



Federal Ministry for the
Environment, Nature Conservation
and Nuclear Safety

WORKSHOP ON
“THE ENVIRONMENTAL DIMENSION OF IMPACT ASSESSMENT”

Berlin, 17-18 June 2004

SUMMARY OF THE CHAIRS

Background

1. The German Ministry for the Environment, Nature Conservation and Nuclear Safety and the Environmental Policy Research Centre, Freie Universität Berlin hosted a workshop on June 17-18, 2004 to discuss the implications of the recent efforts in the European Union to introduce Impact Assessments for major policies. The workshop was attended by representatives of European governments, the European Commission and representatives of civil society and the scientific community. The participants generally expressed their concerns and raised some questions regarding a sufficient consideration of the environmental dimension in Impact Assessment. Some proposals were made regarding procedural aspects and substantial requirements to safeguard a balanced approach.
2. The workshop was co-chaired by Mr. David Wilkinson (Senior Fellow, Institute for European Environmental Policy) and Ms. Cornelia Quennet-Thielen (Deputy Director General, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, Germany).
3. This summary has been prepared under the responsibility of the workshop's co-chairs and is not intended as a consensus document. Without attempting to itemize all of the important contributions made, the summary provides an overview of the main issues raised and suggestions made by participants to address the environmental dimension of impact assessments.

Main findings and points of discussion

4. The European Council of Gothenburg in June 2001 called for all major legislative proposals put forward by the Commission to include a Sustainability Impact Assessment covering their potential economic, social and environmental consequences. At the same time, the Lisbon strategy and the White Paper on Governance stressed the need for simplification and rationalisation of the regulatory process (Better Regulation). In June 2002, the Commission established an internal system of Impact Assessment (IA) that merges all existing Impact Assessment procedures. Of 43 legislative proposals formally selected for an Extended Impact Assessment in 2003, the pilot year, 21 proposals had been finalised by April 2004.
5. Impact Assessment is a means for the ex-ante evaluation of the expected impacts of policies. It can be understood as a means to enhance the information basis of decision-making and it holds the potential to design the policy process more efficiently. It is in principle an

instrument for strengthening the integration of environmental concerns in accordance with Art. 6 Treaty of the European Community, alongside the analysis of the economic and social impacts of policy options. Impact Assessment can supplement (not displace) other instruments for environmental policy integration such as sectoral strategies, the sustainability strategy, green budgeting, Strategic Environmental Impact Assessments, etc. To fully exploit this potential the capacity and the willingness to cooperate on problem solving among the responsible DGs is required, as well as a willingness to change policies accordingly. Otherwise IA will remain a tool for the ex-post justification of policies that have already been decided upon.

Main challenges

6. The approach of Impact Assessment is ambitious and the first year has been a year of "learning by doing". However, with a first evaluation study performed by IEEP on behalf of the DEFRA¹, the UK has shown that the overall quality of the Extended Impact Assessments so far is uneven, sometimes even poor, partly due to missing mechanisms for quality control and insufficient technical guidance. Little explicit attention has been paid to the environmental dimension so far: 8 of 21 assessments did not address the environmental dimension at all and only 5 discussed it in greater detail. This can be explained by methodological difficulties, by problems of quantification, but also by a shortage of resources and lack of political support. Although some participants stated that some of the legislative proposals had little if any environmental implications at all, there was consensus that the first major challenge is to improve the overall quality of the process.

7. The second major challenge is to safeguard the balanced approach. There are concerns that the environmental dimension is not sufficiently covered and that at present short-term economic and competitiveness considerations are overemphasized. IA then might be misused to delay or dilute important environmental regulation. A balanced approach that avoids a sidelining of the environmental dimension is needed to keep IA an accepted and credible instrument.

8. A clear political commitment is therefore necessary for a successful implementation of integrated IA in European policy-making. Any bias towards one-sided Assessments is not in line with the provision by the European Council. Environment Ministers should discuss

¹ Sustainable Development in the European Commission's Integrated Impact Assessments for 2003. Final Report by David Wilkinson et al. London, April 2004.
Downloadable: http://www.ieep.org.uk/PDFfiles/PUBLICATIONS/IEEP_ExIA_report.pdf

options to support the Commission's balanced approach and to become involved in the examination of IA on policy proposals from other sectors that may have an important impact on the environment. Thought should be given to some procedural and substantive requirements for IA that keep the approach balanced and pragmatic regarding methodological and data needs, including the involvement of the Environment Council in the examination of the IA of policy proposals from other sectors that may have an important impact on the environment.

Procedural requirements regarding the environmental dimension

9. Conducting an Impact Assessment encompasses several steps: (1) the selection of proposals to be subject to IA, (2) the overall objective to be achieved by the policy and the impact areas that should be analysed, (3) a description of the baseline scenario, (4) identification of policy options to be assessed, (5) the actual assessment of options, (6) the determination of indicators to monitor the actual impacts in an ex-post analysis, (7) the participation of stakeholders on the results of the IA and (8) the review of the quality of Impact Assessments.

10. Procedural rules are needed to ensure the appropriate representation of environmental concerns in Impact Assessments. Arrangements are needed that are both effective and efficient and that keep the instrument practicable. One procedural option would be that DG Environment is involved at every step to safeguard the adequate consideration of the environmental dimension. However, this would require considerable administrative capacities. An alternative option would be that DG Environment is involved at least a) at the very beginning, in the selection of proposals and b) at the end of the process during the review of the quality of IA. If a poor consideration of the environment can be effectively sanctioned in an ex-post quality review, the responsible DG will have sufficient incentives for an integration of environmental concerns at the previous steps.

