



AUSTRIA 1998

# **STRATEGIC ENVIRONMENTAL ASSESSMENT**

## **REPORT OF THE WORKSHOP SEMMERING, AUSTRIA**

**5 - 7 OCTOBER 1998**

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## 1. BACKGROUND

Strategic Environmental Assessment, or SEA for short, has developed world-wide into an instrument for taking ENVIRONMENTAL CONSIDERATIONS into account during the planning and decision-making process above the project level. In the recent past, the Austrian Federal Ministry of Environment, Youth and Family Affairs initiated different SEA activities in order to contribute to and strengthen the discussion concerning SEA in Austria and at the European level.

In general, the Austrian Federal Ministry of Environment, Youth and Family Affairs recognizes SEA as an important instrument for an INTEGRATIVE AND PRECAUTIONARY APPROACH in decision-making. SEA allows the identification for environmentally friendly solutions above the project level. That is why SEA can be seen as one important instrument for achieving sustainable development.

SEA was therefore an important topic during the elaboration of the AUSTRIAN NATIONAL ENVIRONMENTAL PLAN (NUP; 1995), which is a non-binding concept for moving towards sustainable development in Austria. The NUP foresees the implementation of SEA up to the year 2000.

At a European level SEA discussions started to intensify at the same time as the Austrian considerations, in 1995. European discussions resulted in the adoption of the PROPOSAL FOR A COUNCIL DIRECTIVE ON THE EFFECTS OF CERTAIN PLANS AND PROGRAMMES ON THE ENVIRONMENT, COM (96), 511 final (the so-called SEA Proposal) by the European Commission in December 1996. The SEA Proposal has the aim of setting up an environmental assessment system at plan and programme level and thus complements the existing EIA system at project level.

Since then an ORIENTATION DEBATE was held at Council level under the Dutch Presidency in February 1997. Most of the delegations agreed on the importance of integrating environmental considerations at all stages of decision-making. Some Member States expressed a positive attitude on the ability of the SEA Proposal to achieve this aim, others had doubts.

In May 1998 the UK Presidency organized an INTERNATIONAL SEMINAR ON SEA in Lincoln. The aim of this seminar was to contribute to the development of policy on the integration of environmental considerations into decision-making at all levels above that of individual projects.

The Austrian Presidency, following the UK Presidency, wanted to strengthen the ongoing discussions concerning the SEA Proposal. The Federal Ministry of Environment, Youth and Family Affairs therefore decided to organize a WORKSHOP ON STRATEGIC ENVIRONMENTAL ASSESSMENT as part of the programme of events during the Austrian Presidency of the European Union. The Workshop was held from 5 to 7 October 1998 at Semmering.

The aim of the workshop was to focus on the **STRENGTHS AND WEAKNESSES** of the Proposal and the major constraints for implementing the SEA Proposal, to demonstrate good practice and to concentrate on the current situation in the Member States concerning SEA developments in general and with regard to the SEA Proposal in particular.

The workshop was intended to serve as a platform for Member States to discuss openly the problems related to the SEA Proposal and to look for **SOLUTIONS**. The results of the workshop should help to facilitate future discussions concerning the SEA Proposal at Council level.

The workshop brought together SEA governmental experts of the EU Member States and Norway, representatives of the European Commission as well as other SEA experts. All together there were 51 participants from 13 Member States (except IT and LUX) and Norway present. The workshop programme is set out in Annex I and a list of participants is given in Annex II.

## 2. DESIGN OF THE WORKSHOP

The workshop was OPENED by Ms. Waltraud Petek, Austrian Federal Ministry of Environment, Youth and Family Affairs. Ms. Petek welcomed the participants and described shortly the aims of the workshop as mentioned before.

The REPRESENTATIVE of DG XI, Ms. Lieselotte Feldmann, gave a short introduction concerning the content of the SEA Proposal. The representative stressed the benefits of SEA, such as integrating environmental aspects into the planning and decision-making processes. Furthermore, the current situation concerning the SEA Proposal was lined out by giving an overview of main topics raised by the Economic and Social Committee, the Committee of the Regions and the European Parliament.

In a TOUR DE TABLE the experts of the EU Member States and Norway were asked to inform the workshop about the status quo concerning SEA in general in their respective country, on their views concerning the SEA Proposal and the main issue for the working groups.

Concerning practical experience Austria presented two SEA TRIAL RUNS which apply the principles of the SEA Proposal at two planning levels (municipal and regional) within the existing planning procedures. Sweden gave some interesting examples of SEA combined with social and economic analyses of municipal plans. The Netherlands presented the tiered EIA system in the waste management sector.

On the basis of the presentations concerning practical experience with SEA, the participants were able to discuss KEY ISSUES concerning the SEA Proposal in WORKING GROUPS which were led by well-known SEA experts. The participants were asked to actively contribute to the discussions. The objective of the working groups was to find ways to overcome the existing problems and to discuss SOLUTIONS. The key issues of the working groups were based on the results of the tour de table and the information given in the background papers elaborated by the participants.

The workshop finished with CONCLUSIONS based on the results of the working groups. The conclusions demonstrate the main key issues of the experts of the Member States and Norway concerning the SEA Proposal and possible solutions.

