

Results of the consultation on the review of the EIA Directive

DG.ENV.A3

Presentation outline

■ Results of the public consultation

→ Questionnaire

→ Leuven

■ Tentative timetable

Public consultation

■ Early, wide and open public consultation

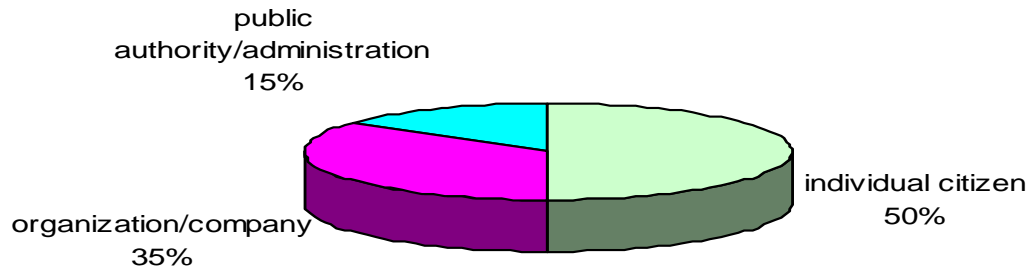
- On-line questionnaire available in ALL official EU languages.
- Duration of 3 months (28 June 2010 – 27 September 2010).

■ 1365 replies received

- 50% from individual citizens, 35% from organizations/companies and 15% from public administration.
- 49,5% replies from DE!!
- Contribution from IEMA (Institute of Environmental Management & Assessment), which is a survey incorporating a number of the Commission's questions (1800 replies).

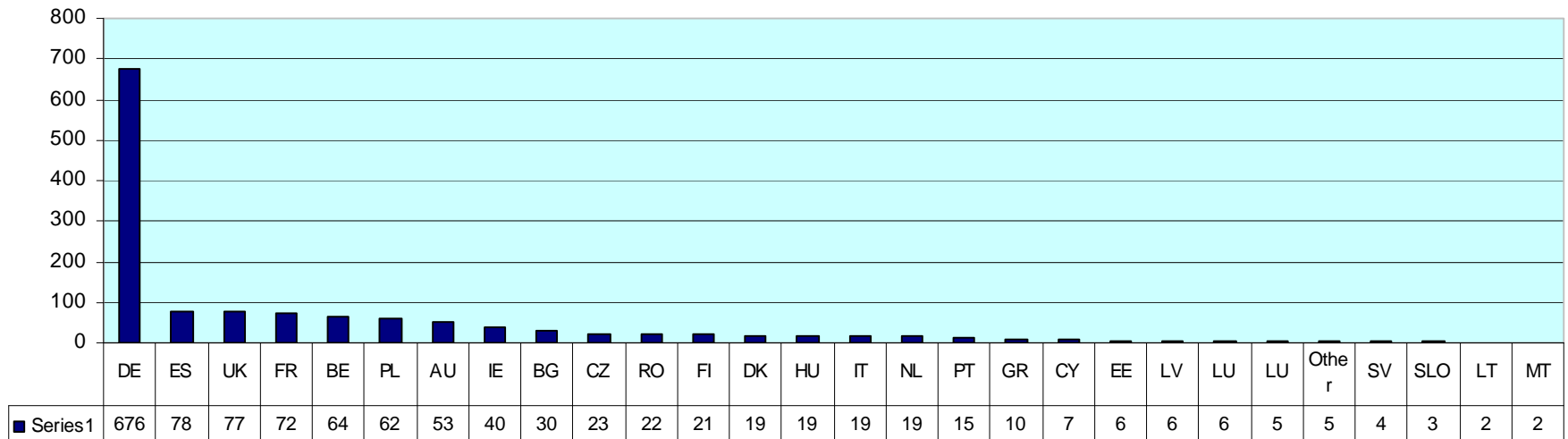
■ Targeted consultation of 200 stakeholders at **Leuven** Conference (18-19 November 2010).

