

(IMP)3
Final Conference, Vienna
Projects subject to EIA (11:15 – 12:30)

22-11-2005



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outline

“...In principle, EIA should lead to the abandonment of environmentally unacceptable actions and to the mitigation of the point of acceptability of the environmental effects of proposals which are approved.”

“...The EIA Directive, like so many others, is a very weak compromise. It is more the result of a cumulative resistance from the development promoters and bureaucracies in the member countries than a synthesis of the best ideas for the protection of the environment.”

Source: Wood C. (1995): *Environment Impact Assessment – A comparative review*. Longman, Scientific & Technical, Essex.

basis

The EIA Directive requires an EIA to be carried out for projects "*likely to have significant effects on the environment*" (Article 2):

- Projects listed in **Annex I** are subject to assessment
- Projects listed in **Annex II** are subject to assessment, when Member States consider their circumstances so require
- **Annex III** sets out selection criteria for the decision whether a project must be subject to an EIA

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starting point

Problematic issues identified in the 5-year-review of the Directive's Annexes implementation:

- Unsystematic "screening" of Annex II projects
- Wide variation between MS in the selection criteria for "screening"
- Questioning the system of fixed criteria/thresholds for Annex I projects
- Broad range of thresholds set
- Definitions of project types covered by the Directive
- Sufficiency of the listed project types

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objectives

Complying with the demand to enhance and support MSs' implementation in reaching a more balanced treatment of projects and assessment of their environmental relevance,

WP "*Projects subject to EIA*" focused on:

- Relationship of Annex I+II investigating different implementation methods
- Acquisition of information regarding Annex I thresholds and criteria and project type descriptions
- Investigation on how to provide a comprehensive system to safeguard the assessment of all project types with likely adverse effects on the environment

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some identified key problems

- Diverging levels of environmental protection due to the present disparities in screening procedures among MSs
- Ambiguous screening procedures (lack of transparency in screening decisions, lack of robust selection criteria)
- Interpretational problems with certain terms and project type descriptions
- Demand for adequate reference to the actual impacts on the environment in setting thresholds values
- Problems in dealing with cumulative effects

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some ideas for potential solutions

- Specification of selection criteria for screening and clearer advice for practical application
- General case-by-case analysis with robust selection criteria rather than setting fixed threshold values (corresponding to: “salami-slicing”, developers` tendency to stay just below value, etc.)
- Reducing overlaps in licensing procedures through enhanced co-ordination with other related Directives
- Providing more specific guidance
- Knowledge sharing for good practice
- SEA is expected to become a helpful tool to tackle some of the mentioned problems and unburden EIA

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policy options

Offer decision-support to enhance the Directive`s application in terms of proper assessment of projects likely to cause adverse impacts

Key characteristics:

- encompass the range of actions that the European Commission could take to improve the implementation of EIA with regard to project types subjected to EIA
- follow a line from “zero action/do nothing” option to a “radical change” option – possibly interrelated to a time factor
- Each option contains a combination of supportive and regulative measures as potential examples of actions
- Various combinations possible and useful

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overview policy options

Policy Option 0	<i>No change / do nothing</i>
Policy Option 1	<i>Guidance plus supportive measures</i>
Policy Option 2	<i>Minor amendment to the EIA directive plus supportive measures</i>
Policy Option 3	<i>Moderate amendment to the EIA directive plus supportive measures</i>
Policy Option 4	<i>Major amendment to the EIA directive plus supportive measures</i>
Policy Option 5	<i>Radical amendment to the EIA directive plus supportive measures</i>

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policy option zero

Policy option 0: "No change / do nothing"

- no change of the Annexes system
- Types of projects listed in Annex I+II to the Directive will remain untouched
- present criteria/thresholds and definitions used in the Directive persist

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policy option 1

Policy option 1: "Guidance plus supportive measures"

concentrates on "soft" measures to enhance the application of the Directive: e.g.

- Enhancement of existing guiding material
- Developing new guidance
- Awareness Raising
- Training
- Knowledge Sharing
- Targeted research

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policy option 2

Policy option 2: "Minor amendment to the EIA directive plus supportive measures"

- Annex I+II remain untouched
- Introduction of an extended set of project selection criteria in Annex III
- Guidance and supportive measures to changes to Annex III
- *Optional:* implementation of provisions for e.g. elaborating guidance notes and/or regulations in the Directive for further regulative measures

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policy option 3

Policy option 3: "Moderate amendment to the EIA directive plus supportive measures"

- Annex I remains untouched
- revision of the list of project types included in Annex II
- relevant changes to Annex III
- combined with supportive measures

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policy option 4

Policy option 4: "Major amendment to the EIA directive plus supportive measures"

Changes to lists of project types in Annex I & II including:

- review of project categories listed in Annex I+II
- revision of the present project type definitions and thresholds
- specification of the selection criteria to be applied (changes to Annex III)
- implementation of further supportive measures

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policy option 5

Policy option 5: “Radical amendment to the EIA directive plus supportive measures”

Existing Annexes will be replaced by one simplified list of projects with mandatory criteria/thresholds for each category:

- projects above these thresholds will require mandatory assessment (inclusion or mandatory thresholds and criteria)
- projects below the mandatory thresholds need a case-by-case examination (possibly combined with additional indicative or guidance thresholds)
- *Optional to introduce*: exclusion thresholds / criteria, where projects below these thresholds will not require EIA \geq
- combined with necessary supportive measures

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synopsis policy options

		Guidance		Supportive measures							Regulatory measures			
											Amendment to EIA Directive			
Policy option [European policy level]		Upgrade	New guidance	dissemination activities	Awareness-raising	training	knowledge-sharing	research	coordination of procedures	implementation support	Changes to Annex III	Changes to Annex II	Changes to Annex I-II	New Annex
0	No change / Do nothing													
1	Guidance plus supportive measures													
2	Minor amendment to the EIA directive plus supportive measures													
3	Moderate amendment to the EIA directive plus supportive measures													
4	Major amendment to the EIA directive plus supportive measures													
5	Radical amendment to the EIA directive plus supportive measures													

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question

How would the policy option influence EIA application in the short, medium and long term and how would you measure this development?

Possible issues to discuss:

Negotiation and implementation of changes, linkage EIA with other related Directives (SEA, IPPC, SEVESO, etc.), screening procedures, contribution to environmental protection, EIA decision-making, quality assurance, transboundary context, coverage of project types likely to have adverse effects on the environment, etc.