### **3. SUMMARY OF THE BACKGROUND PAPERS**

The experts of the Member States and Norway were asked before the workshop to submit background papers in advance. One reason was to prepare the workshop, especially the working groups, another one was to collect the latest information about the state of the art concerning SEA in general and the SEA Proposal. The short SUMMARY of the background papers is as follows:

#### **1. Is SEA applied in the Member States and if so, in which areas?**

SEA EXPERIENCE exists in most of the Member States, either due to legal requirements or on a non-binding basis (administrative orders, guidelines, case studies).

#### **2. Are there any legal requirements for SEA ?**

Some Member States already have some LEGAL REQUIREMENTS, like Denmark, Finland, France, the Netherlands, Sweden as well as some regions of Belgium and Spain. Others have introduced some form of SEA into their system on a non-binding basis, like the United Kingdom.

#### **3. Are there any SEA-guidelines?**

Some Member States have introduced some sort of GUIDELINES, e.g. Finland, Denmark, France, the Netherlands. Most of the guidelines are sector or case specific.

#### **4. What are the strengths and weaknesses of the SEA Proposal?**

The experts of the Member States recognized as one of the main ADVANTAGES of a SEA Directive that environmental aspects are taken into account during planning which increases the quality of plans and programmes. Some experts found another advantage of SEA in providing more information to the decision makers. According to some experts of the Member States a Directive would improve the environment since it lays down a standard requirement for assessing plans and programmes. Member States would be required to introduce SEA and be in a comparable position. Some experts recognized as an advantage that a SEA Directive would help to overcome limitations of EIA for projects. It widens the field of application from project to the strategic level.

Some experts recognized the MAIN WEAKNESS in the scope of the Proposal. In general, the experts found the definition of the scope unclear. Part of the experts criticized the scope as too narrow and suggested that the Proposal should cover all plans, programmes, policies and EU Proposals. These experts considered the scope too much related to land use plans and programmes. The definition of the scope would not allow to apply SEA to other types of plans and programmes which could have important

environmental effects. Other experts found the scope too wide in relation to the local level as the scope of the SEA Proposal covers all plans and programmes fulfilling its requirements at the local level. It was argued that even though the Proposal contains screening provisions for plans and programmes at the local level, every plan and programme has to be assessed whether it has significant negative environmental effects. Some experts considered this as not practical and demanding too many financial and human resources.

Concerning the procedure foreseen by the Proposal a few experts found it not flexible enough and feared additional procedural steps to complex planning process. Further weaknesses like public participation or the missing link between the project EIA and SEA were mentioned in the papers.

**5. Which are the biggest constraints for implementing SEA, especially with regard to the SEA Proposal and why (e.g. scope of the SEA Proposal, the SEA steps foreseen by the SEA Proposal, public participation, system/policy problems, subsidiarity, ...)?**

CONSTRAINTS were recognized in the missing acceptance by the national authorities. Some experts named that the planning authorities fear additional procedural steps on a mandatory basis. SEA requires more financial and human resources which are not always available, especially at the local level. The lack of experience and methodological problems were also seen as major constraints. SEA methodology still has to be developed in some Member States. Part of the experts found that the SEA methodology would probably not fit into a formal assessment procedure.

**6. Have any pilot projects been carried out, and if so, in which sector ?**

SEA PILOT PROJECTS have been carried out in most of the Member States. Most trial runs have been carried out in the sector land use planning, traffic, water and waste management.

**7. Which are the advantages of SEA?**

All experts saw ADVANTAGES in the instrument SEA. The main advantage was seen in the integration of environmental aspects into planning. Experts recognized a further advantage in looking at and assessing alternative solutions at a stage of planning where a broad scope of action still exists. Therefore, environmentally friendly options can be chosen, which contribute to the implementation of sustainable development. Another advantage was seen in the documentation. The environmental impact statement (EIS) describes the environmental impacts of the proposed plan or programme. Some experts recognized the EIS as a necessary step to make the planning procedure transparent and comprehensible, especially for the public. Furthermore, SEA was seen as an instrument for gaining more information for the decision-making.

## 4. SUMMARY OF THE PRESENTATIONS

### SEA TRIAL RUNS IN AUSTRIA

**Ralf Aschemann, Science Shop;  
Gunther Kolouch, Institute for Land Use Planning  
and Housing of Salzburg, Austria**

In Austria spatial planning is mostly a competence of the provinces. There are two general levels within the Austrian spatial planning system: The one above the local level (provincial planning, regional planning) and the local level (municipal planning) itself.

One of the presented pilot projects deals with the revision of the LAND USE PLAN of Weiz, which is a municipality in the province of Styria, the other one is a REGIONAL PROGRAMME for the region Tennengau in the province of Salzburg. Both pilot projects started in the beginning of 1998. Weiz will end at the beginning of 1999 and Tennengau by the end of the year 1999. In both cases SEA will not prolong the planning procedure.

The general approach of the two trial runs is to INTEGRATE the steps of the SEA Proposal in the planning procedures according to the Planning Acts of Styria and Salzburg. First results show that the additional steps due to the Proposal can be easily integrated in the planning procedures. The SEA incorporation into the land use planning procedures request only a few additional steps compared to the procedure without SEA:

- For the scoping consultations are necessary.
- An environmental statement has to be written.
- Compiling the information, on how the environmental statement and the consultation process have influenced the decision-making.