Profile of the respondents



■ individual citizen
 ■ organization/company
 ■ public authority/administration

Profile of the respondents by MS



Results of the public consultation – Overview

■ Positive overview on the role of the EIA Directive

- The EIAD (always+often: 64%) contributes to an effective protection of the environment and the quality of life.
- The EIAD (always+often: 63%) is an efficient instrument to address environmental concerns in the design of projects.
- The EIAD (often: 41% - sometimes: 47%) contributes modifying significantly projects to take into account environmental concerns.
- The EIAD (sometimes: 64%) contributes to the support of the project by the civil society.

■ BUT 56% of respondents believe that measures should be taken to improve the EIA process.

■ Large majority (>60%) disagrees with radical changes of the scope and structure of the EIAD.

Results of the public consultation – Screening

- **The usefulness of the screening mechanism is confirmed.**
 - Screening is an effective tool to ensure that only projects likely to have significant environmental effects are subject to an EIA (75%).
 - The current screening methods ensure that only projects likely to have significant environmental effects are subject to an EIA (61%).
- **Need for clarifying and streamlining the screening mechanism**
 - Common minimum EU thresholds for Annex II projects (52%).
 - Maximum timeframe for the screening decision (69%).
 - Negative screening decisions to contain reasons (62%).
 - Consultation of environmental authorities before screening decisions (52%).
- **Rejection of more detailed list of screening criteria**
 - 47 disagree – 43% agree (accepted by non-DE and public authorities).

Results of the public consultation – Screening/Leuven

- **An effective screening saves time and resources**
- **Additional functions of screening:**
 - ➔ It prompts the applicant to possibly modify the project.
 - ➔ It reduces negative impacts at an early stage.
- **'Self-regulation': changes of projects are not forced upon the developer, but stimulated by dialogue**
- **Need for openness and transparency for the public at the screening stage.**
- **More guidelines on screening thresholds/criteria needed.**

Results of the public consultation – Quality (1)

■ Scoping

- At the request of the developer (42%) – mandatory (37%); non-DE and public authorities in favour of mandatory scoping;
- Leuven in favour of mandatory scoping for Annex I projects.
- Systematic consultation of environmental authorities (56%).

■ Assessment of alternatives

- Mandatory assessment of reasonable alternatives (55%).
- **Leuven**: zero option is usually (but not always) relevant.

■ Quality of the environmental information

- Introduce a quality control mechanism (53%).
- **Leuven**: Commission guidelines on the contents of reports (+INSPIRE/SEIS).
- No strengthening of the role of the environmental authorities (59%).

Results of the public consultation – Quality (2)

■ Validity of the environmental information / of the EIA decision

- Maximum timeframes for the validity of the environmental information (45% Yes – 50% No).
- Maximum timeframes for the validity of the EIA decision (47.8% Yes – 47.6% No).
- Non-DE and public authorities in favour of both amendments.

■ Monitoring

- The EIA Directive should include provisions on the monitoring of the significant environmental effects of the implementation of the projects (47% Yes – 49.4% No). Non-DE and public authorities in favour.
- **Leuven** in favour of monitoring but:
 - EIS should identify in what circumstances monitoring is appropriate.
 - Clarify to whom monitoring data is given.

Results of the public consultation – Public participation

- **Overview shows a positive role of public participation**
 - The possibilities given to the public to express its opinion are **always** sufficient (53%).
 - In practice, the opinions expressed by the public (sometimes 48% - often 40%) influence the final design of the project.
- **In favour of timeframes for the duration of the public consultation:**
 - EIA Directive should set maximum timeframes (51% Yes - 43% No).
 - EIA Directive should set minimum timeframes (49% Yes – 45.5% No).
- **Refused more involvement of the public:**
 - Consultation of the public prior to the screening decision (No: 70%).
 - Consultation of the public prior to the scoping decision (No: 67%).
 - **Leuven**: consider giving the public an opportunity to comment on possible alternatives at the scoping stage.

Results of the public consultation – Transboundary EIA

- The % of no opinion is the highest (around 17%). For public authorities, the % of no opinion reaches 30/33%.
- More clarity is needed:
 - 53% consider that the EIAD should further specify the consultation arrangements to be made in case of EIA procedures for projects with transboundary impacts (e.g. translation, timeframes...).
- Large-scale transboundary projects (i.e. more than one country)
 - 48% believe that the EIAD should establish a **specific** framework with regard to development consent procedures for such projects.
- **Leuven**: Bilateral arrangements/agreements are recommended to facilitate the transboundary EIAs.

