

SEA and Integration of the Environment into Strategic Decision- Making

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Country Reports

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Chapter 1

Introduction

Volume 2 provides an overview of how SEA and the environment are integrated into decision-making in all countries within the European Union (EU) followed by some examples from Non-EU countries and leading international financing institutions. An introduction is provided for each country followed by an analysis using the following headings:

- Extent to Which the Environment is Integrated into Decision-Making
- Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels
- Types of Policies, Plans and Programmes to Which SEA or Similar is Applied
- Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making
- Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations
- Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Tasks 1 and 2 Methodology

A wide range of literature sources for individual countries and international financing institutions was consulted. This included documents and official publications from government bodies, NGOs, academic literature, and internet sources. Interviews were conducted in person, face to face, or by telephone or email. In order to maintain a level of consistency in the questions asked and the analysis undertaken, simple evaluative criteria were developed and agreed amongst the research partners. The integration criteria were based upon an initial review of literature on environmental integration. Key sources included the Greening Government Initiative in the UK, and the Conclusions of the German Presidency of the EC Council of Ministers on the international workshop on "Best Practice for Integration of Environmental Protection Requirements into Other Policies (Bonn, 25 & 26 May 1999). The criteria are shown respectively for integration and SEA in Box 1.1 below. These were used as a basis for devising questions to be answered in the research for each country. These then provided the basis for two summary analysis tables: 1) Degree of Integration observed in each country/institution, and 2) Extent of SEA in each country/institution. These are provided in Volume 1, Chapter 3.

Integration of The Environment

Defined as Strong / Fair / Weak integration

The following list is used to determine whether environmental integration, in a particular country, is strong, fair or weak. Strong integration should include all or most of the following points. Strong and effective integration requires clear evidence of effective implementation, not just the establishment of strong processes or institutions:-

- Political leadership (Questions: government responsibilities at highest level? Do key individuals hold environmental remits/have responsibilities? Is there a clear strategy for Sustainable Development?)
- Co-ordination (Question: committees responsible for co-ordinating different mechanisms for integration?)
- Communication/Reporting (Question: clear lines between bodies involved?)
- Guidance/Training (Question: availability of guidance on the mechanisms of integration?)
- Awareness Raising (Question: is information on integration easily available?)
- Targets/Objectives/Indicators (Question: clearly defined?)
- Monitoring/Auditing/Quality Control (Question: procedures in place?)

Definition of SEA

Full SEA (which includes all of the following):

- Scoping, including identification of alternative options.
- Production of environmental statement/report which includes the following – identification, analysis and assessment of likely significant effects on the environment.
- Participation and consultation, throughout the process – to include relevant authorities, the public and NGOs and Member States concerned. A minimum requirement is that documents are open for public examination.
- Taking into consideration the content of the environmental statement/report and the results of consultation during preparation and prior to the adoption of the plan/programme.
- A Non-Technical Summary that summarises the statement/report and the results of the consultation exercise.
- Monitoring.

Box 1.1 Evaluative Criteria

The definition of SEA in Box 1.1 above reflects the principles contained in the working definition of SEA in Volume 1. Clearly there is some latitude required in determining whether full SEA is present where there is public consultation only prior to a decision or adoption, but not during scoping. Ideally there should be public participation throughout the process, but for the purposes of this research, where public involvement was present prior to the decision, SEA could be considered as meeting the criteria for 'full SEA' while recognising that this did not mean that SEA was necessarily 'effective'. This requires a fuller understanding of its actual implementation on the ground (the subject of the subsequent case studies). This also reflects the requirements of the forthcoming SEA Directive. Table 3.1 in Volume 1 provides an analysis of the countries studied regarding the degree of their integration of the environment into strategic decision-making. In this table a commentary box provides a critique on the areas where integration is strong or weak. Table 3.2 in Volume 1 provides an analysis on the extent of SEA in each country, and looks at the degree of penetration of SEA into the decision-making process.

Chapter 2

Austria

2.1 Introduction

Austria is a federal country with nine provinces ("Laender"). Beside the federal legislation made by the Parliament ("National Council"), there is a Parliament in each of the nine provinces with certain legislative competence. Concerning environmental legislation the federal level has competencies for e.g. water management, mining matters, and forestry, while the provinces have competencies for e.g. nature protection, spatial planning, and building issues.

Austria has high environmental standards and internationally recognised success both at federal and provincial level and Austria sees itself as a driving force for environmental policy within the EU. Nevertheless, it is a substantial task to harmonise Austrian environmental legislation because of the large number of laws and regulations. As a result of the last federal elections (1999) the former Federal Ministry of Environment, Youth and Family Affairs has been dissolved, its environmental sections are now integrated within the new Federal Ministry of Agriculture, Forestry, Environment and Water Management (see below).

2.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making to a fair and partly to a strong extent. In particular there is the National Environmental Plan (NEP) (1995) as a framework for the whole environmental policy, operating as the Austrian national strategy for sustainable development. It sets clear and verifiable quality and protection goals for sustainable development measures by proposing over 300 specific actions. The NEP addresses seven key subject areas: Trade and industry, energy, transport, agriculture and forestry, water, tourism and recreation, consumers, and resource management. The NEP was adopted by the federal government in 1996 and by the Parliament in 1997. Although the NEP is an engaged and comprehensive approach its real impact on policy-making is much less than expected and it plays only a minor part in the integration process of the environment into strategic decision-making. Currently, preparations to revise that national sustainability strategy are running with the objective to formulate it before the "Rio plus 10" conference in 2002.

There exist also comprehensive environmental programmes at the provincial level (e.g. the Environmental Programmes for Upper Austria from 1995 and for Styria from 2000) and at the local level (e.g. the Local Agenda 21 of the City of Graz from 1995 or the System of Environmental Quality Goals of Salzburg from 1998).

Environmental provisions are integrated into a number of laws, e.g. in all of the provincial Spatial Planning Acts, in the Waste Management Act, the Styrian Nature Protection Act ("weighting of interests") or in the EIA Act. The commitments from the Kyoto Protocol (13 % reduction of CO₂ in average between 2008 and 2012, reference to 1990) and the non-mandatory commitments from the Climate Alliance (50 % reduction of CO₂ until 2010, reference to 1987, currently more than 320 municipalities are members of that Alliance) also require mention in this context.

2.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Key methods employed are: Environmental quality goals as written in the NEP, and Local Agenda 21 (LA 21, both for agenda setting), especially at local level (e.g. Graz) and for Styria (there is a homogeneous LA 21 process including scientific evaluation); experiences gained through applying EMAS and EIA regulations; environmental legislation; environmental subsidies (e.g. for an ecological energy policy by funding biomass and biogas power plants); eco-labelling; voluntary agreements (e.g. the cement industry has agreed to accept old tyres for energy production). Relating to the integration of environmental factors into strategic decision-making of the industry a so-called "Cleaner Production Centre" was established in Graz and Vienna. Its task is to assist all kinds of enterprises in reaching more ecological and sustainable production processes. The goals of the "Ecoprofit" programme ("profit for ecology") of the environmental authority of the City of Graz are quite similar. A lot of enterprises have implemented cleaner production measures successfully, some of them have been awarded with an "ecoprofit prize".

At the end of October 2000 the Austrian federal government presented the proposal of the "Environmental Management Act". After the completion of the "consultation procedure" with the provinces the Parliament's Environmental Committee will deal with the subject. At first it was expected that the Act would be enacted at the end of February 2001, but there will probably be a delay. The proposed "Environmental Management Act" (German: "Umweltmanagementgesetz") incorporates provisions allowing voluntary participation by organisations in an EU-wide eco-management and audit scheme (EMAS). The planned Act will replace its predecessor from 1995 ("Umweltgutacher-und Standortverzeichnisgesetz") and takes into account the revised EU EMAS Regulation (L 114/1 from April 24, 2001; Regulation (EC) No. 761/2001 of the European Parliament and of the Council of 19th March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)).

Training/guidance: The Ministry of Environment and the Austrian Academy of Sciences organised different SEA workshops for provincial authorities and experts, the Academy (its Institute for Technology Assessment) published an SEA handbook (1997), written by Ron Bass and Riki Thérivel. Information campaigns to improve consumers' environmental behaviour help to guarantee the high environmental awareness of the population (schools, adult education and so on). Since March 2000 one institute of a Viennese University is dealing with sustainable development issues exclusively.

The Minister of Environment has to report to Parliament every three years concerning the state of the environment in an “environmental control report”. The first period was May 1988 to April 1991 (a good example for a monitoring and auditing measure). A basis for this report is the “environmental data catalogue”, which has to be updated regularly. It is a valuable source for citizens as well as for authorities.

At the communication level there are a number of strategic instruments to mention: e.g. there are voluntary “Sustainability Roundtables”, organized twice a year, joined by representatives from trade and industry as well as from the administration; a network of actors and a newsletter, published four times a year, complement that action, focusing on implementing the NEP goals in an integrative manner. The fourth roundtable of that network took place in November 2000 in St. Poelten (Lower Austria) and focussed on “Sustainable Development and Spatial Planning”. Key web sites concerning sustainability are e.g. www.nachhaltigkeit.at or www.municipia.at/taten.

There are regular meetings of all members (ministers) of the provincial governments, who are responsible for environmental issues (“Landesumweltreferentenkonferenz”), one person per province is responsible for sustainable development. In their meeting from May 1999 they published a statement containing ten issues concerning the common development of the Austrian Environmental Policy towards sustainability.

In relation to climate protection there exists the Federal Government’s Council on Climate Change, its task to assist the Government in setting up national climate protection strategies and defining tolerable targets for the reduction of greenhouse gases. Moreover, the Council co-operates in the preparation of the national climate report (the last one was published in 1997), and develops implementation measures.

Beside that Council there is another one, the Austrian Council for Sustainable Development, that co-ordinates the preparation and follow-up of the subject matter for the annual conferences of the UNCSD. Others to mention: National Biodiversity Commission, National Park advisory boards. However, there is a lack of general agreed indicators within environmental protection.

Concerning the provinces there are some interesting methods for integrating the environment concerning policy-making: e.g. in Styria all laws must be examined regarding climate effects. The Environmental Ombudsman of Styria has the right to comment on all laws, especially, if there are likely environmental effects and when so, which ones. Moreover, when adverse environmental effects are to be expected, the Ombudsman can propose alternatives. Some public participation procedures, e.g. those from the Styrian Spatial Planning Act, are also a potential method for integrating environmental interests into planning.

2.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Currently, there is no mandatory SEA in the Austrian legislation. The right of the Styrian Environmental Ombudsman within the provincial legislation process mentioned above is a step towards a policy environmental assessment at provincial level. However, several provisions within spatial planning and some sectoral planning procedures are steps towards an SEA and useful approaches for integrating the environment into strategic decision-making.

2.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

Federal government departments, which play a key role within environmental policy, are the former federal ministries of Environment, Youth and Family Affairs and of Agriculture and Forestry (since April 1, 2000 there is a new system of ministries/departments due to the new federal government, the two latter ministries have been unified to a new Federal Ministry of Agriculture, Forestry, Environment and Water Management); furthermore: Federal Ministry for Transport, Innovation and Technology, Federal Ministry for Economic and Labour Affairs (responsibilities inter alia for trade, industry, energy, and tourism issues). In the future the Federal Ministry of Finance ("Treasury Board") might become more important in relation to potential "green" tax system measures.

In all nine provinces there are one or more members of the Government responsible for environmental matters, e.g. in Styria: "Landesrat" (a provincial minister) for Environment and Agriculture, "Landesrat" for Youth, Health and Hospitals and two other members of the Styrian government dealing with environmental competences (nature protection, tourism, spatial planning, building issues). Between the regional level and the local level there are District Councils, e.g. there are 16 districts in Styria (their authority is called "Bezirkshauptmannschaft").

There are environmental committees at federal and provincial level. They play a key role within the federal and provincial legislation. Moreover, there are eight (all provinces except Burgenland) Environmental Ombudsman's Offices (not subject to directions from the Government). In particular, especially for environmental concerns, there exists a Federal Environmental Agency, and for health concerns the Austrian Federal Institute for Health.

2.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The key actors include the Ministers of the ministries mentioned above, and the heads of the environmental committees at federal and provincial level. Moreover, the members of the provincial governments, responsible for environmental concerns as well as some key civil servants of the environmental administration (federal, regional level, e.g. the Environmental Co-ordinator in Styria). The "social partners" (representatives from the Chamber of Labour, Chamber of Commerce, industrial association and trade unions) play

a crucial role in the preparation phase for new legislation, some of them are also MPs. Certain NGOs and their networks (especially "Global 2000", WWF, Greenpeace, Austrian Society for Nature and Environment Protection) should also be mentioned. Their influence varies from case to case.

2.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The main decision-making bodies are mentioned above. Many authorities at the federal (mostly federal ministries) and nine at the provincial level (Office of the Provincial Government, subdivided in many divisions and sections with certain competences) are responsible for implementing existing Acts. There are many strategic plans and programmes, both within sectoral planning and land-use planning. The latter has developed a tiered system as shown in Table 2.1 below:

Table 2.1 Tiered Planning at Provincial Level

Administrative area	Corresponding spatial planning instruments
Republic of Austria (federal level, nine provinces)	Austrian Spatial Planning Concept
	Sectoral regulations from the ministries
Province of Styria (right of legislation & execution)	Provincial spatial planning programme
	Sectoral development programmes
Region/District in Styria (there are 16 regions excl. Graz)	Regional spatial planning programmes
	Sectoral development programmes
Municipality (Community or City) Local Level (there are 543 municipalities within Styria plus the capital Graz)	Local development concept
	Local sectoral development programmes
	Zoning plan
	Building (regulation) plan(s)

Key pieces of legislation are:

- (a) Federal level: Constitution Act on Comprehensive Environmental Protection, Environmental Control Act, Chemicals Act, Pesticides Act, Contaminated Site Remediation Act, Waste Management Act, Ozone Act, Environmental Information Act, EIA Act, Environmental Subsidies Act, Gene Technology Act, Protection from Air-borne Emissions Act, Forest Act, Industrial Code, Water Rights Act, Environmental Management Act (proposal).
- (b) "Laender" level: Provincial Acts on Spatial Planning, Provincial Acts on Nature Protection

• **Contacts:**

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Chapter 3

Belgium

3.1 Introduction

Belgium became a federal state in 1993. A number of competencies, including most environmental issues, a number of social issues and a few economic matters were devolved to the regions: the Capital region of Brussels, the Walloon region (the French speaking Southern region) and Flanders (the Flemish speaking Northern region).