SCOPING is of considerable importance as it sets the framework for the whole SEA process. The scoping according to the SEA Proposal has enlarged the framework for investigation in comparison with the usual structural analyses. The scoping gained more importance through the consultation with the environmental authority.

The elaboration of the planning ALTERNATIVES and their ASSESSMENT seems to be the largest part of the additional work. In both cases the effects of the environment are assessed by means of a matrix, which compares the various measures. In the Weiz case social and economic effects were assessed additionally.

The trial runs show that a well-working COMMUNICATION structure between the planner, the planning authority, the environmental authority and the public is one of the key issues for a successful and effective SEA. A good communication structure between all actors concerned helps to reach a high degree of transparency and to avoid misunderstandings. Furthermore, it raises the acceptance of the outcome of the SEA and supports the understanding for environmental aspects.

# EA IN DUTCH WASTE MANAGEMENT: FROM POLICY TO PROJECT

**Rob Verheem, Dutch Commission for EIA, the Netherlands**

In the Netherlands planning decisions are taken and assessment of environmental consequences takes place at SEVERAL LEVELS of waste management. The planning process covers the national, regional and local level. Integrated in this planning process is a tiered system of receptively the E-test, national SEA, provincial SEA and EIA. Unnecessary work and repeating discussions are avoided because each of these assessments focus on DIFFERENT ISSUES. The level of detail can be matched to the issues to be solved. The tiered system is a good instrument to focus on the key issues relevant for each level.

The key issues can be addressed with the following three questions: What to do, where to do it and how to do it? The WHAT-question deals with the need, objectives and principles of new actions and - if the need has been established - which methods are preferable and which capacities are needed. The WHERE-question is about the location of facilities, installations, etc. The HOW-question deals with topics such as the detailed design of projects, necessary mitigation measures and compensation issues.

The box demonstrates the tiering system as follows:

<b>Box 1: Impact assessment in the Dutch waste management planning process</b>		
<b>National level: What to do?</b>		
need objectives principles	<i>legislation/policy plans</i>	<i>E-test carried out by responsible ministries</i>
methods capacities	<i>10 years waste management programme</i>	<i>SEA by the national Waste Management Council</i>
<b>Regional level: Where to do it?</b>		
locations	<i>provincial waste management plan</i>	<i>SEA by provincial government</i>
<b>Local level: How to do it?</b>		
design mitigation compensation	<i>licensing process</i>	<i>EIA by proponent</i>

The experience in the Netherlands shows that SEA at a higher level in the waste management (national level) can make SEAs at lower levels (provincial level) UNNECESSARY. It is more effective to carry out SEA for only one plan at the national level instead of carrying out SEAs for many small plans at the regional level. One of the reasons is that decisions are taken on methods and capacities at an early level on the basis of an SEA. These issues do not have to be dealt with at the project level. This saves considerable time in the licensing and public participation process.

Finally, experience in the Netherlands shows that sufficient METHODOLOGY is available to carry out useful assessments at the plan and programme level in a reasonable period of time. It also shows that an open planning process, involving all parties concerned in waste management planning is a prerequisite for a swift assessment and decision-making.

## **INTEGRATING IMPACT ASSESSMENT AND STRATEGIC ENVIRONMENTAL ASSESSMENT IN PLANNING**

**Aili Käärrik, National Board of Housing, Sweden**

According to the Planning and Building Act (PBA), all municipalities in Sweden must prepare and periodically update COMPREHENSIVE PLANS, covering the whole land and water area of the municipality. The Comprehensive Plan is an important tool for municipalities to present their intentions for future management of their resources.

As of 1996, the PBA requires IMPACT ASSESSMENTS, encompassing environmental, economic and social impacts, to be included in municipal comprehensive plans. SEA can thus be seen as one part of the wider impact assessment. Additionally, the 1996 amendments of the PBA require public participation to be strengthened in municipal comprehensive planning.

Swedish planning has been criticized for not properly or sufficiently including ENVIRONMENTAL ASPECTS and impacts. Concerning SEA, the Swedish legislation does not provide any requirements on how the SEA/IA is to be carried out (i.e. the procedures) or what it must contain (i.e. the substance). Despite shortcomings of current planning practice, the main issue is to host SEA and IA within the planning framework and existing planning procedures. Integration of both processes and contents is an ongoing key challenge.

Municipal planning in Sweden is undergoing changes and facing new challenges. Many municipalities now state in their plans that the main objective of planning is to 'SUPPORT A SUSTAINABLE DEVELOPMENT OF THE COMMUNITY', or similar. Community 'visions' and alternative future developments are increasingly discussed in preparatory materials and in plan documents. The municipality's place in a regional context may also be examined. This all indicates longer-term and spatially wider perspectives on the municipalities' future developments.

In order to strengthen environmental aspects in planning and to firm-up the EA, ENVIRONMENTAL GOALS AND INDICATORS are being developed and adapted explicitly to planning situations. In Sweden, there are formal national, regional often also local environmental goals. However, these goals are not always adapted to suit planning requirements.

