Specifically they involved:

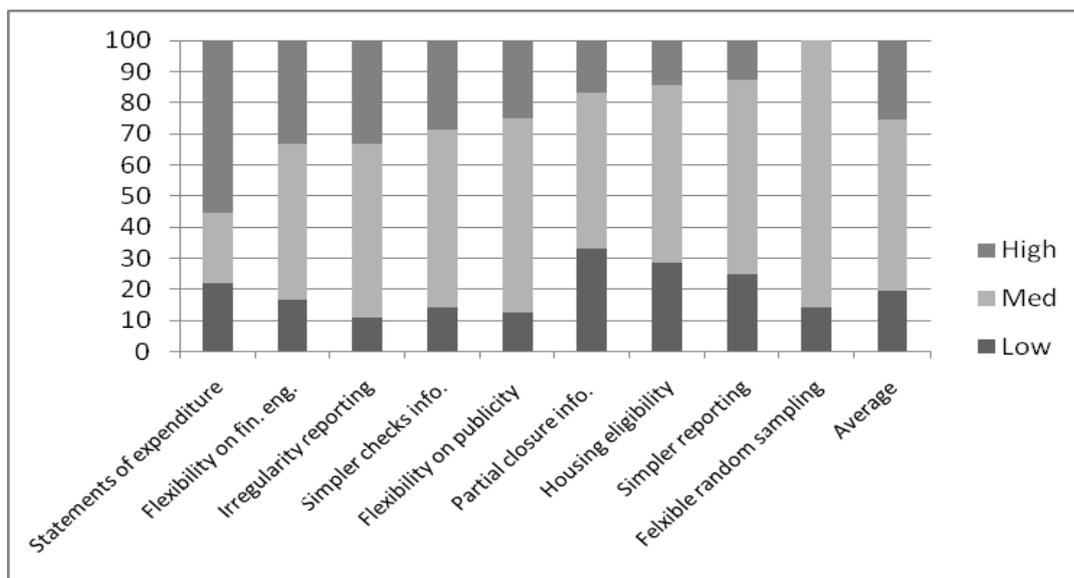
- more flexibility in information and publicity requirements and to operations and activities that have already been selected for co-financing from the date of entry into force of Regulation 1828/2006 (Art.8-9 and Annex 1);
- simplification and rendering the interaction between the financial engineering instruments and the managing authorities more flexible (e.g. on business plans, combining grants and financial engineering) (Art.43-46);
- adaptation of housing interventions eligibility adapted to the ERDF regulation but also more flexible (Art.47);
- simplification of information requirements on statements of expenditure (e.g. no reporting of annual breakdown of the total certified eligible expenditure) (Annex X);
- simplification of information requirements on partial closure (Annex XIV);

⁷ Reg. 846/2009, Implementing Regulation 1828/2006 amendments, 1 Sept 2009.

- annual and final reporting simplification (e.g. no need for private expenditure reporting) (Annex VVIII) as well as clarification/reduction of information content for major project applications (Annex XX-XXII);
- simplification of reporting procedures on irregularities and irrecoverable amounts by determining precisely which information the Commission requires (Art.28, 30);
- simplification and alignment of the information in the list of data on operations for the purpose of documentary and on-the-spot checks (Annex III);
- more flexibility for random statistical sampling in case of operations covering small size population (Annex IV).

This broad and technical series of amendments to the Implementing Regulations have not been subject to a qualitative assessment on the basis of fieldwork research with managing authorities. Nevertheless, the online survey evidence (see Figure 4) does indicate that the measures are being implemented and that they have been received favourably given the high number of medium/high value ratings.

Figure 4: Assessment of legislative amendments to the Implementing Regulation (% rating of value by managing authorities)



Source: EPRC online survey of IQ-Net managing authorities, May 2010.

The measures on information requirements and statements of expenditure were particularly highly valued. The measures regarded as being of less value concern the partial closure information requirements and random statistical sampling, which have received 'low value' ratings, although even in these two cases the respondents only accounted for c.30 percent of respondents.