Each region provides its own framework for environmental integration; for example, the regional governments of Flanders and Wallonia have adopted regional laws as frameworks for integration. With regards to environmental impact assessment each region has its own legislation which transposes the EU-Directive. The federal level has adopted some EIA legislation for two of its remaining environmental competencies: nuclear installations and the protection of the marine environment (Law of 20 January 1999).

Much emphasis was placed on the concept of Sustainable Development and the implementation of Local Agenda 21 during the late 1990s. An 'on-line' report by the United Nations states that Belgium is committed to a high level of environmental protection and considers trade and environmental policies important in supporting the role in favour of sustainable development.

3.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated to a fair extent within the different regions of Belgium. EIA legislation has been in existence since the mid 1980s. The region of Wallonia was the first to implement EIA legislation in 1985, followed by Flanders in 1989 and Brussels in 1992. At the Federal level EIA provisions were adopted for nuclear projects in 1993 and for the protection of the marine environment in 1999. For major projects financed by the Official Development Assistance an EIA approach may also be applied.

Some progress is being made toward the development of SEA. However, it is still at the development stage and various conceptual approaches are being suggested (Schreurs and Devuyt, 1995). As mentioned above there has been a lot of activity surrounding the implementation of sustainable development and Local Agenda 21. At Federal level the first legal framework in support of sustainable development began in 1993. Also at this time a 'National Council for Sustainable Development' was established by Royal Decision (12th October 1993). This was abolished in 1997 with the law on co-ordination of federal policy on sustainable development (Schutyser and Deketelaere, 1999). To date the most

important law relating to sustainable development is the law of 1997 where the organisation and co-ordination of federal policy on sustainable development takes place. Also under this law a four-year (draft) Federal Plan on Sustainable Development was introduced which provides actions for implementation between 2000-2004. There is also a requirement that a biannual report focusing on the issues of Agenda 21 be produced.

Environmental indicators are used for the regional environmental reporting requirements. In this respect experience has been developed for developing sustainable development indicators. In 1996 Belgium became a test country for the Council for Sustainable Development (CSD) for implementing its programme on indicators. A decision by the interregional meeting of the environment ministers resulted in a co-ordinated project to develop a number of sustainable development indicators that were reported to the CSD in 1999.

Awareness raising on the issue of the environment and sustainable development takes place through a number of institutions and federations. The main methods include workshops, seminars and news broadcasts. Some training takes place at Federal level for civil servants on "greening".

3.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

EIA, environmental management plans and regulations, sustainable development regulations and Local Agenda 21 are all methods that allow for environmental integration in Belgium.

Federal level

EIA at Federal level was introduced in 1993 specifically for nuclear projects.

Under the Federal Law on the Co-ordination of the Federal Policy on Sustainable Development (May 5 1997) there is an obligation of the Federal Government to set up a report and plan on the Federal Policy on Sustainable Development (United Nations, (f) undated). The draft plan on the federal policy for sustainable development includes a proposal to develop a Sustainable Development Impact Assessment tool.

Brussels

Regarding EIA in the Brussels region there are two administration structures. These include one for applications relating to industrial installations and another for building permits/land-use planning. The Administration structure for land-use planning was developed in 1998 and the first land-use planning statement has still to be completed. Ways of optimising future best practice in the Brussels region are being considered by authorities and experts (Devuyst, 1998).

On the 26 June 1997 the Belgian Statute Book published two new 'Ordinances' on EIA. First, the Ordinance of July 30 1992 on Environmental Assessment on certain projects was replaced by the Ordinance of June 5 1997 on 'Environmental Permits'. Secondly, the Ordinance of 29 August 1991 which dealt with the 'Organisation of Planning and Urban Development' was amended by the Ordinance of June 5th 1997. The New regulations will mean that major infrastructure projects, buildings and certain land-use plans are subject to EIA and the supervision of the Brussels Regional Administration for Urban Development (Devuyst, 1997).

With regards to sustainable development the Brussels Waste Management Plan 1998 – 2002 includes action for sustainable consumption, studies and awareness. Also, an Action Programme for Sustainable Development for the Brussels region was developed in 1997 (United Nations, (f) undated).

Flanders

The legal basis for EIA in Flanders is the Decree on the Environmental Permit (1985). EIA in the Flanders region is undertaken in accordance with the temporary Decisions (Executive Orders) of 23 March 1989. New EIA legislation, which will include SEA provisions, has been announced by the new government and is currently being drafted (Demulder, 2000, pers. comm). Major development projects near protected natural areas and other sensitive sites are required to have an EIA. In order to improve the quality of environmental statements guidelines have been developed (Devuyst, 1996).

In 1997 the Environmental Management Plan (MINA Plan) came into force. This plan, developed under the 1995 Decree on General Environmental Policy Provisions, requires an environmental status report to be produced every two years and an annual environmental programme which must be approved by the Flemish Government. The Plan has 13 themes and 9 target groups that have varying degrees of impact on the themes. These target groups include families, energy, transportation, water, tourism, building, industry, recreation, agriculture and forestry (OVAM, 1997). The 1995 General Environmental Policy Provisions Decree also requires the publication of a biannual report on environment and nature (MIRA) (United Nations, (e) undated).

Wallonia

The present basic EIA legislation is the Decree of 11 March 1999 on the Environmental Permit. This Decree includes a number of EIA provisions that need further elaboration by executive orders. These provisions include EIA for a limited number of land-use plans.

Sustainable development issues are addressed under the Decree of 21 April 1994 on environmental planning. The Decree provides a basis for a state of environment report, which describes the sustainable development activities in the region. Wallonia's first Environmental Plan for Sustainable Development was produced in 1995. This Plan is

complemented by sectoral plans of which the latest is the Waste Management Plan – horizon 2010 (United Nations, (e) Undated).

3.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Currently SEA is not mandatory in Belgium. However, attempts are being made to introduce SEA into legislation. For example, in Flanders the Environment Administration has commissioned a study for the development of a 'Best Available Practice' approach to SEA. This research project needed to prepare the introduction of SEA in the new EIA Decree. Also, a proposed change to the Flanders EIA Decree includes the provision for assessment of plans and programmes (Devuyst, 1998). At present there is an ongoing voluntary SEA on the Mobility (Transport) Plan of Flanders (Dick van Straaten, 2000, pers. comm). In the Wallonia region a SEA has been conducted in the past for waste planning (Bozet, 2000, pers. comm).

3.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The Sustainable Development Unit of the Federal Planning Office is dealing with the concept of sustainable development. However, there are a number of individual bodies. In 1998 the Co-ordination Committee for International Environmental Policy (CCPIE) established 2 bodies for the preparation and implementation of international decisions by the Federal and Region authorities. These bodies included a Steering Group on Product Policy chaired by the Office of Product Policy and a Steering Group on Green Government, which is chaired by the Office for the Studies and Co-ordination of the Federal Ministry of the Environment (United Nations, (e) undated).

The Belgian Government has welcomed the initiation of Local Agenda 21. Within each region Municipal authorities are responsible for the implementation of actions regarding the co-ordination of operational programmes and projects. These actions include ensuring the environmental infrastructure, establishing local environmental policies and regulations and assisting with the implementation of National Environmental policies.

Federal Level

As already mentioned, at Federal level there is an Interdepartmental Commission for Sustainable Development, which is responsible for formulating the Federal Plan on Sustainable Development as well as raising awareness of sustainable development. The Commission is also responsible for providing guidance to the Federal Planning Office in charge of the secretariat of the Commission. The Planning Office is required to published a Federal report on sustainable development every two years, monitor the state of development every other year and plan a Federal Sustainable Development Strategy (United Nations, (e) undated).

Also, at Federal level the Federal Council for Sustainable Development is one of the major groups involved in the decision-making process. Those participating in the Council include social partners, environmental consumers', development NGOs and representatives of scientific bodies (United Nations, (e) undated).

Brussels

The Brussels Institute for Management of the Environment (IBGE-BIM) is the main environmental authority for the Brussels region (United Nations, (e) undated).

Flanders

The region of Flanders appears to have the largest number of bodies responsible for the environment. The Department of Environment and Infrastructure is responsible for improving the environment, protecting the architectural and ecological heritage, carrying out spatial planning and formulating policy concerning traffic and transport. Within this Department there are 6 Administrations of which the Administration for Environment, Nature, Land and Water Management (AMINAL) is the Environmental Agency (United Nations, (e) Undated). As well as government departments, there are also a number of public bodies that provide environmental services. These are the Flemish Environment Agency (VMM), the Flemish Waste Agency (OVAM) and the Flemish Land Agency (VLM).

Wallonia

The authority responsible for the environment in the Walloon region is the General Directorate for the Natural Resources and the Environment (DGRNE).

3.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

See above.

3.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Federal

- | | | |
|-------------------------|---|--|
| Sustainable Development | - | Law on the Co-ordination of the Federal Policy on Sustainable Development (May 5 1997). |
| EIA | - | Law of 10 January 1999 on the protection of the marine environment in the sea territories under the Belgian jurisdiction |

Brussels

- | | | |
|-----|---|---|
| EIA | - | Ordinance No. 97-1252 of June 5 1997 on 'Environmental Permits' |
| | - | Ordinance No. 97-1253 of June 5 1997 |

Flanders

- Environment - Decree of April 5 1995 on General Environmental Policy Provisions
- EIA - 1985 Decree on Environmental Permits
- Draft EIA legislation including SEA provisions currently underway

Wallonia

- Environment - Decree of 21 April 1994 on environmental planning.
- EIA - Decree of November 1997 on EIA for Spatial Planning

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Chapter 4

Denmark

4.1 Introduction

Denmark is a monarchy based on a written constitution, which dates back to 1849. Section 3 of the Danish Constitution stipulates that the legislative power shall be jointly vested in the King/Queen (the Government) and the Parliament, whereas the executive power shall be vested in the King/Queen (the Government). The ministers, not the monarch, bear the responsibility for Government actions. The Government, which has 179 members, is subordinate to the Parliament with respect to legislative and executive powers.

The Danish society is based on local autonomy of the independent county councils and municipalities that are elected every fourth year. Denmark is divided into 14 counties and 275 municipalities.

Denmark has a long-standing tradition of its citizens, environmental organisations and associations as well as the business sector both formally and informally being involved in the formation and implementation of environmental policies.

4.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making to a fair and partly strong extent. Since the mid-80s environmental strategies have been used quite commonly as a political instrument. The strategies are given a more or less formal parliamentary acceptance by the legislative assembly.

In the light of the Brundtland Report (WCED, 1987) the Danish Government published, in 1988, a 'Plan of Action for Environment and Development', that defined quantitative and qualitative objectives and listed its initiatives to promote environmentally sustainable development. This plan has been followed by sectoral action plans that have been supplemented and revised during the 1990s.

In autumn 1999 the Danish Minister for the Environment presented "The Danish Nature and Environment Policy 1999" to the Parliament. The report includes a large number of specific objectives and it shows how actions in many areas have created results for the environment and brought development on the right track. However, there are lots of initiatives that must be promoted in order to maintain positive development. The report is based on monitoring data that are published in annual reports on the state of the environment.

The Minister for the Environment must, after an election, submit a report on national planning to the Government in order to signal the proposed planning programme of the new Government. However, the Government has full discretion to submit national planning reports at any time that it finds appropriate. A long-term strategy, based on an imaginative outline of how cities, the countryside, the overall transportation system and tourism shall be developed towards 2018, was developed by the end of the 1980s.

Since 1995 environmental assessment of Bills and other governmental proposals (e.g. national action plans) has been mandatory. However, the provisions that are laid down in an administrative order and ministerial guidelines are formulated in very broad terms that leave wide latitude of discretion in the preparation phases.

The protection of nature and environment and the use of resources are regulated in complex regulatory systems that are heavily influenced by EC legislation. The Danish umbrella laws - the Environmental Protection Act, the Planning Act, the Nature Protection Act and the Marine Act - form a very important part of the legal framework for environmental planning and regulation.

Viewed in a broader legal context the legal traditions for sectoral divisions as well as the principles of Administrative Law may create barriers to the effectiveness of environmental planning that is based on environmental principles and holistic thinking. Also, the wide latitude of discretion that is usually left to the decision-making bodies may create disparate administrative practice. Recent High Court practice and practice of the Nature Protection Board of Appeal, however, proves that these institutions, to a certain extent, ensure that environmental principles are integrated in decision-making. The Nature Protection Board of Appeal has recently considered the EIA alternative criterion and stated that alternatives should have been considered even outside the jurisdiction of the EIA authority (the case concerned a power station). Also, the interpretation of the EIA term 'project' has been subject to Court decision and the Supreme Court has recently stated that splitting up a road project into more projects were not acceptable. The project should have been assessed as a whole. But it has taken years to come that far and it is mostly at the formal level that things have changed – because even if an EIA-process has to be repeated the developer can choose the original project again (Steen, 2000).