## **5. FINDINGS OF THE WORKING GROUPS**

After the presentations the participants were asked to discuss in the working groups the KEY ISSUES concerning the SEA Proposal and the major CONSTRAINTS concerning the implementation. The topics were identified by the answers given in the background papers and the tour de table. In the tour de table the experts were asked to name the most important issue for the discussion in the working groups. The following identified topics were discussed:

### ***1. The scope of application and the clarity of Article 2 as currently formulated.***

The scope was the most named issue in the tour de table. Most of the participants found the scope unclear. Some of the experts considered the scope too wide especially in relation to the local level. Others considered the scope too narrow as it covers only land use plans and programmes. Concerning the extend of the scope most experts had big problems and therefore wanted further discussion.

### ***2. The content (procedural elements) of the Proposal***

Some experts raised the question whether the content of the Proposal covers the most important SEA elements in order to allow an effective assessment. Participants identified a need for discussion of the necessity of further SEA elements like monitoring and whether the SEA elements meet the requirements of an effective assessment.

### ***3. Public participation***

The issue of public participation was raised. A few experts wanted to discuss whether the requirements for public participation are sufficient in the Proposal.

### ***4. Linkage SEA-EIA & Coherence***

The linkage between different planning levels and the project EIA level and coherence with other Community environmental instruments was put forward for discussion. Some participants wanted to discuss whether there is a need for a formal regulation in the Proposal in this respect.

### ***5. The major constraints concerning the implementation***

As regards the constraints some experts identified the need for further clarification, especially the need for clarifying the scope. Other experts saw a problem in the lack of practical experience and wanted to discuss solutions to overcome this problem.

The aim of the working groups was to find solutions for the identified problems. The working groups were asked not to discuss the problems but to focus on possible **SOLUTIONS** to overcome the problems. The outcome of the working groups should result in conclusions.

Four working groups were established. Each working group discussed the identified key issues to get a broad view of opinions of all the experts of the Member States. The list of the participants of the working groups is given in Annex III. The FINDINGS of the working groups are described as follows:

## **WORKING GROUP 1**

### ***Scope***

The group identified the MAIN EMERGING ISSUE in the scope of the Directive, i.e. the reference to 'town and country planning plans and programmes'. The expression is already used in various countries under a different (and sometimes legal) meaning, this is very confusing and leads to misinterpretations.

It was therefore recommended as follows:

- The expression 'TOWN AND COUNTRY PLANNING' should either be omitted or much better explained (e.g. in the explanatory memorandum). If the reference to town and country planning is omitted, a screening mechanism and criteria should be added, which would limit the range of plans and programmes to those which would have links to project development or land use.
- In addition it was also suggested to either delete the 3<sup>rd</sup> INDENT IN ARTICLE 2 (referring to provisions as regards size, nature, location of projects) or weaken its contents.
- Two participants argued that the Directive's scope should, as a start, be completely limited to the level of FORMAL LAND USE PLANS.

### ***Content of the SEA Proposal***

Most experts agreed that the current Proposal constitutes a very MINIMAL FRAMEWORK for SEA (some essential SEA principles - such as monitoring - are not included). However, the general feeling was that (given a number of improvements) the Proposal would be a good first step in developing SEA as a tool for integrating environmental concerns into planning and programming. The following proposals for amendments were made:

- The DEFINITIONS of 'environmental assessment' and of 'environmental statement' could be improved (e.g. 'assessment' goes beyond merely providing information).
- The necessity of a QUALITY REVIEW was also discussed, especially as in some cases there is a risk that 'self assessment' might influence the SEA quality negatively. Again, it was recommended that no additional provision should be made in the Proposal, so as to keep it simple. How to improve quality control is an issue that should be left to the Member States. But it is recommended that the Commission and the Member States authorities develop quality review guidance.

- An important shortcoming concerns the incomplete provisions regarding the ALTERNATIVES that have to be included in the SEA. The current text does not state that alternatives have to be assessed, but only mentions that information has to be provided why certain alternatives have been refused. The text should state more clearly that an environmental assessment has to be made and reported of the plan/programme AND its alternatives, as this is one of the core-principles of SEA.

### ***Public participation***

Most participants agreed that public participation (PP) should in principle be conducted as EARLY as possible. Some examples were put forward of SEA cases where PP was already conducted at the 'scoping' stage (especially the identification of alternatives). However, in order not to make the procedure too heavy, it was concluded that the current 'minimal' provisions should for now be sufficient, and that NO changes in this respect were necessary.

Another issue is the fact that the Proposal makes no provisions for the participation of the public of ANOTHER Member State (in case this is affected by the transboundary impact of certain plans), nor does it state that the responsible authority must take into account the findings of public participation in another Member State. But again, it was concluded to 'keep things simple' and not to propose any amendments in this respect.

### ***Linkage/Coherence***

The group briefly discussed whether PROVISIONS should be made in the SEA and or EIA Directive which would allow to exempt plans/project from an assessment if a higher level assessment would already have provided sufficient environmental information on the plan or project. Even though it was felt that at a later stage amendments to the EIA and SEA Directives will possibly be needed to tackle this problem, it does NOT seem opportune to do so now. Practical experience with SEA is as yet too limited to ensure that tiering will be optimal. It was therefore concluded that a higher level SEA should not be an argument to exempt lower level plans or projects from SEA/EIA requirements.