3.5. Proposed amendments to the General Regulation

A second set of amendments to the General Regulation, including further elements of simplification, were proposed in July 2009 and approved on 24 June 2010 (European Council 2010). As with the previous regulatory modifications, the changes have been justified by the need to accelerate further financial implementation in the context of the

ongoing effects of the economic crisis and to simplify the administration of the Funds. Two groups of modifications are proposed covering financial management rules with a view to accelerating the implementation of the ESF; and a series of modifications to facilitate, simplify and clarify the General Regulation's rules. They involve:

- the possibility for ESF priorities to receive 100 percent finance from EU funds in 2009-10 (Art.77);
- the introduction of a single threshold of €50 million for major projects and allowing a single major project to be funded by more than one programme (Art.39-41);
- the possibility to set up dedicated financial engineering instruments in support of energy efficiency and the use of renewable energy (Art.44);
- clarification of the type of document required and the minimum information to be presented in the context of an OP revision to avoid the necessity of some evaluations (Art.48);
- simplification of the monitoring of revenue-generating projects and alignment with the overall life-cycle of programmes (Art. 55);
- simplification of revisions to OPs by clarifying that it is only where a new category of expenditure is added at the moment of OP revision that a new eligibility date applies to this new category (Art.56.3);
- the obligation to maintain investments over a five-year period will not apply to bankruptcies, and limits introduced for the ESF so that the rule only applies to operations that fall under the State aid rules with an obligation to maintain investment (Art.57);
- clarification and simplification of the information required for annual financial implementation reporting by aligning the financial information required in the annual report with information to be provided in payment requests, and to make the financial information comparable to the information on the physical progress of the programme (Art.67);
- clarification that, in the context of advance payments on State aids, admissible guarantees include guarantees by banks or other financial institutions, but also a facility provided for this purpose by public institutions and the Member States themselves (Art.78.2a);
- simplification of the requirements for financial engineering instruments by allowing management fees in addition to management costs to be eligible expenditure (Art.78.6d);
- allowing Member States to re-use the amounts for irregularities they detected and corrected themselves on operations that were included in partial closure (Art.88);
- extension of the deadline for the calculation of the automatic decommitment for 2007 for certain OPs, and treat grants to major projects as having been paid out as soon as the Member State submits the project to the Commission (Art.94) if the application meets the requirements set out in Article 40.

Many of the programme authorities interviewed had not fully considered the implications and were only able to provide partial judgements on some of the measures. According to the online survey, most of the proposals are considered to be useful. The most highly valued measures in this second package of amendments concern the re-use of detected irregularities and revenue-generating projects. Other measures with significant 'high value'

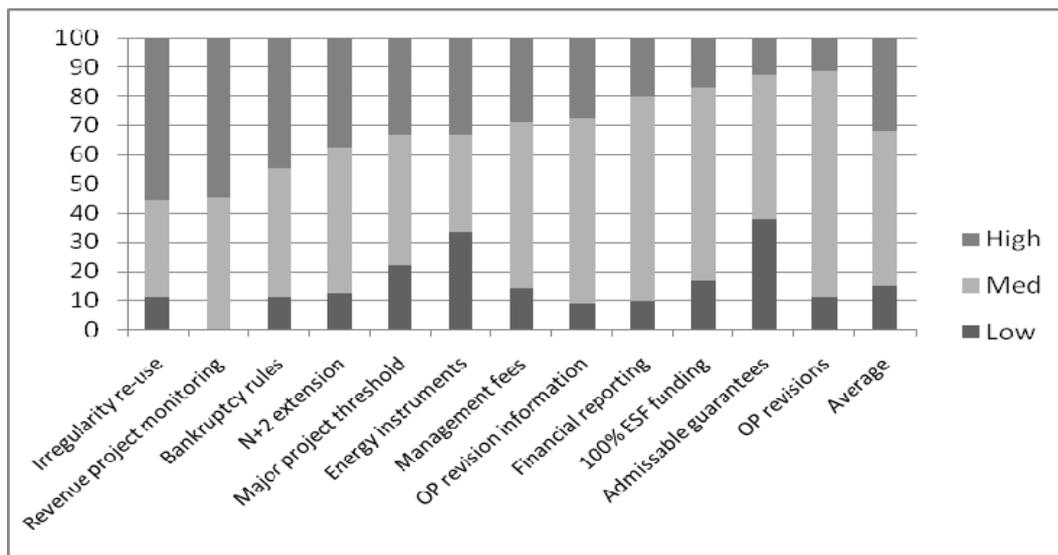
ratings are: maintaining investments over a five-year period; an extended n+2 deadline for 2007; and a single threshold for major projects.