The County Councils and the Municipal Councils are responsible for physical planning. Public participation in the Danish planning procedures has increased in recent years. The Danish EIA rules (included in the planning legislation) allow a degree of public involvement through public hearings of the county councils, but citizen involvement goes beyond the EIA process. Agenda 21 work has also been initiated in almost every county and municipalities as well as the development of local action plans - e.g. on transport, and the environment, which has become a common part of the on-going planning processes.

4.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

There are various systems allowing the integration of the environment into decision-making at different levels of government in Denmark. The Danish Government, the Parliament and the central administrative bodies work closely together with, for example, the local governments associations, and industry, e.g. Federation of Danish Industries and the Joint Council of Danish Farmers' Co-operative Societies. Furthermore, there is a close co-operation with environmental organisations and nature conservation organisations as, for example, The Danish Society for Nature Conservation, The Danish Angling Society, The Danish Consumer Advisory Council and Greenpeace Denmark.

The only formal requirements for strategic environmental assessment apply to bills and other government proposals. The requirements for environmental assessment of bills and other government proposals are laid down in a Circular from 1995, revised in 1997. This administrative order is supplemented by 'Guidance on Procedures for Assessing the Environmental Impact of Bills and other Government proposals' (Ministry of the Environment and Energy, 1994) and a sample collection. The term 'other government proposals' includes environmental action plans and programmes laid before the Parliament. The assessment is undertaken by the responsible minister (ministry), who can include existing action plans containing environmental objectives as the reference framework for the assessment of a bill or a new action plan. (The above mentioned action plans, which could also be categorised as a sector-oriented strategic plan include policies with set environmental objectives in respect of e.g. transport).

The Danish legal framework that laid down the procedural and organisational rules for establishment of decision-making systems within various areas is actually reviewed in the light of the provisions of the Aarhus Convention, that are to be implemented in Danish legislation in spring 2000. Danish legislation related to protection and use of environment and natural resources usually include broad purposive provisions, that leave the decision-making bodies, which are often local governments (political elected councils) with wide latitude of discretion.

The activities on physical planning are based on the principle of framework management and control. Planning is carried out at 3 levels – national, county and municipal levels. Planning at any level must be in accordance with the framework established at the next level above ('tiering').

The Danish hierarchical system of physical planning includes a zoning system, which plays a key role in relation to the designation and appointment of different types of areas. There are no general requirements for environmental assessment of County and Municipal plans. The environmental impacts of certain planned activities in coastal areas and the impact of the planned structure of retail trade however have to be assessed within the geographical scope of the county borders. Some mechanisms for vertical and horizontal co-ordination and co-operation during the planning process are laid down in the Planning Act.

A working group under the Ministry of Environment has recently suggested that every municipality shall outline a strategy for their municipal planning, which should ensure that cross-sectoral and interdisciplinary activities are initiated.

Agenda 21 and Environmental Indicators

The Spatial Planning Department under the Ministry of Environment and Energy cooperates with the National Association of Local Authorities and the Association of County Councils in Denmark in encouraging each of Denmark's counties and municipalities to prepare a Local Agenda 21.

In recent years, the work on local environmental indicators has undergone still further development. There are a variety of approaches to this work, but most counties and local authorities choose to establish a range of measurable, key factors found in local environmental conditions. Examples could be measurement of the local carbon dioxide release, water consumption or waste volumes. But other, less technical factors can also be used, such as the number of dwellings situated more than 500 metres from a green area or the number of bird species occurring in the local area.

An essential aspect of environmental indicators is that they are developed in co-operation with citizens and the business community, engendering a joint responsibility for pointing development in a sustainable direction. In addition, the indicators should not be so technical as to render them incomprehensible.

Previous to the Agenda 21 work many municipalities have received state grants for development of local action plans on transport and the environment as part of the ordinary planning process.

4.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Bills and Other Governmental Proposals – Proposal for State Budget

Since 1995 SEA of Bills and other governmental proposals has been mandatory. The SEA procedure, recommended by the Ministry of the Environment can be deduced from the set of ministerial guidelines from 1995. The procedure includes four steps: screening, scoping, assessment and publication. A checklist consisting of a number of headings is used to assess whether a proposal will have significant environmental impacts. A subsidiary questionnaire on the checklist helps to further examine impacts predicted to be significant, and it thus serves as a tool for defining the scope of the assessment.

A statement on environmental impacts is published in the observations on the bill whereas contributions to the assessment of environmental consequences of new (environmental) action plans are to be found in various preparatory documents.

There is no requirement to involve the public in the assessment procedure. However, different stakeholders as organisations can take part in the preparation of the bill during a customary consultation process that forms part of the Danish legislative process. Various stakeholders also participate in working groups when preparatory works and drafts of action plans are elaborated.

The National Land Use Plan (report from Ministry of Environment to be submitted after elections) has been subject to SEA on voluntary/project basis as a part of EC case studies on Strategic Environmental Assessment.

The proposal for State Budget has for the last 3 years been assessed for its environmental impacts in selected areas. In 1999 the waste and transport areas as well the Kyoto agreement were chosen as specific subjects for environmental assessment. Every year the environmental profile of development of state institutions' is evaluated.

County and Municipal plans

Environmental Assessment is integrated as part of planning in coastal areas and planning of retail trade. The geographical scope of the assessment is the county borders. The County Councils are encouraged to apply environmental assessment principles to the regional planning process as preparation for future EC requirements of SEA of certain plans and programmes (COM (99) 73).

The County Plan for Nordjylland og Viborg counties have been/are subject to intensive studies/research as regard development of methods and techniques for the application of SEA to land use planning.

A number of municipalities have on a voluntary basis performed SEA of their municipal plans.

4.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The relevant institutions and organisations responsible for integration of the Environment into decision-making are summarised in Tables 4.1 (national level) and 4.2 (county and municipal level) below.

Table 4.1 Institutions and Organisations at National Level Responsible for Integration.

Approaches	Policy/Plans/Programmes National Level	Involved Institutions/ Organisations Responsible for SEA and/or Integration of Environment
<p>Response to Brundtland-report</p> <p>Every fourth year Annual reports on state of the environment forms the point of departure</p> <p>Collection of examples – Yearly status on progress in counties and municipalities Agenda 21 work</p> <p>Guidelines Customary consultation process as part of legislative process</p> <p>Environmental assessment/Environmental indicators</p> <p>The Minister of the Environment has to report to the Parliament after elections Voluntary/case studies</p>	<p>Action Programme on sustainable Development (1988) Sector Action programmes on sustainable development Other national policies, plans and programmes e.g. 'The Danish Nature and Environment Policy 1999'</p> <p>National Policy on Agenda 21 work</p> <p>SEA of Bills and other governmental proposals</p> <p>Proposal for State Budget</p> <p>National Land Use Plan</p>	<p>Parliament</p> <p>Responsible ministries – adopted by Parliament</p> <p>Minister of Environment and Energy</p> <p>Ministry of Environment and Energy – Department of National Spatial Planning</p> <p>Responsible ministry legislative process – working groups involving various stakeholders</p> <p>Minister of Finance</p> <p>Minister of the Environment Department of National Spatial Planning</p>

Table 4.2 Institutions and Organisations at County and Municipal Level Responsible for Integration.

Approaches	Policy/Plans/Programmes County and Municipal Levels	Institutions/Organisations Responsible for SEA or Integration of Environment
<ul style="list-style-type: none"> •Top-down – policy guidelines and directives, legal provisions and regulations •Topic and Issue oriented networks •Voluntary Agreements •Self-Government 	Implementation of National Policy Goals <ul style="list-style-type: none"> •Planning/EIA •Administration/protection and use of environment and natural resources •Service Provision 	County Councils Municipal Council Local administrative bodies
Communication of Best Practices – Department of Spatial Planning Awareness raising – various activities	Local Agenda 21 work	County Councils Municipal Councils
<ul style="list-style-type: none"> •Public participation •Grants from state •Training/guiding 	Local Action Plans on transport and the environment	Ministries/local authorities/research institutions
Public participation/self-approval Environmental Assessment of plans for coastal areas and structure of retail	County Plans Municipal Plans Co-ordination of planning in the areas of e.g. water supply, waste, agriculture	County Councils Municipal Councils Minister of the Environment has power to <ul style="list-style-type: none"> •call in plans and stop development within different areas •set specific conditions
Project/voluntary basis Project/voluntary basis	<ul style="list-style-type: none"> •SEA of County Plans •SEA of Municipal Plans 	

4.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Agenda setting/policy making

The Danish Government, the Parliament, and the central administrative bodies work closely together with, for example, the local-governments associations, and industry, e.g. Federation of Danish Industries and the Joint Council of Danish Farmers' Co-operative Societies. Furthermore, there is a close co-operation with environmental organisations and nature conservation organisations as, for example, the Danish Society for Nature

Conservation, the Danish Angling Society, the Danish Consumer Advisory Council and Greenpeace Denmark.

Legislative Process

Customary hearings of organisations and other interest groups

Expert Groups

Working Groups

Regional and Local Planning

State Agencies – guidance on issues and topics to be put on revision-agenda

County Councils

Municipal Councils

Public participation – Internet based discussions

Development of sector oriented local action plans

- State Authorities that allocate grants
- Agenda 21 work
- The Spatial Planning Department
- Local governments
- Key persons and groups can influence the agenda setting for the local work

Systems of Appeal

Practice of The Nature Protection Board of Appeal shows that this institution ensures integration of environmental principles in decision-making as well as it ensures that relevant parties get heard in the decision-making process.

4.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The Danish umbrella laws - the Environmental Protection Act, the Planning Act, the Nature Protection Act and the Marine Act - form a very important part of the legal framework for environmental planning and regulation. Other pieces of legislation that are relevant as regards integration of environment into decision-making is the Water Supply Act, The Agricultural Act.

The aquatic environment has been brought very much into focus in Danish Environmental Policy since the beginning of the 1980s due to intensive farming activities that contribute significantly to pollution of waters, especially with nitrates. The objectives for the aquatic environment, which are laid down in several action plans, have to be initiated through mandatory planning activities. The requirements for planning, which to a certain extent derives from the implementation of the EU's water, nitrates and urban waste directives, are

to be found in the Planning Act, the Environmental Protection Act and related statutory orders as well as the Water Supply Act and the Agricultural Act etc. The decision-making systems that are related to the protection and use of water resources thus can be said to be comprehensive.

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- Ministry of Transport , Department of Planning

Chapter 5

Finland

5.1 Introduction

Finland is a parliamentary republic. The central government has overall responsibility for formulating national policies. The Parliament, which has 200 members, is elected for four years. The Council of State consisting of 13 ministers presents Bills to Parliament. The Parliament can approve the Bill or it can formulate new acts and amendments to existing acts on its own.

The central government has regional branches. Since 1997 the country has been divided into 5 provinces that have responsibilities in different fields, 15 regional centres, which co-ordinate the tasks related to service provision and several sector authorities also have regional offices. The environmental administration maintains its own regional offices. Ministries supervise the regional offices while the Central Administrative Boards, which earlier were supervisors, have been changed into research and development institutions or state owned commercial units. The National Board of Waters and Environment, for example, became the Finnish Environment Institute.

There are 455 municipalities in Finland, which are democratically elected for four years. They are responsible for various tasks, including physical planning. The municipal boards elect the regional councils of which there are 19. These councils play a key role in the administration of EU structural funds.

5.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making to a fair and formally to a strong extent in certain procedures carried out at different levels of the decision-making systems. The Finnish Action for Sustainable Development was elaborated in 1995 by the Finnish National Commission on Sustainable Development for the promotion of sustainable development. The strategy document includes measures that vary from sectoral programmes of different ministries and governmental bodies to information campaigns of NGOs.

The National Commission has 55 members. It is chaired by the Prime Minister and co-chaired by the Minister of the Environment, with 5 other ministries participating. The members of the committee include local governments, business, labour unions, scientific community, and NGOs and interests groups. The Committee has drawn up recommendations regarding the preparation of various sectoral programmes such as the

National Environmental Policy 2005, Agri-Environmental Programme and reducing the Adverse Effects of Transport on the Environment.

An Action Plan on Sustainable Development with concrete short-term definitions and proposals and long term scenarios has also been prepared. The action plan addresses four key areas: Sustainable energy economy; human settlements and traffic; production, products, trade and consumption; and rural areas. For monitoring purposes indicators are under development. The indicators available are indicators for sustainable forestry and the degree of pollution in the air, water and ground. Local indicators and indicators used by different companies are also being developed.

Environmental impacts are required to be investigated and assessed to a sufficient degree when an authority is preparing policies on taxation, payment, and subsidies, and when plans and programmes related to the environment, energy, transport, industry, forestry and agriculture are prepared. Guidelines for use in all administrative preparation of PPPs were issued by the Council of State/Ministry of Environment in 1999.

At local levels of government Local Agenda 21 work has been brought into focus and the new Land Use and Building Act that came into force January 1, 2000 emphasises a more open and interactive approach to planning. The local authorities are given greater responsibility in Land Use Planning matters and more power in decision-making.

5.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Since 1995 The Finnish Constitution has included a provision related to basic rights, which concerns the environment and assigns the responsibility for the nature and its diversity, the environment and the cultural heritage to everybody. Furthermore, public authorities shall ensure that everybody has the right to a healthy environment and the opportunity to influence decision-making.

The Finnish National Commission on Sustainable Development has drawn up recommendations regarding the preparation of sectoral programmes on sustainable development and a Government Action Programme on Sustainable Development has been elaborated. Plans and Programmes have also been developed in various areas.