However, it must be made clear in the text that information provided by a higher-level assessment could be used, provided it is sufficiently detailed, relevant and up to date. The following recommendation was made:

- An explanation on this issue and a REFERENCE should be added in the text to the use of information generated according to other Directives, e.g. the Habitats Directive. It was also pointed out that the EIA Directive already includes a provision that the authorities have to provide the developer with any relevant information (this should ensure that higher level SEA informations are fed into the EIA process).

It can furthermore be expected that this issue will improve through PRACTICE, as practitioners will aim at carrying out SEA cost-efficiently, and will thus use all information available.

## **Main constraints**

Some experts also expressed the concern that the implementation of the Directive would lead to additional COSTS at the planning stage. However, a study conducted by DG XI on the costs and benefits of SEA and EIA demonstrated that these are generally not really significant. Furthermore, it is expected that as experience with SEA grows, it will lower the costs of EIA at project level.

Another concern is the multitude of especially MUNICIPAL LAND USE PLANS that would require SEA. The Proposal only provides a limited possibility of screening out small plans. The danger is that many small plans (of minor importance) will have to be assessed, whereas more important plans fall outside of the Proposal' s scope.

The main constraint however seems to be the NEGATIVE PERCEPTION SEA still has in various countries and sectors. Therefore, the need was emphasized for awareness raising and information exchange. In parallel to adopting the Directive, it was recommended that the Commission and the Member States continue their efforts to develop a strategy to demonstrate the BENEFITS of SEA, i.e. the improvement of plans and programmes through better integration of environmental concerns, the earlier involvement of the public in the planning process, the facilitation of environmental impact assessment (EIA) at project level.

## **WORKING GROUP 2**

### **Scope**

Concerning the scope of the Proposal the group could not agree on whether the Proposal should apply to POLICIES as well as to plans and programmes. Some of the group members wanted to extend the scope to policies; others were against it.

The experts agreed that the Directive's definition of plans and programmes (in Article 2a) should NOT refer to 'town and country planning', since many Member States do not use this term or use it in different ways. The following solutions were found for how the scope should be defined:

- The scope should comprise:
  - plans and programmes concerning land use with the exception of minor modifications;
  - sectoral plans in the sectors mentioned in the Proposal; the group proposed to add the sectors agriculture, forestry, fishery and coastal plans;
  - and other sectors with significant impacts.
- The definition of plans and programmes should not contain any reference to the project level.
- Individual Member State should prepare a list of the plans and programmes in their country covered by this scope.

## ***Content of the Proposal***

The group agreed that the Proposal contains the MOST IMPORTANT PRINCIPLES. The group proposed to stress three points:

- SCOPING is a very important step of the SEA process. The decision regarding the scope and level of detail of the environmental statement (Art. 5.3) should be made publicly available. It should be the basis against which the environmental statement is 'tested' as part of the consultation requirements of Art. 6.
- The Proposal should also require ALTERNATIVES to be addressed at the scoping level. Furthermore, it is important to stress the need to look at secondary and cumulative impacts at this stage. Art. 5.3 should take these important issues into account.
- The definition of 'COMPETENT AUTHORITY' of Art. 1a and 2b must be clarified and reformulated, since at present it allows any authority to be designated as the competent authority. The competent authority should be the authority responsible for the preparation and implementation of the plan/programme.
- MONITORING is important but at the moment it is difficult to have an obligatory requirement for monitoring. It could be possible to have a provision in the Annex which says that monitoring is important and should be carried out in the future.

## ***Public participation***

The group supported Art. 6 and stressed that public involvement is necessary before the decision is taken. The group found public participation also very important at the SCOPING LEVEL. At the moment obligatory requirements for public participation at the scoping level seem to be difficult. The group debated whether the scoping stage could include public information with no requirements for any resulting comments to be taken into account, but some group members felt that this distinction would prove to be problematic in practice. Public participation at the scoping level for land use plans and programmes may be easier to implement than in sectoral plans and programmes. No clear recommendations emerged on this issue.

## ***Linkage/Coherence***

The group found it difficult to say at this moment where and which links could be made as there is no PRACTICE with the Proposal. The application of the Proposal will show which links could be possible and where they are useful.

However, the group made the following proposal:

- Member States should prepare a REPORT on the linkages between SEA and EIA, IPPC, Habitat Directives and Structural Funds, in order to have relevant information for the modification of the Directive in 5 years. This could be formulated in the Proposal.

## **Main Constraints**

The group identified the main constraint in the LACK OF EXPERIENCE. In order to get experience the group recommended to get on with the Proposal as soon as possible.

It was recognized that INFORMATION EXCHANGE is of great importance in order to be informed about the latest developments and to discuss common solutions for existing problems. Since experience is limited the group proposed more meetings of experts from the Member States.