11. Impact Assessments are conducted by the responsible DGs. In this way, the relevant knowledge is available in the process of IA and the results of IAs can be considered at an early stage in the decision-making process. Consideration should be given to whether a central institution should be identified that provides a strong role for coordinating, monitoring and supporting the process. The Secretariat-General seems to be the most appropriate institution, which should hence be given sufficient capacity. So far, Member States are hardly involved in the assessment procedure although there is a growing demand for involvement.

Options for making timely use of knowledge and expertise available at the national level need to be discussed.

12. Another open issue is the appropriate point of time in the overall decision-making process to conduct an IA. In general, IAs should be considered in new legislative proposals and reviews of relevant existing legislation. In some cases it may be necessary to already conduct an IA at the stages of the formulation of White Papers or to review the IA in case of major revisions of a legislative proposal. This might help to prevent the Impact Assessment being undertaken either too early or too late.

13. **Selection of proposals:** All proposals should undergo a screening procedure to assess the significance of expected impacts and to select the proposals that should be subject to an extended IA. This screening process for Extended Impact Assessment has to follow clear and transparent criteria.

➤ *The Commission should further develop such selection criteria. But additional reflection is needed to clarify how the other European institutions (such as the Council/Member States or the European Parliament) could be involved without impinging on the Commission's right of initiative. Nothing prevents the Council and Parliament from requesting a more thorough IA.*

14. **Conducting the IA:** In order to secure a comprehensive consideration of environmental concerns, the DGs that are responsible for conducting IAs may need help and advice regarding indicators, methodology and data concerning the environmental dimension.

➤ *For this purpose it could be helpful to establish within the Commission a 'help desk' that could provide support in identifying further environmental impact areas to be considered, indicators, data and methodologies for the environmental dimension of IA. For additional requirements for data, funding would need to be available. The EEA could also play a role in this regard.*

➤ *Another important element could be to further develop and disseminate training and guidelines to support the officers that are responsible for conducting the assessment.*

➤ *It would also be valuable if the Commission gathered a team of researchers familiar with the guidelines that offer their expertise on Impact Assessments to the units in need of support regarding methodologies, indicators and data.*

15. **Information flows:** Consideration should be given to what kind of information on IA should be made available at what point in time to Council/Member States and the EU Parliament. Environment Ministries and Agencies should engage in establishing a prospective information management which pools available information and commissions studies in support of the collection of data required for IAs on the European level.

16. **Stakeholder participation:** A wide range of knowledge should be used to ensure the quality of assessment. The Commission's guidelines for stakeholder participation already provide for this and should be fully implemented.

➤ *The extent to which environmental NGOs depend on additional financial resources to enable their effective participation should be clarified.*

17. **Quality review of Impact Assessment:** The quality assessment of IA should be a regular part of IA procedure. This concerns both the degree of compliance with required procedural standards and whether all relevant environmental impact areas and indicators have been carefully checked and reported. Responsibilities should be clearly stated. The units should be sufficiently staffed.

➤ *The review of compliance with procedural norms and initial quality control could be performed by the Secretariat-General of the Commission, including the possibility to revise assessments in case of serious quality problems or an unbalanced assessment.*

➤ *A more substantive review could be performed by an external control unit that would need to be identified and that could be attached to, for example, the European Court of Auditors. The quality control regarding environmental impacts could involve relevant organisations such as the European Environmental Agency or a network of science-based environmental centres. A scientific peer review might be helpful if methodological questions remain deeply disputed.*

Substantive requirements with regard to the environmental dimension

18. Many assessments that have been conducted so far focus primarily on the direct impacts and the desired objectives of draft legislation. However, unintended side effects may be more relevant with regard to environmentally detrimental effects. Furthermore, there is a risk of underestimating possible benefits and overestimating costs, which might draw a biased picture of the economic consequences.

19. Assessments need a certain degree of uniformity to ensure that all relevant impacts are being checked, as well as the flexibility to cope with different types of policy instruments and policy areas. The assessment should start by checking the individual proposal against an established list of possible impacts.

➤ *As a minimum, all assessments should consider impacts regarding the four priority areas of the EU Strategy for Sustainable Development addressing the environmental dimension: Limiting climate change and increasing the use of clean energy, addressing threats to public health, managing natural resources more responsibly (i.e. safeguarding the life-supporting function of water, air, soil and ecosystems), and improving the transport system and land-use management. The assessment should also cover impacts on the environment outside the EU.*

➤ *Refinement and further harmonisation of the existing set of (environmental/sustainable development) indicators at the European and Member State level are needed. Such a common set of indicators would help in assessing the expected broad impacts of proposals on the various impact areas.*

➤ *All assessments should not only address the short-term but also the long-term impacts and take full account, where appropriate, of risks of irreversible damage and the needs of further minimisation or prevention of such damage. They should also take full account of the innovation impact of the proposals, notably with a view to unleashing the potential for (eco-efficient) innovations. Assessments should also indicate how far external effects are expected to be internalised and, if possible, should be explicit about which societal actors are contributing to the relevant environmental problems.*

20. Impact Assessments should not be restricted to quantification, since many environmental effects are difficult to quantify. The potential, requirements and limits of distinct methodologies and tools should be intensively discussed.

➤ *Assessments should combine quantitative and qualitative assessments to achieve a more balanced overall assessment of positive and negative impacts, risks and uncertainties, notably over the longer term. Cost-benefit analysis should be complemented where appropriate by other tools such as cost-effectiveness and multi-criteria analysis. The IA should clearly indicate what has not been considered.*

➤ *It was also proposed that R&D efforts should be strengthened to develop user-friendly tools and methodologies for Impact Assessment that allow a balanced consideration of the different impact areas.*