The Act on Environmental Impact Assessment Procedure (468/1994) took effect in September 1994. In section 24 of the Act it is stipulated that when an authority prepares a plan, programme or policy whose implementation is likely to have significant impact on the environment, its impact must be investigated and assessed to the necessary extent. The legal obligation to investigate and assess environmental impacts is laid down in various laws, decisions and directives as for instance the Building Act, the Act on Regional Development, the Waste act, the Forest Act, the Nature Protection Act, the Water Act as well as the legal documents mentioned below. There are many formal provisions on environmental assessment in Finnish legislation. However, it was a Nordic research project

that disclosed that the environmental assessment procedures are not always carried on an appropriate basis. The fact that the provisions in most cases are formulated at a very general level leave the responsible assessment body space for interpretation, and different assessment concepts have thus been freely developed among responsible authorities. Guidelines for use in all administrative preparation of PPPs have been issued by the Council of State/Ministry of Environment in 1999.

The Association of Finnish Local Authorities has promoted the implementation of the objectives of Agenda 21 and increased awareness and responsibility for sustainable development among office holders by defining sustainable development in municipalities, organising training courses etc.

5.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Obligations to assess environmental impacts can be found in many parts of the Finnish legislation and sub-ordinate regulations. State action plans and economic strategies elaborated by various administrative authorities must include a brief estimate of their potential environmental impact. Environmental impacts shall be investigated and assessed to a sufficient degree when an authority is preparing policies on taxation, payment, and subsidies, and when plans and programmes related to the environment, energy, transport, industry, forestry and agriculture are prepared. The Council of State/Ministry of Environment in 1999 issued guidelines for use in all administrative preparation of PPPs.

Environmental assessment is also required in the process of preparation of Committee reports where environmental as well as social, administrative, economic and other impacts have to be assessed. In compliance with the Decree on the State Budget the Ministry of Finance issues each year a regulation requiring an investigation into the environmental effects of the budgets and action plans proposed. Assessment of environmental impacts of Government proposals is required by the guidelines for drafting Government proposals. The 'Norms Act' states that preparation of legislative proposals require investigations into the functional, administrative, economic, employment, environmental and other effects of the planned provisions. In some fields such as road planning, environmental assessment has become an integral part of the planning process.

In 1998 an environmental assessment was carried out on the NATURA 2000 network (Hildén et al, 1998). Also, a policy environmental assessment is currently being carried out on the Finnish climate protection programme (Hildén, 1998).

5.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The relevant institutions and organisations responsible for integration of the Environment into decision-making are summarised in Tables 5.1 (national level) and 5.2 (county and municipal level) below.

Table 5.1 Institutions and Organisations at National Level Responsible for Integration.

Approaches	Policy/Plans/Programmes National Level	Involved Institutions/ Organisations Responsible for SEA and/or Integration of Environment
<p>Commission is chaired by Prime Minister and co-chaired by the Minister of Environment. 5 other ministries participate as well as a broad representation of the Finnish Society</p> <p>Commission recommendations regarding the preparation of sectoral programmes</p> <p>Guidelines for use in all administrative preparation of ppp's</p> <p>Yearly regulation requiring investigation of environmental effects</p>	<p>Finnish Action for Sustainable Development</p> <p>Government Action Plan for Sustainable Development</p> <p>Sectoral Programmes for sustainable development</p> <p>Policies, Plans and Programmes</p> <p>State Budget</p> <p>New Legislation</p> <p>Monitoring programmes and development of indicators</p>	<p>Finnish National Commission on Sustainable Development</p> <p>Parliament Ministries responsible for the respective sectors</p> <p>Responsible sector ministries</p> <p>Competences are laid down in various acts (the Building Act, the Act on Regional Development, the Waste act, the Forest Act , the Nature Protection Act, the Water Act) Decree on State Budget</p> <p>Norms Act – Council of State Research Institutions Finnish Statistics State Audit Office Research and development institutions, state owned commercial units have influence on development and progress in most sector areas (Former Central Boards)</p>

Table 5.2 Institutions and Organisations at County and Municipal Level Responsible for Integration.

Approaches	Policy/Plans/Programmes County and Municipal Levels	Institutions/Organisations Responsible for SEA or Integration of Environment
<ul style="list-style-type: none"> •Top-down – policy guidelines and directives, legal provisions and regulations •Topic and Issue oriented networks <p>Agenda 21 Guidebook Awareness raising:</p> <ul style="list-style-type: none"> •Public participation •Training/guiding <p>Public participation environmental assessment</p> <p>Public participation environmental assessment</p>	<p>Implementation of National Policy Goals</p> <ul style="list-style-type: none"> •Planning/EIA •Administration/protection and use of environment and natural resources •Service Provision <p>Local Agenda 21</p> <p>National Land Use Goals Spatial Planning</p> <p>Municipal Master Plan planning in the areas of e.g. water supply, waste,</p> <p>National Programme for Regional Development</p> <p>Regional plan</p>	<p>15 regional Employment and Economic Development Centre State Administrative regional offices Municipal Councils/Boards Regional Councils (EC structural Funds)</p> <p>Municipalities</p> <p>Municipal Councils (Self approval from 1. January 2000)</p> <p>19 County Councils (alliances of municipalities)</p>

5.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Development of Sustainable Development Strategy

Finnish National Commission on Sustainable Development
 Commission of Climate Change, Trade Unions, Finnish Association for Nature Conservation etc.

National Policies and Programmes

Parliamentarians, Ministries,
 Research and Development Institutions

Action programme development

Responsible sector ministries
Research and Development Institutions

Local Agenda 21

Local Politicians, citizens, NGO's

Regional and Municipal planning processes

Regional Councils – public participation
Municipal Councils – public participation
Biggest Finnish Enterprises - Business Charters of Sustainable Development
Finnish Industrial Employers – Know how, Partnership and Eco--competitiveness

5.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Key legislation: the Act on Regional Development, the Land Use and Building Act, The Waste Act, The Forest Act, The Nature Protection Act, the Water Act, The 'Norms Act' Act on Regulation and Instructions Issued by the Authorities, Council of States decision on Committees, Act on Environmental Policy and Administration, Air Pollution control legislation, legislation on the protection of Marine Environment

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Chapter 6

France

6.1 Introduction

French Environmental policy has been in existence since the late 1970s. The first law to be introduced was the law of 10 July 1976 on the protection of nature. This enabled the Ministry of the Environment to integrate environmental policy into socio-economic planning. This law brought about regulated EIAs for planning and infrastructure planning (European Commission, 1997).

French EIA legislation was implemented as a result of public concerns over environmental protection. The resulting Decree of 1977 was also largely influenced by the American EIA procedure. Today, the environment is mostly taken into account through land-use plans and the environmental appraisal of programmes (Turlin, 1994).

6.2 Extent to Which the Environment is Integrated into Decision-Making (See Figure 6.1)

Integration of the environment in France can be described as fair to strong. Several laws require the inclusion of environmental concerns. As mentioned above EIA was introduced in France in 1977. It is said that French legislation on EIA influenced the development of the EIA Directive 85/337/EC (Falque, 1995). The Decree of 12 October 1977 makes EIA a mandatory requirement for projects which are included in Zones of Co-ordinated Planning (Zones d'Aménagement Concerté – ZAC). ZACs provide frameworks for those projects for which a permit is mandatory (European Commission, 1997).

Urban planning documents are required to respect and include the environment under the law of 10 July 1976. Also under this law, there is a requirement that land-use documents, including the strategic evaluation assessment for master and zoning plans, must include the same environmental priorities as projects. The result is Strategic Impact Assessment (SIA) or "ESIE" (Etudes Stratégiques d'Impact sur l'Environnement)(Lamure, 1998), the French equivalent to SEA. A SIA has already been introduced for master and zoning plans, called "plan d'occupation des sols" and "schéma directeur" (Turlin, 1994).

Municipal Zoning Plans (Plan D'Occupation Des Sols) are not compulsory but where they are developed an environmental analysis must be included on initial state of the site and of the environment. Also, for Urban Areas Zoning Plans (Schéma Directeur) there is a requirement to include a state of environment report including the amount of environmental protection taking place (Turlin, 1994).

Environmental assessment at policy level was introduced in 1990 (Decree of 16 July 1990). Any proposed laws must demonstrate that they are both environmental and sustainable. Where such laws are deemed to have environmental impacts then an environmental assessment is required (Turlin, 1994).

France also has a National Environmental Plan (1990) in which objectives of a renovated policy of wastes are defined (Ministère de L'Environnement, 1996). A Sustainable Development Strategy also exists.

A number of decentralised departments work with the Ministry of the Environment particularly with regards to environmental integration. For example, at regional level the Regional Environmental Departments (DIREN) are responsible for ensuring that environmental considerations are included in various development programmes, relevant contracts and various European projects (Ministry of the Environment, undated).

The Ministry of the Environment also relies on a number of agencies which help carry out its missions. One agency of particular importance is the French Environmental Institute (IFEN) which helps the Ministry to increase the consideration of the environment in the minds of decision-makers. IFEN achieves this through the establishment of a database containing up-to-date reliable information on the environment.

Environmental integration also takes place with the implementation of Local Agenda 21. Local Agenda 21 is drawn up by Consultative Councils on Sustainable Development (Conseils Consultatifs du développement durable). To establish the extent to which Local Agenda 21 was being carried out a competition was held in July 1997. The Ministry of Planning and Environment made a call for projects on the tools and approaches for carrying out Agenda 21. Fifty local groups presented projects of which there were sixteen winners. The Ministry has repeated this process with a second call for Local Agenda 21 projects in December 1999.

6.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Environmental Impact Assessment is a key method by which the environment is integrated into decision-making. In the past EIA was applied at project level only, but during the 1990s it has been applied to land-use plans, for example, the Municipal land use plans. When EIA was first introduced in 1976 there was no requirement for it to cover policies, plans and programmes. Instead it stated only that land-use plans 'must take the environment into account' (Falque, 1995).

The French Government has recognised the need for SIA and progress has been made regarding the development of a French strategic environmental assessment methodology which can be applied to all transport infrastructure (Scriabine, 1999). Sustainable development systems are also in place (see below).

6.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

At the beginning of the 1980s experiments regarding SIA took place in relation to planning documents and SIA reports were written for the following areas: Charleval (Basse-Normandie), La Bouilladisse (Provence-Alpes-Côtes-d'Azur) and Lons-le-Saunier (Franche-Comté) (Turlin, 1994). Also, during the early 1990s a number of experiments, research projects and by-laws enabled SIAs to be introduced. The SIAs were applied to the following areas: national and regional environmental plans for electricity transmission lines; public participation for major transportation projects; and the requirement for EIA to assess not only the project but the programme to which it is linked (Falque, 1995).

Also, as mentioned in section 6.2, an Environmental Assessment is required at policy level for those proposed laws that have significant environmental impacts. The rule, bilan écologique, formed by the National Assembly, requires the evaluation of the environmental impact of new laws (Lamure, 1998).

In 1997 the European Commission published a study in which full SIAs had been carried out on the Municipal Land Use Plan (Plan D'Occupation Des Sols – POS) and special zones for quarries in the Yvelines. Recently a French SIA methodology was developed and applied to the National Road Master Plan. A study by Lee & Hughes (1995) indicates there are formal decision-making procedures for policies, plans and programmes in sectors such as: transport, waste resources, waste management and land-use planning.

Currently SIA is being applied to plans and programmes relating to transportation at regional level between Central government and Regional authorities for their contracts (Contrats de Plans Etat Région) (Lamure, 1998).

Environmental impact appraisals have been carried out on programmes within the procedure for project level EIA. These include a study on the environmental impacts of the river Loire hydraulic works management programme, carried out in 1989-1990, and the EIA of the programme for the restoration of the island feature of Mont Saint-Michel.

In a document published by the Ministry of Environment on 'French Towns for Sustainable Development' (1996) a number of examples of environmental integration are provided. One such example is that of an integrated economic and environmental strategy for the 'Community of Cities' around La Rochelle. An Office of the Environment was established to implement the concept of global environment. Among its objectives the Office promotes the taking into consideration of environmental factors in municipal projects. Under a 'dual policy' the environment is taken into consideration during urban restructuring.

Another example is a new approach to regional planning in the Paris region. Here there is evidence of decentralised planning and partnership. This has taken place in response to the issue of sustainable development. In 1994 a Regional Master Plan and Paris Basin Charter were approved in which there is a change in the scope of regional planning. There is now an attempt to achieve development that is more balanced with respect to local

diversity. There is also a Regional Green Plan, which provides a framework for protection and reclamation policies for the region's natural and recreational areas (Ministry of the Environment, 1996).