The group stated that PRIORITY is not more methodology but more COMMUNICATION between all relevant actors in the SEA process. The group argued that enough methodology exists. The real problem seems to be the communication structure between all actors concerned in order to achieve an effective SEA. SEA requires co-operation between all relevant actors. The group found this as a problem in some of the existing structure of administration and the usual way of working.

## **WORKING GROUP 3**

### **Scope**

The group identified the main problem in deciding the proper range of APPLICATION of the Proposal. The definition of the scope covers various types of decisions. This includes the different use in different countries of the same definition to describe a decision-making procedure as well as differences within one country in the use of procedures.

The group proposed the following solutions to overcome the above described problems:

- The Proposal should AVOID definitions and 'lists'. According to the opinion of the group they rather create new difficulties than clarify the scope, since the variation is so extensive.
- Instead of having definitions and lists the Proposal should speak of 'planning and programming' in general.
- In addition, criteria should be added to help the Member States to specify the application, like
  - 'plans and programmes under regulated procedure or submitted for decision-making'
  - 'give a framework for development'.
- The Proposal or the Member States could develop SCREENING MECHANISM for further specification of the application, like indications that the decision may contradict environmental goals.

## ***Content of the Proposal***

The group stated that not all the SEA principles can be found in the Proposal. However, the group was not quite sure if this is really a problem since the Member States may add ADDITIONAL CRITERIA they find necessary.

Concerning the clarity of the principles the group found it necessary to suggest some minor modifications in the text of the Proposal:

- The TIMING ISSUE (when is the appropriate time for carrying out SEA for plans and programmes) was recognized as an important issue. The group wanted to stress the importance of making the assessment during the planning, not after. The experts understood that this was meant by the Proposal but according to the group this is not very clearly formulated in the Proposal. However, this seems not to be a very important clarification.
- The group felt that the Proposal should emphasize more on QUALITY ASSURANCE. The importance of quality of the SEA should be stressed. A possible solution is to have a reference in the preamble. The Group stressed the relevance of a specific 'independent' body, which should be required in the Proposal.
- The group discussed the importance of a wellknown and clear 'PLAYING FIELD'. It is of value for the participation and the quality that everyone is informed in time and knows what happens when. This issue could be stressed in the preamble.

## ***Public Participation***

The group stated that the Proposal gives a FRAMEWORK for public participation. The questions was raised whether the Proposal contains any unclarity concerning public participation. The group found no need for further clarification in the Proposal. However, the experts found that the Member States should consider how to create opportunities for public participation. They should also think about what kind of information is relevant for the public at the different plan and programme levels.

## ***Linkage/Coherence***

The group saw one problem in the DOUBLE WORK probably done and work at the wrong level according to the requirements of the different Directives. The group recognized also problems in the sometimes existing unclear national decision-making systems which generate double work. The experts realized that the Proposal will not solve national problems concerning double procedures in the existing national decision-making systems.

The group raised the question whether the zero alternative is useless at project level after carrying out an SEA. The discussion showed that the experts found the zero alternative at project level not as double work because the zero alternative is always needed as a method to evaluate.

The group discussed whether the SEA Proposal makes it necessary to change the EIA Directive. The participants found that the Proposal can NOT and should not replace EIA. The scope of the Proposal and of the EIA Directive is completely different. The group emphasized the different purposes of the Proposal and Directive and the different benefits. Finally the group stated that the linkage is not really a problem. The linkage will be established by practice.

### ***Major Constraints***

The group focused on the question what is the real opposition against the assessment of plans and programmes. The experts found the LOW ACCEPTANCE by senior civil servants as the constraint for implementing the Proposal. More efforts must be done in the future to show the BENEFITS arising from the Proposal and this information must be put forward to senior civil servants.

Finally, the group wanted to stress the fact that the Proposal does apply to existing planning procedures and that it does not force the Member States to implement NEW planning procedures. The Proposal completes the existing planning systems. Member States and the authorities in the Member States should be aware of this fact and realize that they do not have to create planning to satisfy the Proposal.

## **WORKING GROUP 4**

The participants of working group 4 focused their discussion mainly on the issues of scope and of the content of the Proposal. The issues of public participation, linkage and constraints were not considered as main concerns.

### ***Scope***

The group found the scope too NARROW as the Proposal covers only land use plans and programmes. It leaves too little flexibility for Member States to apply SEA in situations where this would really be necessary. The participants proposed the following solution:

- Art. 2 should be REDRAFTED as follows: 'This Directive applies to all plans and programmes which are subject to preparation by a competent authority etc., and which are part of the decision-making process for the purpose of establishing the framework for subsequent development consents; for these plans and programmes Member States shall ensure that a screening shall be carried out by an appropriate authority to be designated by the Member States. This screening shall be carried out on the basis of the following performance criteria.'

These criteria need to be determined; of key importance is that these are sufficiently clear to provide certainty beforehand to competent authorities when the provisions of the Directive apply to the plan and programme.

The group agreed that the Directive should not apply if no planning process exists. The Proposal cannot solve the PROBLEM of plans/programmes done without a statutory basis. The group saw this as a fact of life which has to be accepted. However, most members of the group felt that in their countries this will not create a big problem.