Some additional insights are available from fieldwork interviews with managing authorities. This indicates that the **major projects** provisions were well-regarded, particularly where a significant number of environmental projects are considered to be affected by the increase in the threshold (e.g. parts of DE) and where there are many national projects being co-funded that straddle more than one region (e.g. GR). Similarly, increased flexibility with regard to the **decommitment rule** for major projects was widely supported (CZ, FR, ES, GR, UK), although more general flexibility on n+2 would have been welcomed (FR, SI, UK).

The stringency and complexity of the rules on **revenue-generating projects** have been subject to much criticism. It is unsurprising, therefore, that more flexible monitoring requirements are regarded positively by many managing authorities (AT, CZ, DE, FR, FR, SI, UK). However, the precise effects are unclear and still being assessed (Kah, 2009).

The provisions for derogation of bankrupt firms from the **obligation to maintain investments over a five-year period** were welcomed by several programme authorities (DE, FI, GR, SI). A reduction in the more general time-period obligation for maintaining investments would again have been preferred (e.g. in CZ).

Figure 5: Assessment of proposed amendments to the General Regulation (% rating of value by managing authorities)



Source: EPRC online survey of IQ-Net managing authorities, May 2010.

The possibility to set-up dedicated financial **engineering instruments in support of energy efficiency and renewable energy actions** was being considered by several managing authorities, although in many programmes the preferred form of assistance is direct aid.

Lastly, the amended procedures for **revising OPs** are appreciated by several managing authorities (CZ, FR, GR, PT, SI, UK), even though modifications have not yet been made. However, one managing authority also argued that part of the proposal would lead to unnecessary constraints, because it would imply that expenditure made outside the originally agreed earmarking codes would be ineligible following a programme modification (even if it falls into another Lisbon category).

4. PROPOSALS FOR FUTURE SIMPLIFICATION

Looking beyond the recent simplification measures, all of the contributions to the debate on the future of Cohesion policy after 2013 highlight the need for a 'simpler, more efficient policy' (European Commission, 2008d; Barca, 2009; Hübner, 2009, Samecki, 2009; Presidencia Española, 2010). The main focus of attention is on how the current, administratively complex management and control system can be simplified while maintaining assurance on the regularity of spending - a challenge regarded as "a critical component of a more effective governance of the policy" (Barca, 2009, 184). Separate discussions of reforms to financial management are being conducted as part of the triennial review of the Financial Regulation, by the High-Level Group reflecting on future Cohesion policy as well as within the Commission services. The agenda for reform encompasses a range of possible changes, including: the use of a different management and control system; differentiation of procedures; a higher tolerable risk of error; the harmonisation of eligibility rules; and adjustments to the decommitment rules.

4.1. Different management and control system

A radical change would be to change the current Cohesion policy management and control structure from a three-level system (comprising a managing authority, certifying authority, audit authority), to a two-layer control system, with an accredited, single payment and control authority for each programme and an audit authority (DG Regio, 2010). Certification of expenditure would take place annually, rather than several times a year, and the clearance and closure of accounts would happen annually on a rolling basis. Based on the model operated by DG AGRI, this proposal has recently been discussed by the High-Level Group; initial reactions indicate that it would have significant practical implications for Member States.

4.2. Differentiation of procedures

The two papers by the regional policy Commissioners in 2009 suggested the possibility of greater proportionality or differentiation of procedures in relation to underlying risk (Hübner, 2009; Samecki, 2009). Arguments have been put forward that the differences between Member States in financial allocation, institutional arrangements and administrative capacities should be reflected in more differentiated management and control arrangements (see also Bachtler, 2009; Bachtler *et al*, 2009). More recent work within the Commission has begun to explore whether, for example, compliance assessment requirements might be differentiated by factors such as scale of EU funding, the experience of implementing bodies, and their track record with respect to assurance, audit reports or error rates. While the introduction of proportionality of procedures for different types of intervention would be widely welcomed, differentiation between programmes could be controversial in Member States which are resistant to moves away from uniformly applied rules (Bachtler and Mendez, 2010).

4.3. Higher tolerable risk of error

It has been acknowledged by the European Court of Auditors that “any control system is a trade-off between the cost of operating the defined intensity of checks on the one hand, and the benefit these procedures bring on the other” and that the appropriate risk of error might vary between policy areas (ECA, 2004). Based on cost-benefit analysis, the draft Financial Regulation contains a proposal to decide on a level of tolerable risk of error by policy area, which could mean fixing a higher tolerable risk level than the current two percent threshold (European Commission, 2010). For Cohesion policy, one important step being considered by DG Regio is that errors attributable to problems with compliance with State aid, public procurement and environmental legislation could be separated out from the errors directly associated with the management and implementation of the Structural and Cohesion Funds.