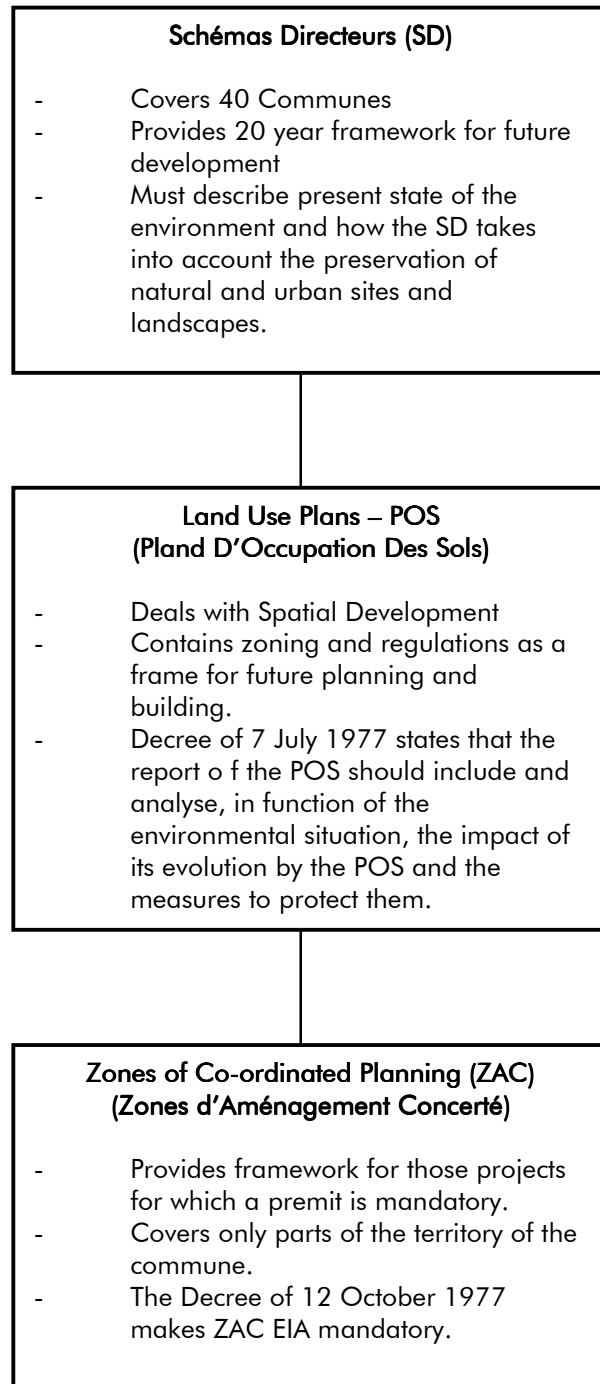


Figure 6.1 Land Use Planning in France [Source: European Commission, 1997]

6.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making (See Figure 6.2)

The Ministry of Environment is responsible for environmental quality, the protection of nature and the prevention, reduction or suppression of any pollutants, nuisances and risks (ENRM, undated). The Roads and Motorways Engineering Department, and the Public Works Regional Engineering Centre, both of which come under the aegis of the Ministry of Public Works, Transport and Housing (otherwise known as SETRA), have developed a SEA Methodology (see above). There are a number of government and independent consultative bodies which have responsibilities towards the promotion of sustainable development and implementation of Agenda 21 (see Figure 6.2).

In 1995 the Ministry of Environment, like the OECD, adopted a declaration which helped in leading the Ministry in the direction of undertaking administration activities described as 'green'. The establishment of an Inter-ministerial Committee for the Environment, in 1995, had a knock-on effect particularly in the development of numerous 'products' in making them environmentally friendly (Ministry of Planning and the Environment, undated). This can be seen as a step in the 'greening government' process.

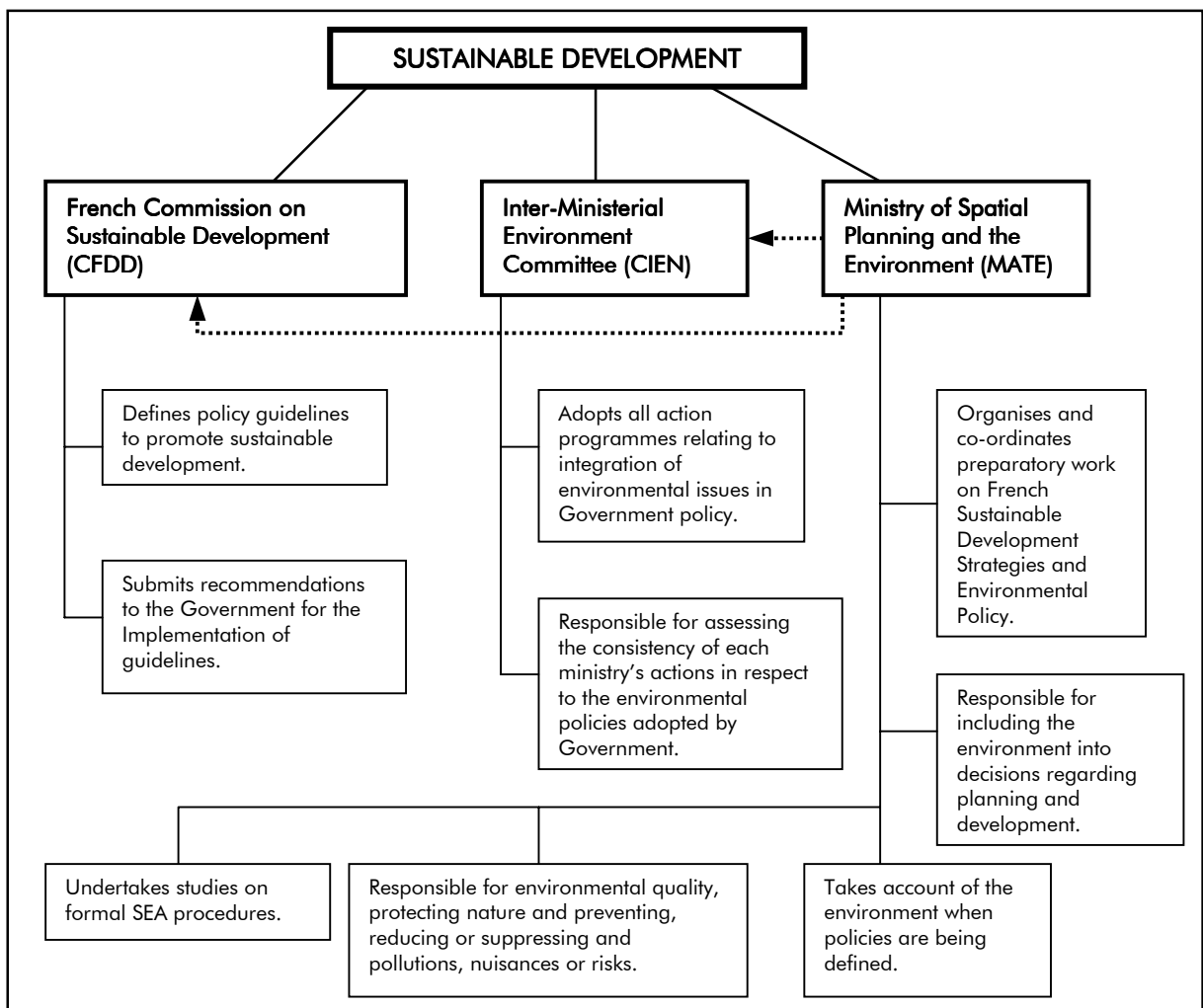


Figure 6.2 French Environment Bodies and Responsibilities (Source: adapted from IFEN, undated)

6.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

See above.

6.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

- EIA
- Instituted under Law number 76-629 (10 July 1976)
 - Implemented under Decree number 77.1141 (12 October 1977)
 - Decree of 12 October 1977 (makes mandatory the EIA of ZACs)
 - Decree of 25 February 1993 (characterises impact assessment study)
 - Law of 12 July 1983 and Decree of 25 April 1985 (publicity of impact statement and rules for public participation)
- Land-use Plans
(source: EC, 1997)
- Law of 10 July 1976 on nature protection
 - Law of 7 January 1983 on decentralisation
 - Law of 12 July 1983 on democratisation of public enquiries and protection of the environment
 - Law of 18 July 1983 (definition and implementation of the principles of spatial planning)
 - Law of 2 February 1995 on the Protection of the Environment
- Others
(Source: Lee & Huges, 1995)
- French Parliament Decision 1990 (requirement of Proposed laws to demonstrate that they are environmentally sound and sustainable)
 - Decree of 25 February 1993 (requirement that under certain circumstances and Environmental Assessment is required for whole programmes)
 - Sectoral Laws: Spatial Planning law ("Pasqua" law)
 - National plan for the Environment 1990
 - Town and Country Planning Code

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Chapter 7

Germany

7.1 Introduction

Like Austria, Germany is built on the basis of a federal system, meaning there is a federal legislation and a legislation at "Laender" level (16 "Laender" exist). Such a structure requires a high degree of co-ordination.

In former times Germany was one of the "progressive" countries regarding environmental standards, but after reunification in 1990 the situation has changed and other EU member states (especially the Scandinavian ones) took over the leadership concerning environmental protection issues.

7.2 Extent to Which the Environment is Integrated into Decision-Making

Currently, there are measures concerning voluntary integration of environment into decision-making in place (e.g. EMAS) as well as mandatory ones.

A general mandatory requirement for planning and programme making activities of authorities is that all relevant concerns have to be considered and weighted against each other ("Abwägung"). In this weighting process, environmental concerns are also included. Several acts provide guidance on this process, such as section 50 of the Federal Emissions Control Act which requires that land-uses which entail air quality deterioration or noise should be planned, if possible, in such a way as to avoid adverse impacts on sensitive areas.

The intention for creating a "Umweltgesetzbuch" (UGB) / National Environmental Code (NEC, a unique, comprehensive and homogeneous Act on all environmental issues to summarise, develop and harmonise the whole environmental legislation, which is currently separate) has been discussed for more than ten years. An expert NEC proposal was published on Sept 9, 1997, containing two sections (a general one, and a special one with nine chapters regarding sectoral policies). The creation of such a National Environmental Code is included in the coalition agreement of the German "red-green" federal government, but its proposal from April 1999 for a "UGB 1" / "NEC 1" (means the first book/part of the whole NEC, dealing only with licensing requirements and licensing procedures for specific projects) cannot yet be implemented yet to legal problems; it is now envisaged to have the Federal Constitution ("Grundgesetz") amended in such a way that the legislative competencies of the federal level in environmental matters are broadened.

The overall extent of the integration of the environment into decision-making is fair and sometimes strong, for details see below.

7.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Federal level: One important instrument is the federal government's proposal for a "national sustainable development strategy". Its goal is to guide all sectoral policies, to use it as an instrument to reach an ecological modernization and to promote ecological innovation measures. It is intended to set up a "Council for Sustainable Development". Before the Sixth World Climate Conference 2000 (November, The Hague), the German federal government approved the climate protection programme. It acts as a comprehensive framework containing clear objectives and a lot of measures. Moreover, it is a good example for integrating the environment (especially concerning climate issues) into various levels of strategic decision-making.

The federal government has to publish an "Environmental Report" at the end of every legislation period (normally four years), the last one was published in 1998. The Federal Environmental Agency publishes its "data according to the environment" every two years.

For preparing decisions concerning complex political issues it is possible to set up an "Enquete Commission". The Enquete Commission on "Protection of Man and Environment" published its final report in July 1998, describing goals and frameworks for sustainable development.

The objectives of spatial planning and land-use planning procedures (especially zoning and building planning according to the Federal Building Code, e.g. there is a mandatory public participation process) contain explicitly environmental issues alongside others (economic, social etc).

"Laender" level: There are regular conferences of all (sixteen) environmental ministers to co-ordinate and harmonize environmental legislation.

Local level: In many cities and municipalities catalogues of local environmental quality goals exist, e.g. in Aachen, Augsburg, Bonn, Donaueschingen, Dortmund, Hagen, Halle/Saale, Hamm, Hannover, Herne, Kiel, Leipzig, Lübeck, Osnabrück, Rostock, Saarbrücken, Seeheim-Jugenheim, and Wiesbaden. Often these are combined with issues of a "Local Agenda 21".

Indicators: There are different approaches to developing environmental indicators: One is dealing with the OECD system ("driving force" - "state" - "response"), another is dealing with sustainability indicators, a third one with accounting systems integrating environmental issues.

Other measures: "Greening the government" (public procurement, amount per year in Germany approx. DM 150 billions); ecological design of products, eco-labelling.

7.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

In principle, there is no mandatory SEA in Germany, yet. However, several provisions within spatial planning and some sectoral planning procedures are steps towards an SEA and useful approaches for integrating the environment into strategic decision-making.

Especially, landscape planning procedures (see Table 7.1) come close to SEA according to von Haaren et al (2000).

7.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

In all 16 "Laender" parliaments (and in the federal Parliament, of course) there exist committees for environmental issues, which play a crucial role within the legislation process. For important federal laws, both the adoption of the First Chamber of the Federal Parliament ("Bundestag") and the agreement of the Chamber of the "Laender" ("Bundesrat") is necessary.

Important actors for the integration of the environment into decision-making are the Federal Environmental Agency ("Umweltbundesamt") and other federal authorities.

The federal structure mentioned earlier can be divided into three administrative levels:

- a) Federal level (Ministries/Departments, federal authorities)
- b) "Laender" level:
 - Ministries, "Laender" authorities
 - District level (District government, without legislative competence, and does not exist in all 16 of the "Laender")
 - "Kreise" (geographical parts of a district) and certain bigger cities (called "kreisfreie Städte") with elected representatives, without legislative competence, and doesn't exist in all 16 of the "Laender"
- c) Local level (municipalities and cities, which are not included under b), self-government)

Within the Federal Ministry of the Environment there is a "project group on sustainable development" with members from different sections of the Ministry itself and from its federal authorities. The "Environmental cabinet" was established in 1972, all federal Ministries dealing with environmental issues are represented in it. For certain topics it is possible to set up "interministerial working groups", their task is to co-ordinate policies and measures early enough.

The standing orders of the federal ministries contain an interesting provision: All ministries dealing with legislative proposals affecting the environment have to consult the Ministry of the Environment (according to § 23); legislation proposals of the federal government have to state whether an impact on the environment is to be expected or not (according to § 40). Unfortunately, those regulations are rarely considered in practice.

In 1972 a "Council of Experts for Environmental Issues" was established. It was restructured in 1990 and publishes a report for the Federal Ministry of the Environment every two years, the newest one is from 2000. Moreover, there are e.g. the "Scientific Advisory Council on Global Change" (for details see <http://www.wbgu.de>), the "Scientific Council for Sustainable Development" (founded 1992, reports yearly), and a "National Committee for Sustainable Development" (founded 1991, 36 members from research & development institutions, industry, trade unions, churches and so on).

Some NGOs and citizen groups should be mention, e.g. the "Forum Environment and Development", which is co-ordinating the activities of more than 60 NGOs and networks; "German Nature Protection Ring" as "umbrella" for the German Nature Protection Associations.