### ***Content of the Proposal***

The group found the content is IN PRINCIPLE FINE. The Proposal contains all necessary minimum provisions. A post-evaluation provision was discussed, but it was decided that this will automatically take place in the new plan/programme or simply because it is a good idea.

Concerning the Proposal the participants suggested the following amendments and clarifications:

- Many authorities are afraid of an OVEREMPHASIS on environmental issues due to the Proposal. The acceptability of the Proposal could be improved by including in some way in Art. 1 that the purpose of the directive is to ensure that environmental considerations are taken into account ON PAR with social and economic aspects.
- The concept of TIERING is important. This should be explained in the introduction to the Proposal. However, no new provisions on this are necessary other than an extra line in Art. 5.2 that says that the assessment does not have to include information that was already appropriately addressed and given in earlier assessments at higher levels.
- The term 'COMPETENT AUTHORITY' is not clear. Most of the time in the Proposal the competent authority for the plan/programme is meant, but sometimes also the authority for the development consent is meant. Furthermore, Art. 2b defines a potentially third competent authority. A solution could be to delete Art. 2b and simply include in the text 'the competent authority for the plan and programme', except for Art. 2c (definition of development consent).
- Art. 5.3 (CONSULTATION concerning the scoping) needs clarification. The Article provides that the role of the environmental authorities in scoping is an advisory one. Many authorities are afraid this article will change the balance of power; further clarification might help although the existing text already speaks of consultation.

## 6. CONCLUSIONS

On the basis of the findings of the working groups conclusions were elaborated. The conclusions deal with the key issues and constraints concerning the implementation brought forward by the experts and discussed in the working groups.

### **Scope**

The main EMERGING ISSUE was the scope of the Proposal. All four working groups stressed the need for clarification. The definition as it is currently drafted is difficult to understand and unclear. It needs further CLARIFICATION in order to be correctly understood. Especially the reference to 'town and country planning plans and programmes' leads to misinterpretations. The expression is already used in various countries under different and sometimes legal meanings. It was therefore recommended by the working groups either to delete the terminology 'town and country planning' or to explain the term much better.

The working groups presented TWO ALTERNATIVE SOLUTIONS concerning the scope. One solution brought forward that the scope should have a BROAD COVERAGE of plans and programmes going beyond the current notion of plans and programmes covered by the Proposal but with a SCREENING provision to identify the relevant plans and programmes. This screening provision should contain some performance indicators which would help to select relevant plans and programmes.

The second solution brought forward is to have a LIST APPROACH in both the Proposal as well as in form of lists drawn up by the Member States. In this case the scope should contain land use plans and programmes, sectoral plans and programmes and other sectors with significant impacts. The Member States should prepare a list of the plans and programmes in their country covered by the scope.

### **Conclusion 1:**

**The terminology 'town and country planning' should either be DELETED or carefully explained in the meaning intended by the Proposal.**

### **Conclusion 2:**

**One recommendation brought forward was to have a BROAD COVERAGE of plans and programmes with a screening provision to identify the relevant plans and programmes. The SCREENING provision should contain performance criteria.**

**The second suggestion put forward was to have a LIST APPROACH in both the Proposal as well as in form of lists drawn up by the Member States.**

## ***Content of the SEA Proposal***

The participants agreed that the current Proposal constitutes a minimal framework for SEA. The Proposal would be a good first step in developing SEA as a tool for integrating environmental aspects in planning and programming. The experts ACCEPTED the content of the Proposal as it stands now containing the most important SEA elements needed.

Some improvements were suggested in terms of better and additional DEFINITIONS, e.g. for environmental assessment, environmental statement, competent authority. A need for strengthening SCOPING and the importance of ALTERNATIVES was expressed. The experts also stated that QUALITY ASSURANCE is an important issue that should be left to the Member States. But it was recommended that the Commission and the Member States authorities should develop quality review guidance. To improve the overall acceptance of the Proposal it was suggested to ensure that environmental aspects are taken into account on par with social and economic aspects.

The concept of TIERING was stressed. The Proposal should emphasize this issue in the introduction. It was mentioned that MONITORING was an important element but it should not be introduced as a provision at the start. The participants suggested to make some reference in the environmental statement in this respect.

However, the suggested improvements seem of MINOR IMPORTANCE. The prime concern of the conclusions seem to clarify some regulations of the Proposal.

### **Conclusion 3**

**The experts recommended to keep the provisions of the Proposal SIMPLE and CLEAR.**

### **Conclusion 4**

**The experts proposed minor amendments concerning:**

- **Scoping - Alternatives:** A need for strengthening the SCOPING and the need of consideration of alternatives was identified.
- **Competent authority:** The definition of COMPETENT AUTHORITY has to be clarified.
- **Monitoring:** Participants stressed that MONITORING is an important element but it should not be introduced as a provision at the start.
- **Quality assurance:** This issue should be left to the Member States. The Commission was asked to elaborate a QUALITY REVIEW GUIDANCE with the Member States.

## ***Public Participation***

The participants stated the fact that the Proposal gives only a framework for public participation. The public participation requirements were GENERALLY ACCEPTED as being appropriate for the purpose of the Proposal.