4.4. Harmonisation of eligibility rules

Particularly problematic for managing authorities and implementing bodies are the differences in eligibility rules between the Funds (such as the lists of ineligible expenditure), differences which widen further when comparing Cohesion policy with other policies such as rural development or research policy (Samecki, 2009). This has the danger of inconsistent interpretation of different rules, it inhibits cross-financing between the Funds and collaborative projects involving different EU policies, and it sometimes leads to competition between Cohesion policy and other policies which are seen as ‘easier to administer’ (Bachtler and Mendez, 2010). One option being considered by the Commission is to have a single set of eligibility rules for all of the Funds, and possibly even for all EU policy areas. This would be widely welcomed, in principle, by managing authorities although the practical difficulties may be formidable, not just at EU level but also at domestic policy level within the Member States (*Ibid*).

4.5. Adjustments to the decommitment rules

There is evidence from both the current and previous programme periods that the application of the decommitment rule (n+2) has contributed to greater financial discipline. However, the rule has also diverted attention from project quality and the achievement of strategic objectives, and it has discouraged innovation and risk-taking (Bachtler *et al*, 2009). Different proposals for change have been put forward, for example applying the decommitment rule at national level, tailoring the rule to the type of investment or the level of development, extending the rule to n+3, or enabling derogations in unexpected circumstances (Barca, 2009; Samecki, 2009; Bachtler and Mendez, 2010; Presidencia Española, 2010).

4.6. Wider issues

Beyond the issue of financial management and control, there are other aspects of the reform debate that have implications for the administrative efficiency of Cohesion policy. They include proposals for increased coherence in the delivery of strategic priorities, for example through the creation of a single strategic framework and better alignment of

funding instruments, and changes to monitoring and evaluation requirements as part of the effort to increase the (visible) performance of the policy.

In taking forward the simplification exercise in Cohesion policy, it is important to set the issue of administrative costs in context. While there is clearly considerable scope and demand for simplification – especially in the financial management and control system, the eligibility rules and the application of n+2 – there will be an on-going need to ensure that such a large proportion of the EU budget is being effectively and properly spent. The system of shared management, often regarded as strength of the policy, also carries with it significant costs of accountability. It is worth noting that recent research has suggested that the administrative costs of Cohesion policy may not be excessive compared to other policy fields and that, in some cases, high administrative costs are attributable to national 'gold plating' – whereby national interpretation of EU regulations goes beyond what is necessary (SWECO, 2010).

Finally, in all areas of simplification, there is an underlying tension between the pressure to simplify the policy and the inertia of the current system, which is resistant to change. The present system has been variously termed complex, bureaucratic and inefficient, but there has been considerable investment in making the system work. Member States are acutely aware of the costs and other implications of changing administrative structures and procedures – not least the need to familiarise hundreds or thousands of implementing bodies and beneficiary organisations with any amendments to the rules. The variability in the take-up of the recent simplification measures can be partly explained by the desire to avoid such disruption. These concerns are particularly prevalent in Member States where the scale of Structural Funds support is relatively small, and where the administration of Cohesion policy is subordinated to (or subsumed within) more dominant economic development agencies and programmes.

There is also awareness of the potential for unintended consequences and counterproductive effects on the whole system from simplification efforts. In previous periods, for instance, simplified programme content requirements have been conditional on more onerous monitoring, reporting and control. Some of the recent measures have also been criticised for generating implementation risks from the additional responsibilities taken on by managing authorities (e.g. major project reimbursements without Commission approval) or for undermining the long-term goals of the policy in response to short-term imperatives (e.g. greater flexibility in modifying programmes or extending eligibility to housing).

Nevertheless, the above assessment also reveals that many of the simplification measures have been received positively and are perceived to have been effective in lightening the burden associated with programme administration, especially those concerning: simplified eligibility rules; the broader use of flat rates and lump sum costs for certain overheads; the extension of flat-rate financing to direct costs under the ESF; simplified information requirements on statements of expenditure; and simplified monitoring of revenue-generating projects.

Future simplification measures, especially those involving radical alterations to structures or systems, will need to consider carefully the trade-offs between the costs and benefits of change. Proposals for simplification must also be grounded on a thorough ex-post assessment of the current measures, whose full effects may only be known towards the end of the current programme period, particularly in relation to the recently approved modifications to the General Regulation which have yet to be implemented on the ground.

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