7.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

See above.

The staff of both the federal and the "Laender" ministries dealing with environmental issues in a broad sense (transport, energy, waste management, nature protection, water management, soil issues, air quality / climate issues, noise protection, agriculture and forestry) are important. They are in most cases educated planners and lawyers. Also, the "social partners" (representatives from trade and industry as well as from trade unions) and NGOs are important players during the informal preparation phase for new legislation. Their influence varies from case to case.

7.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

See above.

Due to the comprehensive and dense planning system in Germany there are plenty of strategic plans and programmes at different administrative levels (federal, "Laender", regional, local). For a survey see "Report of Federal Environment Agency 1997", p. 58, Berlin 1998 (containing PPs for nature protection, water management, waste management, forestry, air quality improvement, agriculture, noise protection, transport, energy, soil protection, land-use and spatial planning). Consequently, there are a large number of competent federal, regional and local authorities acting as the decision-making bodies. For example, the municipalities are responsible for approving their landscape, zoning and building plans.

The whole system is very sophisticated, complicated and differentiated. Often a "tiering" system is used, e.g. within the spatial planning and landscape planning:

Table 7.1 Planning System

Area and corresponding planning instrument/s	Spatial planning	Landscape planning
Bundesland (one of the "Laender")	Development programme of the whole "Land" ("Landesentwicklungsprogramm")	Landscape programme
Region	Regional development plan	"Landscape frame plan"
City / Municipality	a) Zoning plan ("Flaechennutzungsplan") b) Building schemes ("Bebauungsplaene")	a) Landscape plan b) In several "Laender" there exist "Gruenordnungsplaene"

Table 1.7 has to be interpreted as a simplified scheme. Note that, for example, in Bavaria the landscape programme is incorporated into the development programme (meaning there are not two independent programmes), similarly the "landscape frame plan" is incorporated into the regional development plan (for details see the Erlangen case study (Volume 3, Chapter 8)).

Normally, the federal ministries and the "Laender" ministries as well as their agencies are important authorities and decision-making bodies; but also to mention are the authorities at lower level like district governments (a district is a part of a "Land"), "Kreistage" (they are responsible for a part of a district, similar to a county, composed of a number of municipalities) and city/municipality councils at the local level.

Key pieces of legislation at the federal level:

- German Federal Constitution ("Grundgesetz"), its Article 20a contains a general provision on environmental protection as a responsibility for future generations.
- Act on EIA (1990, last revision 18 Aug 1997)
- Nature Protection Act (1987, last revision 30 Aug 1998)
- Spatial Planning Act (essential for regional land-use planning)
- Federal Building Code (essential for local land-use planning)
- "Kreislaufwirtschafts- und Abfallgesetz" (Waste Management Act, also including recycling measures in the sense of "circulatory economy")
- "Bundes-Immissionsschutzgesetz" (Federal Immissions Control Act, very comprehensive with many ordinances/regulations)
- "Wasserhaushaltsgesetz" (Water Management Act)
- "Bundes-Bodenschutzgesetz" (Federal Soil Protection Act)

Key pieces of legislation at "Laender" level:

- The "Laender" Constitutions
- The "Laender" Water Acts
- The "Laender" Waste Management Acts
- The "Laender" Nature Protection Acts
- The "Laender" Soil Protection Acts (only implemented in several of the "Laender")
- The "Laender" Spatial Planning Acts (in 13 of the "Laender")

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- Claudia Riehl (University of Technology, Berlin)
- Dieter Wagner, Head of the German EIA Association, Hamm

Chapter 8

Greece

8.1 Introduction

Greece is a Presidential Parliamentary democracy (the monarchy was rejected by referendum in 1974). The central administration is composed of several departments (or ministries) and the country is divided into 51 prefectures that are responsible for the implementation of government policies in their respective areas.

Protection of the environment is guaranteed under Article 24 of the Constitution. The State has a duty to protect the environment and is bound to adopt the necessary preventive and repressive measures to preserve it. The framework law on environmental protection is Law 1650/1986 on the protection of the environment, the provisions of which are specified by a number of administrative acts. Law 1650/1986 specifies the principles for environmental protection, including sustainable development.

The central competent body on environmental matters is the Ministry for the Environment, Physical Planning and Public Works. Its responsibilities include the initiative to express goals and policy on environmental issues as well as the preparation of plans and programmes on environmental matters. Besides the ministry, there are specialised services in other ministries that cover environmental issues arising within their functions, especially: Ministry of Agriculture, Ministry of Mercantile Marine, Ministry of Industry, Energy and Technology, Ministry of Finance, Ministry of Social Welfare, Ministry of Transport and the Ministry of Labour.

8.2 Extent to Which the Environment is Integrated into Decision-Making

Greece's Ministry for the Environment, Physical Planning and Public Works is the main body with responsibility for sustainable development. They developed a co-ordination mechanism in order to mobilise the interest and involvement of all competent ministries and other public sectors and to co-operate with relevant groups. This resulted in the preparation of reports submitted to the United Nations Commission for Sustainable Development (UNCSD).

The Principles of Sustainable Development have been established by the case law of the 5th Section of the Supreme Administrative Court (Council of State), having jurisdiction on environmental matters. Amongst the principles established are those of sustainability, carrying capacity of man-made systems and ecosystems, sustainable land development, management of fragile ecosystems, biodiversity and others.

Law 1650 for the Environment was passed in 1986 establishing the framework for environmental protection. The Environmental Programme of Greece for 1994-2000 was a first major effort to promote the principles of sustainable development.

8.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Apart from the initiatives mentioned above, led by the Ministry of Environment, Greece does not have any formal mechanisms for the integration of environmental considerations within the decision-making process on PPPs, nor any SEA legislation. Greece is in the process of setting up a Committee for the Co-ordination of Government Policy on Planning and Sustainable Development and a National Council for Planning and Sustainable Development as provided for in the Law of 7 October 1999 on Planning and Sustainable Development. It is the Ministry for the Environment, Physical Planning and Public Works that is in charge of sustainable development co-ordination.

The Committee will be made up of the Minister of Public Works, Physical Planning and Environment, the Minister of Internal Affairs, the Minister of Finance, the Minister of Development, the Minister of Culture, the Minister of Shipping, the Minister of National Economy and the Minister of Transport. A list of other Ministers, high-ranking civil servants, advisers, etc can also participate but without voting rights. The objective of the Committee will be to discuss and approve matters of planning and sustainable development of national importance. However, this committee does not yet exist and the law does not define clearly its role and responsibilities.

The National Council will be formed at the Ministry of Public Works, Physical Planning and Environment and will be made up of representatives of the regional governments, advisers, 3 representatives of NGOs (selected by the Minister of Environment), academics and others. As with the Committee this Council has not been formed yet, its responsibilities are not clear nor its interaction with the Committee. According to the law the Council will comment on matters and propose programmes relating to national planning policy and sustainable development to the Minister of Environment.

The Operational Programme for the Environment establishes underlying procedures for SEA as the corresponding legislation is expected to be passed in 1-1.5 years.

At local level some Municipalities are implementing Local Agenda 21, subsidised by the Ministry of Environment, Physical Planning and Public Works. Examples of this are the Municipalities of Amaroussion and Halandri, which went through a pilot project on the "co-operation of the local authorities for sustainable development and Local Agenda 21". The pilot project was prepared by the Central Union of Local Authorities of Greece (KEDKE), which is the co-ordinating organisation of all Greek municipalities and communities, as well as the municipalities of Amaroussion and Hanlandri. The local authorities of Lavrion and Plaka have undertaken other successful local initiatives.

8.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

There are three cases where an SEA may be applied in Greece (although in a limited form): (1) land-use planning of private development schemes, (2) environmental profiles for the structural development plans and (3) environmental assessment of regional plans that feed into the structural planning process.

The Framework Environment Law provides for an environmental assessment to be carried out for land-use plans of private development schemes. The legal framework for EIA is defined in Law 1650/1986 as well as in the Joint Ministerial Decision 69269/5387/1990, which incorporates the EC Directive 85/337/EEC in the Greek legal order. As part of the activities that require an EIA are infrastructure project plans; these, however, fall under the normal EIA procedure.

With regards to Structural Development, Greece has to undertake SEAs of the Regional Development Plans according to EC legislation. However, the SEAs undertaken by the different sectoral authorities are simple and non-rigorous assessment exercises (Environmental Profiles). Besides, such Environmental Profiles are not publicly available documents. The Hellenic Ornithological Society proposed to review the SEAs for the different sectors; they only received the one from the Ministry of Tourism which they found very deficient (Arapis et. al, 1996), regarding, for example, poor integration of environmental objectives in the proposed plans.

The third case in which an assessment of PPPs is required is for Regional Plans that feed into the Structural Planning process. These have been undertaken in the past (although it is not a regular exercise with such plans) with EC funding and making use of indicators and matrices to assess environmental, economic and social impacts.

At regional level the local authorities do not get involved in the planning process, as the local authorities do not have sufficient funds to do so. Plans are usually developed by university departments or consultancies and then submitted to the central authorities directly for their review.

8.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The Ministry of Environment, Physical Planning and Public works has responsibility for sustainable development. However, the consultative bodies which are to give it support have not yet been created.

8.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

As mentioned above, this is mainly the responsibility of the Ministry of Environment, although the new consultative bodies are meant to play a role in agenda setting.

8.7 Decision-making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

See above.

• Contacts:

- Claire Papazoglou, Hellenic Ornithological Society
- Stella Varelzidou, Hellenic Ornithological Society
- Mr Toleris, Ministry of Environment, Physical Planning and Public Works
- Efthimis Zagorianakos, PhD student at Trinity College, Ireland
- Ms Eleni Ioannidou, Department of International Relations and the EU Ministry for the Environment, Physical Planning and Public Works

Chapter 9

Ireland

9.1 Introduction

Environmental protection in Ireland has been in place since 1963 under the land-use planning system. The first Planning Act was based on achieving a balance between development and the environment with its main principle being the maximisation of participation in the adoption of development plans and in the consideration of planning applications (Dept. of Env. 1999). Development plans are the main instruments by which development is regulated and controlled. Environmental control was introduced in the 1990s with the integration of Environmental Impact Assessment regulations and Integrated Pollution Controls. Before the 1990s Ireland had a poor history of integrating the environment into strategic decision-making. However, Central Government has now increased its efforts in terms of integrating the environment, particularly sustainable development, into decision-making.

9.2 Extent to Which the Environment is Integrated into Decision-Making

Environmental considerations have become an increasingly integral part of decision-making at national, regional and local levels. Since the EU fifth Action Programme on the Environment, sustainability is now the key issue for government policies. This has resulted in policy and legislative changes. 1990 saw the first system of environmental integration with the introduction of Environmental Impact Assessment (S.I. No. 349 or 1989 as amended). This was followed by a system of Integrated Pollution Control in 1992. In early 1997 the Irish government developed a National Sustainable Development Strategy in which the integration of environmental considerations into government policies is acknowledged to be a key means of securing the balance between social and economic development and environmental protection (Bannon & Cassidy, 1999). It has been recognised that National Development Plans and their associated Operational Programmes are one means by which greater integration can be promoted (Dep. of Env. 1999). As a result much effort is being made at national, regional and local levels for the effective integration of the environment. Examples include the establishment of the Green Network of Government Departments, the National Sustainable Development Partnership, Regional Authorities and Sustainable Development Projects at local level. Also, efforts are being made to include the environment in the national budget. For example, increasing taxes on energy and fuels.

9.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The first system for environmental integration at national level was the Environmental Action Programme. This Government programme was published in 1994 to help with the formulation of environmental targets and policy objectives. This was followed in 1997 by the National Sustainable Development Strategy (Sustainable Development – A Strategy for Ireland), which provides a framework for all sectoral plans and programmes relating to Sustainable Development. This strategy has had, and continues to have, huge influence on decisions regarding environmental integration.

The planning and land-use system, into which EIA regulations are integrated, will undergo a change following the introduction of the new Planning and Development Bill 1999. This Bill consolidates and amends the planning Acts and provides for greater environmental integration through a number of new requirements. These requirements include the provision of planning and sustainable development in local development plans; information on likely impacts on the environment of a plan, to be included in the draft development plan, which in turn sets the foundation for SEA (Dept. Env. Oct'99) and finally the inclusion of EIA in primary legislation.

It is considered by Central Government that National Development Plans and their associated Operational Programmes are the one means by which environmental integration can be promoted. It has suggested that a process must first be established and implemented for the various Programmes (Dept. Env & Local Gov, Nov'99). A number of actions have been proposed by Government, for the period, 2000 – 2006, which include:

- *Integrating environmental considerations* into Operational Programmes,
- *Pilot eco-audits* to be carried out on each Operational Programme,
- Operational Programmes to have *input by Comhar* before finalisation,
- *Environmental criteria* to be used in project selection,
- *Environmental indicators* to be used appropriately,
- Monitoring committees to include *environmental representation*,
- Evaluation of Operational Programmes to include *environmental dimension*,
- *Environment Co-ordinating Committee* to be established for period 2000 – 2006,
- *Project level EIA* to be implemented where appropriate.

(Source: Dept Env. & Local Gov. 2000)

Some progress has already been made in relation to some of the above points, for example, in June 1999 the Environmental Protection Agency (EPA) produced a discussion document on key environmental indicators called 'Environment in Focus'. This document, the first of its kind in Ireland, looks at indicators that were gathered by the EPA in 1998. It focuses on trends in environmental change, the stresses causing them, the impacts resulting from them, and the societal response to prevent and reduce these stresses on the environment (Lehane, 1999).