Results of the public consultation – EIA and others

■ EIA and other policies/directives

- 52% consider that synergies should be improved.
- Mainly with: Habitats Directive (80%), Water FD (68.5%), SEA (64%), IPPC (54%), biodiversity (53%), energy and climate (50%).
- 40% in favour of a joint **assessment** procedure.
- 61% consider that the EIAD should foster better coordination of the **permitting** procedures required under sectoral environmental legislation.

■ Leuven conclusions

- Coordination of sectoral/thematic assessments in EIA where possible; integration should be encouraged.
- The specificity of the sectoral/thematic assessments (e.g. Article 6.3 of the HD) should be retained, where needed.

Results of the public consultation – Policy options

■ Public administrations

- In favour of technical adaptation (26%) or of an amendment with a one-stop-shop procedure (23%).
- Reject radical options, such as merging of EIA/SEA (+Leuven) or regulation.

■ Industry/Private sector

- In favour of stability (no change, but guidance: 55%).
- But: some stakeholders open to targeted amendments of the EIA Directive (e.g. French Association of Private Companies).

■ Environmental NGOs

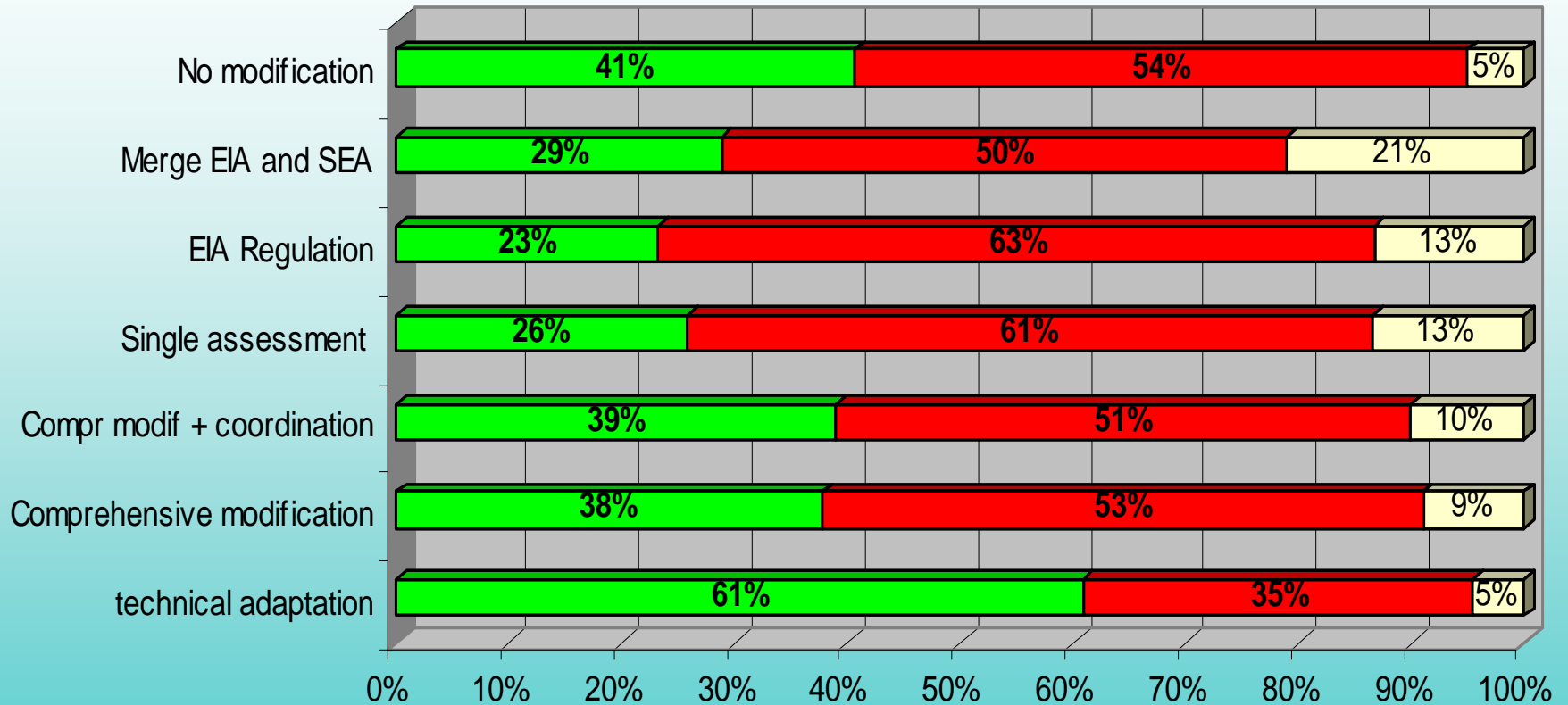
- In favour of modifications ensuring more effective environmental protection, i.e. amendment with (38%) or without one-stop-shop (25%).
- Clear message to avoid the dismantling of the EU acquis (joint position paper from EEB, Friends of Earth, Client Earth, Justice&Environment).