However, the experts stressed the importance of early public involvement, especially in the SCOPING phase. In order not to make the procedure more complicated it was concluded that the current provisions should be sufficient for the beginning and that no additional statutory requirements are necessary. It was recommended to have a indication in the preamble in this respect.

Another issue was the fact that the Proposal has no provision for the participation of the public of ANOTHER Member State in case this is affected by the transboundary impact of certain plans or programme. It also does not state that the responsible authority must take into account the findings of public participation in another Member State. Concerning this issue it was decided to 'keep things simple' and not to propose any amendments in this respect.

## **Conclusion 5**

**The public participation requirements are generally ACCEPTED. The experts wanted to stress the importance for public participation at an EARLY stage (e.g. scoping phase). At the moment no additional statutory requirements seem to be necessary in this respect.**

## ***Linkage/Coherence***

The participants discussed whether PROVISIONS should be made in the Proposal and/or the EIA Directive which would allow to exempt plans/projects from an assessment, if a higher level assessment would already have provided sufficient environmental information on the plan or project. Even though it was felt that at a later stage amendments to the EIA and SEA Directives will possibly be needed to tackle this problem, it does not seem opportune to do so now.

PRACTICAL experience with SEA is at the moment too limited to ensure that tiering will be optimal. It was therefore concluded that a higher level SEA should not be an argument to exempt lower level plans or projects from SEA/EIA requirements.

However, a provision similar to those used in the Habitats Directive allowing the use of EXISTING information collected for similar purposes would be of help. It was suggested that such an element could be inserted into Art. 5.2 of the Proposal (e.g. 'no need for providing information which has already been appropriately addressed at an earlier stage'). Additionally the Member States proposed to insert a provision in the Proposal to REPORT back on the linkages between SEA and EIA, IPPC, Habitats Directive and Structural Funds.

## Conclusion 6

The experts expressed that at the moment explicit provisions concerning the linkage are NOT yet useful because of lack of experience. However, the ADDITION of an element such as 'allowing the use of existing information collected for similar purposes' to an existing provision of the Proposal was considered to be helpful in this respect.

## *Major Constraints*

One of the main constraints seems to be the negative PERCEPTION SEA still has in various countries and sectors. Therefore, the need was emphasized for awareness raising and information exchange. It was recommended that the Commission and the Member States continue their efforts to develop a strategy to demonstrate the BENEFITS of SEA.

Regarding further constraints the participants identified the LACK OF EXPERIENCE, which could be overcome by going ahead and by starting to apply SEA. The COSTS arising through carrying out SEA were mentioned as a constraint but it was also expressed that they will be higher at the beginning and decrease gradually according to the experience gained.

The experts stated that the constraints mentioned above could be SOLVED. However, the major constraint is the unclarity of the SCOPE. The definition of the scope must be clear and understandable. The wording regarding Art. 2 in the Proposal is very confusing and leads to misinterpretations. Once more, the participants expressed the need for CLARITY in this respect, especially concerning the scope but also concerning some other regulations (see content of the Proposal).

Finally, the experts made clear that in future priority should be given to the COMMUNICATION aspects. The constraints seem not to be in the methodological questions but in the necessary communication structure between all actors concerned in order to achieve an effective SEA.

## Conclusion 7

The experts expressed very clearly that the main constraint is the UNCLARITY of the SCOPE. All the other constraints mentioned are of minor importance and can be solved. It was recommended to clarify the scope and to keep the procedural steps simple.

## Conclusion 8

The experts made clear that future priority should be given to COMMUNICATION aspects. The constraints seem not to be in the methodological questions but in the necessary communication structure between all actors concerned. The experts proposed MEETINGS at EU level for exchanging experience and improving communication.

## 7. FINAL REMARKS

The discussions at the workshop showed that the participants generally thought the Proposal would represent a GOOD FIRST STEP in developing SEA as a tool for integrating environmental concerns into planning and programming.

The participants identified as the key-issue the SCOPE of the Proposal. The definition given in Art. 2 of the Proposal is unclear and leads to misunderstanding. It needs too much background explanation in order to be understood correctly. The discussions resulted in concrete PROPOSALS for the Commission to improve the current text.

The other issues addressed by the experts, e.g. content of the Proposal, public participation, linkage/coherence were identified as minor problems. Some recommendations for clarification were elaborated in this respect.

The outcome of the workshop can be summarized as a SUCCESS. The participants showed the willingness to support the Proposal if the provisions in the Proposal, especially the scope, would be clarified on the basis of the CONCLUSIONS.

The Commission offered to use the First Reading in the European Parliament to the extent possible to improve the Proposal bearing in mind the conclusions from Semmering and to possibly produce an explanatory NON-PAPER on the scope (Art. 2) which would be sent in due time to the Member States.

The outcome of the Semmering workshop showed clearly the strength and key problems of the Proposal and how they could be solved. All participants worked on solutions in order to achieve a commonly accepted basis for further discussions. The experts considered the SEMMERING CONCLUSIONS as an important input to clarify the problems related to the SEA Proposal which would thus facilitate further discussions in the Council working groups.

Austria would like to THANK all participants for their active participation and support at the workshop. The experts demonstrated good will for solving the key issues and finding solutions for the identified problems. Without the valuable input by the participants the outcome of the workshop would not have been so successful.