Under EU structural fund regulations (Council Regulation (EEC) No 2081/93) an environmental appraisal is required for all such development plans. In 1997 the European Commission published a document (Case Studies on Strategic Environmental Assessment) in which a SEA of Ireland's National Development Plan 1994 – 1999 had been carried out. Following the Government's Action Programme for the Millennium a number of policies will be subject to an Eco-Audit, otherwise known as an environmental appraisal. At present the Eco-Audit schemes are being conducted on a pilot basis only and include the present National Development Plan 2000 – 2006. Also, in An Action Programme for the Millennium an agenda was set for the development and implementation of integrated environmental policy. As a result the Department of Environment and Local Government produced a statement of strategy. Published in 1998 this document sets out the key goals of the Department and the strategies to achieve them (Gov. of Irl. 1998). Performance indicators and key inter-relationships are also included.

In May 1997 an Environmental Partnership Fund was established to help promote environmental awareness at local levels. Funding was increased in 1999 to incorporate awareness at national level, bringing together Local Authorities, NGOs and local community groups. Also, at local level, a number of regional and national networks comprising local authority officers have been set up to promote Local Agenda 21. Information on the environment, both nationally and internationally, is also made available through a public access centre called ENFO.

9.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

There are no mandatory requirements for SEA in Ireland. However, as mentioned above, a SEA was carried out on the National Development Plan 1994 – 1999 as a result of requirements under the EU structural fund regulations.

Environmental priorities set out in An Action Programme for the Millennium requires Eco-Audits to be carried out on policies. In June 1999 pilot audits were started on policies in the following sectors: agriculture; energy; tourism; education; health; national heritage. An Eco-audit is also being piloted on the Development Plan 2000 – 2006. It is expected, as a result of Sustainable Development: A Strategy for Ireland that a system of SEA for major sectoral plans and programmes will be developed within 3 years.

9.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making (See Figures 9.1 and 9.2)

The Department of the Environment and Local Government plays a lead role in the development and co-ordination of environmental legislation, policy and programmes. It also works with other departments such as the Department of Public Enterprise and Department of Marine and Natural Resources in the development of transport policies. The Department of Environment and Local Government is also responsible for land-use planning legislation.

The Department of Environment and Local Government established three entities in 1998 in an attempt to increase the knowledge and participation of the general public in its work on environmental integration. The National Sustainable Development Partnership (otherwise known as Comhar) was set up to advance the agenda for sustainable development on a national level. In doing so, Comhar is involved not only in policy consultation and advice, but also on the ways in which policy is implemented particularly with regards to environmental integration and consideration of sustainable development in economic sectors. The Joint Committee on the Environment and Local Government was established to provide a forum for debate with central government (Oireachtas) on the issue of environmental integration and finally the Freedom of Information Act provides access to the public on the work of the Department of Environment and Local Government on policies and programmes.

The recently established Green Network of Government Departments is chaired by the Department of Environment and Local Government and consists of 10 other departments who are responsible for or are involved in the National Sustainable Development Strategy and Eco-Auditing. For example, the Department of Finance is involved in the Eco-Audit of the National Development Plan. See Figure 9.2 for details on mechanisms for environmental integration. Other bodies involved in the formulation of environmental policy and direction include the Environmental Protection Agency (EPA), established in 1993 under the Environmental Protection Agency Act 1992. It is responsible for advising government ministers and local authorities on environmental protection issues and the environmental content of development plans.

9.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Environmental integration and decision-making is the responsibility of Ministers in the Department of the Environment and Local Government.

9.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Department of Environment and Local Government

'Statement of Strategy'

- Public Service Management Act 1997
- Freedom of Information Act 1998

Environmental Protection Agency

- Environmental Protection Agency Act 1992

Planning Authorities

- Local Government (Planning and Development Act 1963
- EIA regulations (S.I. No. 349 or 1989 as amended)

- Planning and Development Bill
 1999

An Bord Pleanála (Planning Appeals Board)
 Local Authorities

- Local Government Act 1991

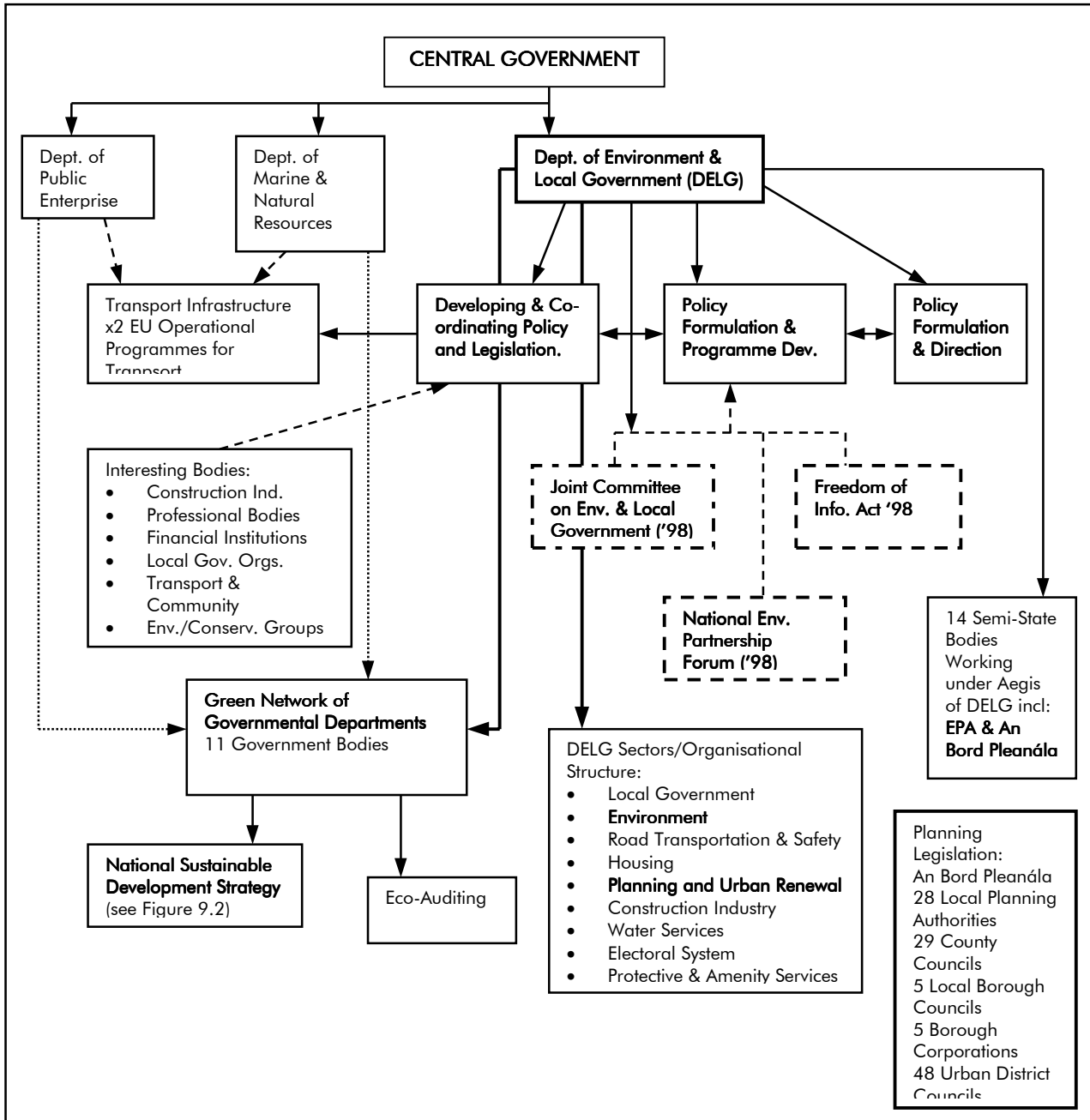


Figure 9.1 Integration in Central Government

NB: For the purposes of this report the acronym DELG has been used for the Department of Environment and Local Government.

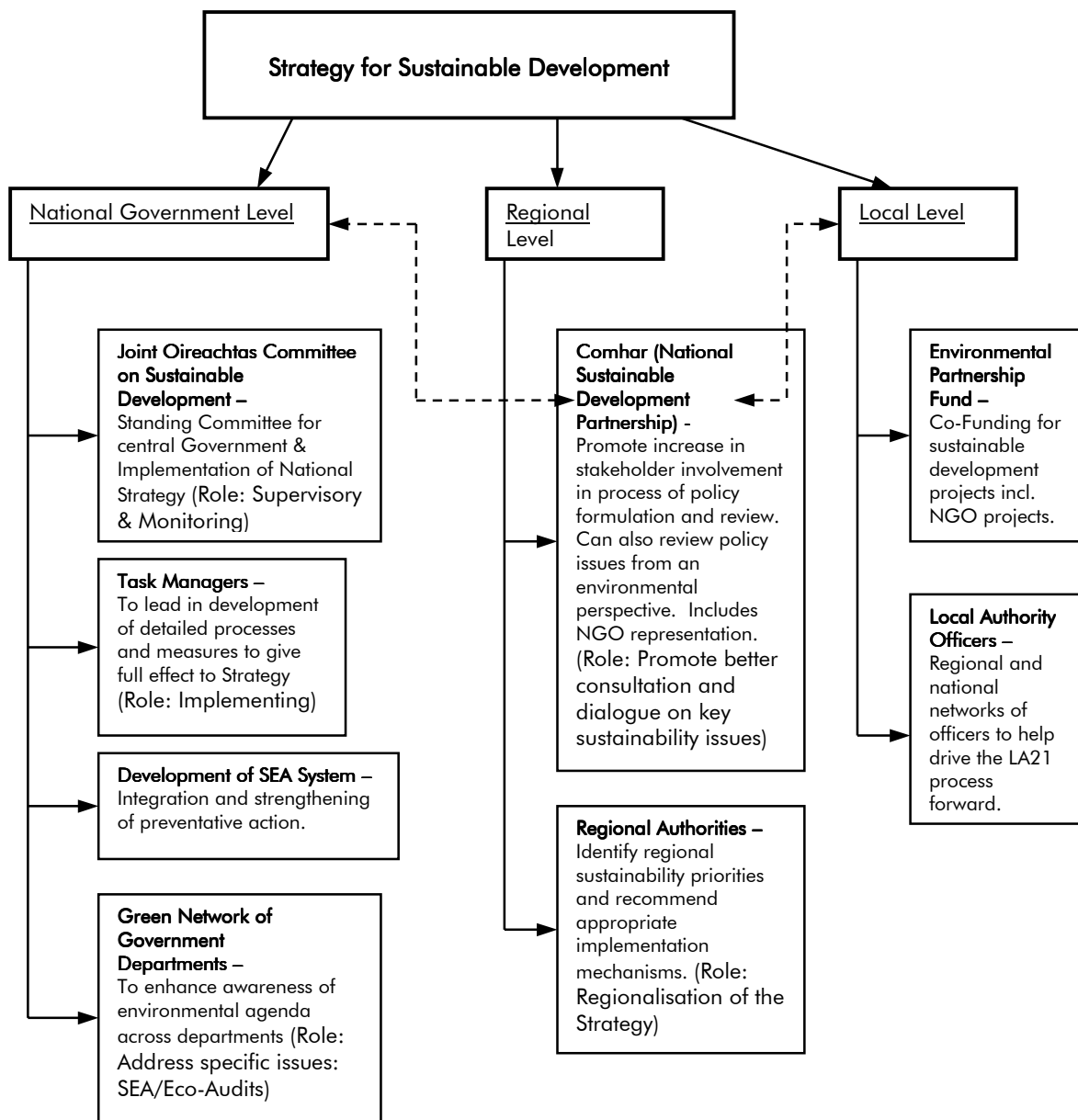


Figure 9.2 Organisations involved in integration at different government levels

• **Contacts:**

- Aoife Cassidy, Department of Regional and Urban Planning, University College Dublin.
- Noel Casserly, Department of Environment and Local Government.
- Efthimis Zagorianakos, PhD Student, Trinity College Dublin.
- Michael Grace, BRADY SHIPMAN MARTIN, Dublin.
- Claire Kelly, Planning Section, Department of Environment and Local Government
- Patricia Curran, Department of Environment and Local Government
- Maureen Doyle, Secretariat, Comhar-the National Sustainable Development Partnership

Chapter 10

Italy

10.1 Introduction

The Republic of Italy is divided into 20 regions, which have powers to define regional environmental legislation.

The body responsible for sustainable development is the Ministry of Environment, created by Law 349/1986 (8 July, 1986). With it, three consultative bodies were created: the Scientific Committee, the National Council for the Environment and the Scientific-Technical Sectoral Committee.

10.2 Extent to Which the Environment is Integrated into Decision-Making

Integration of environmental matters into the decision-making process is done mainly through a consultative body (the National Council for the Environment) and the Committee for the Implementation of Agenda 21. These are described below.

10.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The National Council for the Environment is composed of representatives of the regional governments as well as social groups. The Council gives its opinion on environmental issues on which they are consulted and can propose initiatives for environmental studies. However, the vertical and horizontal communication mechanisms are not clearly defined.

In, 1993 the National Agency for Environmental Protection (ANPA) was created (through Decree-Law 496/193 as modified by Law 61/94). One of the Departments that comprise the ANPA is the Department for Integrated Strategy, Promotion and Communication. Although the ANPA's role is mainly to provide technical support to the Ministry of Environment, during 1999 the Department for Integrated Strategy was involved in the National Plan for the Implementation of Agenda 21 and the Local Agenda 21s (Ministry of Environment, 1999).

Italy established a Committee for the Implementation of Agenda 21, which serves as its coordinating body in the area of sustainable development. This Committee has representation of the Ministries of Budget and Planning, of Environment, of Foreign Affairs (including Co-operation), of Public Works, Transport, Tourism, Agriculture and Forestry Resources and Finance, as well as the Presidency of the Council of Ministers.