■ EIA practitioners (IEMA contribution)

- In favour of one-stop-shop (26%) or new assessment Directive (22%).

Options for the review of the EIA - Respondents' opinion on each option

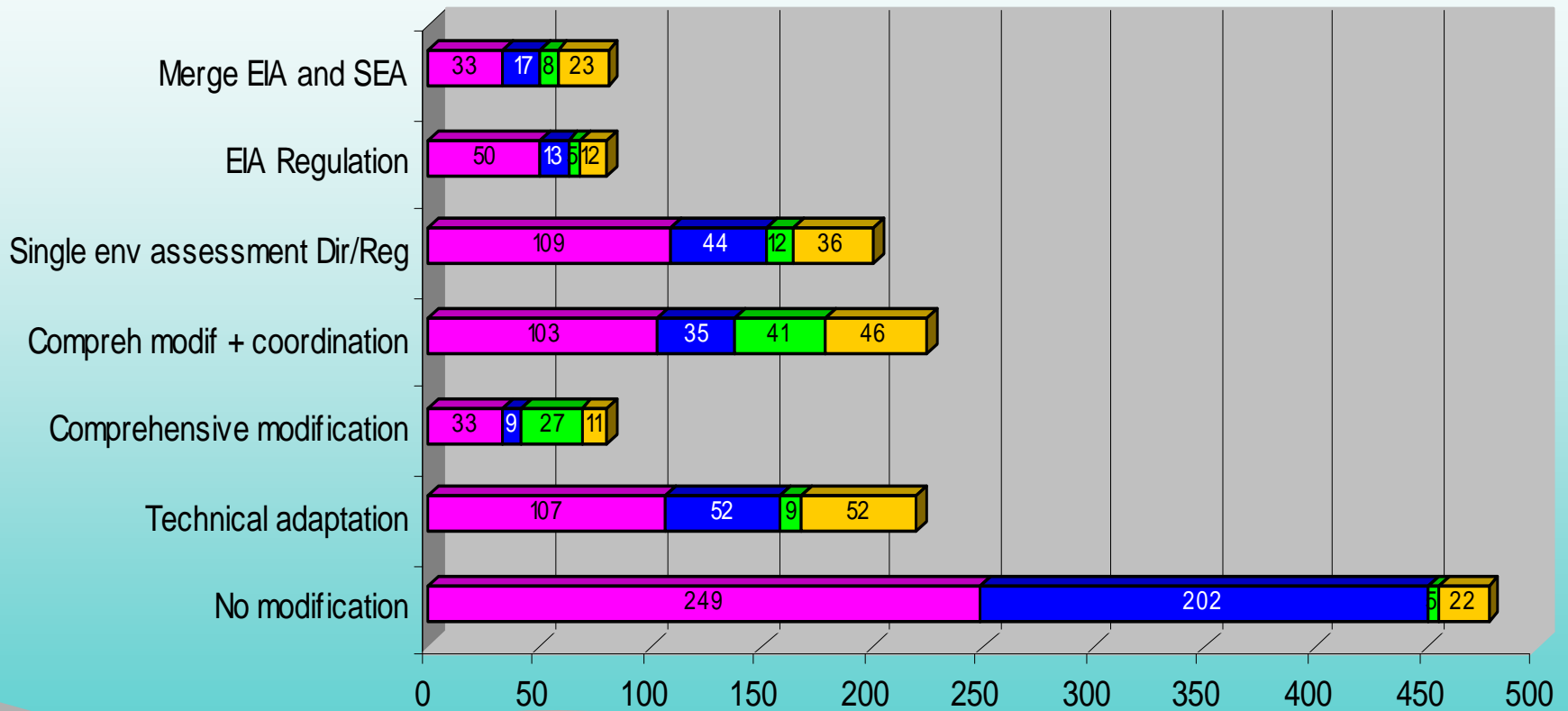
(1365 replies to each option)



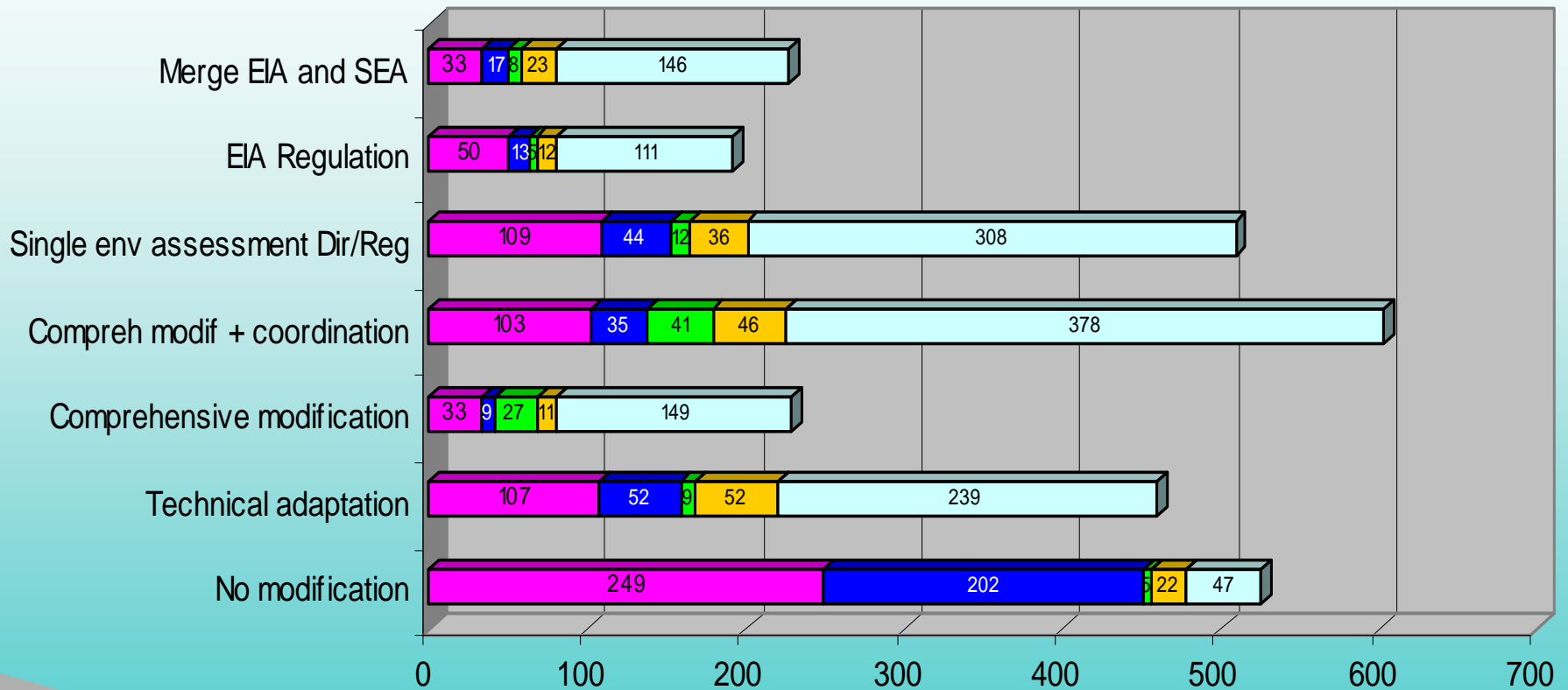
■ agree ■ disagree □ no opinion

Options for review - Respondents' preferred option

1365 replies



Options for review - Respondents' preferred option 1365 + 1378 (IEMA) replies



Review of the EIA Directive – Problem definition (1)

■ Screening procedure

- Not implemented in a harmonised way among MS – lack of certainty.
- Links of EIA with IPPC/IED (thresholds) and SEA (project categories).
- Projects with significant environmental impacts escape the EIA.

■ Quality of the EIA process

- Poor quality of the information used in the EIA documentation; EIAs do not properly inform the decision process for delivering consents.
- Project alternatives are not properly assessed.
- Cases where projects generate more significant impacts or mitigation measures not put in place.
- Assessment of climate change, biodiversity, risks, resources efficiency issues.
- The consideration of the consultation results and the EIA findings in granting development consent is not specific enough (in particular for projects likely to have negative environmental effects).

Review of the EIA Directive – Problem definition

■ Public participation.

- “Reasonable time-frames” for the different consultation phases to be provided; this provision seems to be implemented in different ways by the MS.
- Insufficient time-frames not ensuring effective participation or excessive duration generating additional costs for the developer.
- Need for co-ordination with other processes carried out in parallel and in the case of transboundary EIAs.

■ Need for better coordination between the EIA and some EU Directives (SEA, IPPC/IED, Habitats/Birds Directives, climate change, biodiversity...).

Review of the EIA Directive – Policy objectives

■ Improve the functioning of the EIA Directive:

- Increase the degree of harmonisation of national laws.
- Simplify existing EIA procedures (i.e. screening).
- Reinforce the quality components of the EIA process (e.g. content of the report, alternatives, review of EIA information, monitoring, validity EIA).
- Clarify legal and technical issues (i.e. ECJ case-law, quality of the EIA report).

■ Improve the synergies between the EIA Directive and other EU environmental legislation:

- Consistency with the international obligations (Espoo & Aarhus Conventions).
- Better coordination with sectoral assessments required by other Directives (SEA, Habitats and Birds Directives, IPPC, Water Framework...).

Wide range of policy options for the review

No change

A “do-nothing” option. Improving the implementation of the EIA Directive based on soft law (new or updated guidance documents, e.g. climate change, transboundary projects).

Technical adaptation

Introduction of a procedure (Art.290 TFEU) to amend and update the Annexes of the Directive (I+II on project categories; III on screening criteria; IV: info to be submitted).

Amendment

The existing structure would be retained, but amendments would be introduced both to the annexes and the main provisions of the Directive. The number of provisions affected would determine the broad/limited scope of the amendment.

One-stop-shop

Same as above, but with emphasis on the introduction of a procedure aiming to coordinate the existing assessment requirements resulting from EU Directives (EIA, SEA, Nature, IPPC, WFD). Basic “one-stop-shop”.

Environmental assessment act

Replace existing assessment requirements of EU Directives by a new Directive/Regulation on environmental assessments. Variant of one-stop-shop.

Merge

Merging EIA and SEA Directives. The 2 Directives have similar elements, but wide disparity between plans & programmes in SEA & infrastructure projects in EIA.



Realistic policy options

- **No change (baseline scenario)**
- **Technical adaptation**
 - some of the existing problems would be tackled (e.g. project categories).
 - the main ones (e.g. quality) would remain, as the main provisions would not be amended.
- **Amendment/one-stop-shop**
 - it will address all the existing problems.
 - several variants available, depending on the scope of the modifications.
 - recasting or amendment of the codified Directive.

Tentative timetable

June-Nov2010

Wide public consultation (on-line questionnaire on the web and Conference for the 25th anniversary).

2011

Impact Assessment
(process ongoing)

2012

Commission's proposal

2014

Adoption of a new Directive/Regulation

2016

Entry into force (and implementation through Article 290 – delegated acts)

Thank you for your attention

More information on EIA/SEA:

<http://ec.europa.eu/environment/eia/home.htm>