One of the first examples of integration policy has been the development of the new General Plan for Transport, where the Ministry of the Environment played an important role, setting objectives compatible with the obligations subscribed to at Kyoto relative to emissions. During the Development of the Plan guidelines were defined. The Ministry of Environment established environmental objectives to be pursued by the Plan and developed the methodology and simulation instruments to be used in order to assess the effectiveness of the policy as well as the proposed actions in attaining the set objectives.

10.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The new Framework Law on Environmental Impact Assessment is currently under debate in Parliament and it contains, in its Article 6, provisions for SEA. Meanwhile there are only two cases in which Strategic Environmental Assessment are undertaken:

- (1) in the development of Regional Development Plans pursuant to Structural Funds and
- (2) for certain plans and programmes in the Valle d'Aosta Region.

SEA of Structural Plans

With the technical support of the ANPA the Ministry of Environment is developing a co-ordination action together with the Regional Authorities in order to undertake the SEAs of the Regional Development Plans. The Ministry of the Environment, together with the ANPA has prepared guidelines for Strategic Environmental Assessment (Ministero del l'Ambiente, 1999). These guidelines propose a simple matrix with evaluative criteria and parameters for the sustainability of a system and indicators for the monitoring of the environmental impacts. Such simplification was deemed necessary due to the lack of information available in the regions on the state of the environment.

The Department for Development Policy will open a double series of programming "tables" for the Structural Funds 2000 – 2006: regional and national. Seventeen of these correspond to the central administration and will be under the co-ordination of the administration with competence in the corresponding area, and with the participation of other interested administrations.

SEA in the Valle d'Aosta Region

The Valle d'Aosta Region is the only one with provisions for SEA (European Commission, 1997). Such provisions are defined in Regional Law 6/1991 (4 March) (amended by Regional Law 61/1993 and 39/1994). The Regional Law establishes that all new development plans, or any significant modification to such plans must include an environmental impact assessment of the planning proposals or proposed changes. The regional EIA legislation applies to certain territorial and urban planning instruments, including:

- The regional plan for urban and landscape management
- Local municipal and inter-municipal land-use management plans
- Detailed urban plans

- The regional energy plan
- The regional transport plan
- The regional extractive (mining) activity plan
- The regional waste management plan

10.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

As described above.

10.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

As described above.

10.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The decision-making bodies are the sectoral authorities, although eventually the competent environmental authority is having more influence in sectoral decisions affecting the environment (as in the case of the General Plan for Transport described above).

• **Contacts:**

- Francesco La Camera, Head of EIA Section - Ministry of Environment

Chapter 11

Luxembourg

11.1 Introduction

It has proved extremely difficult to obtain information from Luxembourg despite repeated attempts and requests to contact the relevant authorities. However, some information has been gathered through the available literature and this is outlined below.

11.2 Extent to Which the Environment is Integrated into Decision-Making

Most policy decisions are made at the national level although land-use planning is also carried out at the local level (Lee & Hughes, 1995).

11.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

Existing legislation relates to project level EIA. There is no legal requirement to carry out SEA in Luxembourg and neither are there any examples of SEA to date (Binna, 1999). Binna reports that other mechanisms for integrating the environment into decision-making include land-use planning and through the development of Government strategies and policies.

EA documents include:

- A description of the problem, and objectives of the planned activity
- Coverage of the main types of environmental impacts
- Predictions of significant impacts and the alternatives
- Recommendations for monitoring
- A non-technical summary.

11.4 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The Luxembourg Minister of the Environment is the nominated Luxembourg EIA expert on the European Commission's web-site. One or more environmental authorities must be allowed to review the information contained in the EA document. The information must also be made available to Member States for their comments.

Chapter 12

The Netherlands

12.1 Introduction

It is said that the Netherlands has one of the most innovative and sophisticated environmental policies in the world (Resource Renewal Institute, (a) undated). This can be explained by the long history of environmental planning. Much of the landscape in the Netherlands is man made with changes occurring as early as the 13th Century.

Protecting the environment became a priority in the 1960s and by the late 1970s development of environmental legislation was a priority, particularly with regard to air and water pollution. Dutch planning strategies experienced many changes in the 1980s particularly with the introduction of environmental policy plans. The main framework for these and future plans was set out in a publication by the Minister for the Environment, called "Concern for Tomorrow". It soon became clear that environmental policies should be integrated into the policies of other sectors. Environmental Impact Assessment regulations were also implemented around this time along with the development of strategic level EIA. 1995 saw the introduction of the environmental test (E-Test) designed to assess the environmental impacts of legislation and regulations.

12.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making through the EIA Decree, the Environmental Management Act 1993 and the various National Environmental Policy Plans. The Netherlands has a tiered system for planning. This requires that information on the environment be incorporated into each level of planning, for example, environmental test and strategic EIA at highest level, EIA at intermediate level and EIA for environmental permits at project level (EC, 1997).

12.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

National Environmental Policy Plans (NEPPs) are one of the main systems used to integrate the environment into government initiatives. The Ministry of Housing, Spatial Planning and the Environment (other wise known as VROM) published the 1st NEPP (NEPP1) in 1989 which laid the foundation not only for a series of environmental regulations but also for a sustainable development strategy (Scriggs, 1993). NEPP1 was the first 'green plan' for the Dutch Government. Long-term targets and strategies for dealing with environmental challenges were identified. In 1994 the second NEPP was published. This document stressed the importance of implementing the strategies efficiently and provided steps for

improving the ecological efficiency of the economy. NEPP3 was published in 1997. This plan had mainly the same goals as NEPP1 but identified various problems relating to the meeting of targets, and suggested various ways of solving those problems (Zoeteman, 1998). To further the concept of 'green planning' the Government is now in the process of developing a fourth NEPP which will focus on 'quality of life'. The publication of NEPP4 is expected in 2001. Environmental policy was further enhanced with the introduction of the Environmental Management Act (1993). The purpose of this Act was to streamline regulations.

EIA, which came under the 1980 law on General Environmental Provisions (Netherlands Embassy, undated), was first implemented in 1986. At that time the EIA regulations incorporated several additional features including scoping and the involvement of an independent body, the Commission for EIA, to assess adequacy of environmental information (Scholten, undated). Legislation includes the implementation of Directive 85/337/EEC. A number of strategic actions were included in the EIA obligation. The EIA legislation was later amended to implement the EIA Directive amendments of 1997 (97/11/EC). Strategic level EIA, which uses the same procedures as project level EIA, is applied to decisions relating to site selection and strategic planning that may have significant impacts on the environment, such as waste management and land use plans.

To assess the environmental impacts of various forms of legislation, policy plans and regulations the Environmental Test (otherwise known as the E-Test) was developed in 1995. The E-Test originated at a stage when the then Government realised that over-regulation was having an adverse effect on economy, employment and quality of life. As a result the 'Market Operation, Deregulation and Legislative Quality' (MDQ) plan was developed. This was followed by the appointment of a ministerial committee set up to review existing and proposed legislation with a view to identifying potential environmental or other impacts. The Dutch environment ministry developed the E-Test to carry out this assessment (de Vries, 1996) and to facilitate its application.

There are three main objectives of the E-Test: client orientation, selectivity of E-Test questions and ease of integration into existing legislative processes (Verheem, 1998). The first of these objectives is carried out through the 'Office' or 'Support Centre', which is managed by the Ministry of Economic Affairs and the Ministry of Environment. It provides a system of co-ordination and guarantees the quality of the E-test. The second objective is achieved through the limitation of the number of questions that are addressed and the type of legislation that is selected for the E-Test. Finally, the third objective is achieved by ensuring that the characteristics for the E-Test procedure match those that are used to process draft legislation. While the third objective means that the E-Test is simple and flexible, there is no room for public participation or external review.

The procedure by which the E-Test is carried out consists of three phases. Firstly the screening/scoping phase. Here, the legislative proposals are selected for the E-Test and the questions to be addressed are identified. This is followed by the adoption of the selected legislation by the Council of Ministers. The second phase of the E-Test, the

documentation phase, involves the application of the selected questions to the legislation by a ministry with assistance from the Support Centre. When the E-Test has been completed the results are documented in the Explanatory Note (in the case of Acts results are documented in the Memorandum) to the draft legislation (Verheem, 1998). Finally, the third phase involves a review by both the Support Centre and the Ministry of Justice of the quality of the information in the Explanatory Note and a decision is made as to whether this information is suitable for submission to the Council of Ministers.

12.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The E-Test applies to new legislation and has questions in the following environmental sectors: energy, transport, land-use, raw materials, atmosphere, water, soil and surface emissions. A study for the Ministry of Environment involving an inventory of policy areas at national level that require integration under certain circumstances has just been completed. This includes policies relating to the environment and actual/possible mechanisms for the integration of environmental objectives.

The 1997 report of the European Commission describes a number of SEAs that have been carried out. These include SEAs of:

- Third provincial waste management plan Gelderland
- Policy plan drinking water supply
- Site selection residential area Zaanstad
- Structure Scheme Electricity Supply (see also van Eck, 1993).

12.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

Environmental policy in the Netherlands is the responsibility of four Ministries which include the Ministry for Housing, Spatial Planning and the Environment (VROM), Ministry for Transport and Public Works, Ministry for Agriculture, Nature Protection and Fisheries, and the Ministry for Economic Affairs. VROM is the lead Ministry with responsibility for co-ordination.

In the Netherlands spatial planning is of particular importance. 'Structure schemes' occur on a national basis to deal with land-use and infrastructure developments. These schemes relate to transport, water supply, agriculture and housing. It is the responsibility of the Minister for Environment to scrutinise all proposals with environmental or spatial impacts before they are approved (Netherlands Embassy, undated).

With the introduction of the E-Test in 1995 the Ministry for Economic Affairs and the Ministry for Environment set up the "Office" or "help desk" for the environmental test. This office ensures that the quality of the test is guaranteed (EC, 1997) and encourages co-operation between the different ministries concerned (Kleinschmidt & Wagner, 1999).

For quality control in EIA the Government subsidises the Commission for EIA. The Commission acts as a independent expert committee in all EIA processes which take place in the Netherlands (Commission for EIA, undated). Its responsibilities include the provision of advice to competent authorities on scoping and review for each EIA.

In 1995 the Netherlands Development Organisation (SNV) and AIDEnvironment (Advice and Research for Development and Environment) jointly developed a methodology for integrated environmental analysis called SEAN (Strategic Environmental Analysis). SEAN was developed using a number of experiences from EIA, SEA and environmental profiles (a description of the environment for a particular region to be used by developers to avoid negative impacts). It provides a basis by which sustainable development can be integrated into strategic planning. SEAN is described, on its web-site, as 'a methodological framework with practical tools and guidelines for a systematic and rigorous analysis of the environmental potentials for and constraints on human development' (<http://www.seanplatform.org>). This methodological framework is one of most important aspects of the SEAN process.

The SEAN framework consists of 10 methodological steps grouped into four clusters (environmental context analysis, problem analysis, opportunity analysis and strategic formulation) and five process phases. The phases provide guidance on how each step can be applied (See SEAN web-site for further details). The phases consist of 1) initiation phase, 2) scoping, 3) fieldwork, 4) planning and 5) monitoring.

The SEAN methodology is aimed at addressing one objective in the SEA process, which for a number of reasons, including political complexity, has received little or no attention. This objective is "contributing to the integration of environmental issues in the process of policy formulation during early moments of decision making". At present the SEAN methodology has only been applied to a number of developing countries (Kessler, 2000, pers. comm). The diagram below illustrates where SEAN fits into the policy cycle.

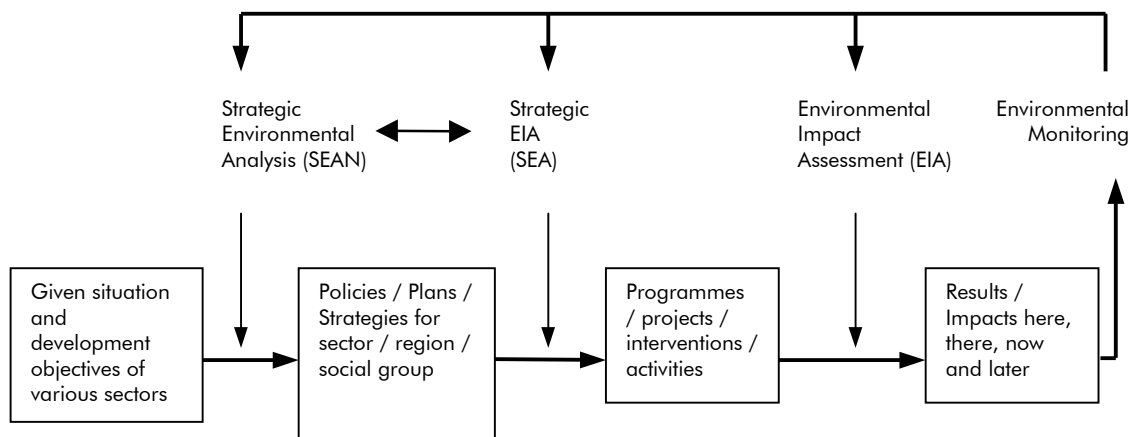


Figure 12.1 SEAN in the policy cycle (Source: SEAN web-page)

12.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Integration of the Environment into regional policy occurs through spatial and environmental planning. Integration of land-use and the environment is the goal of the ROM projects, of which there are 11. These projects are designed to enhance environmental quality through the involvement of various bodies including provincial and municipal authorities, industry and environmental groups (Netherlands Embassy, undated).

For sectoral policies there are a number of procedures in place for integrating the environment. First, is the integration through the implementation of the NEPP goals. Co-operation also exists between Target Group Managers in the Environment Ministry and senior level environmental co-ordinators in most other ministries (Netherlands Embassy, undated). Environmental policies developed within the different ministries must be consistent with those of the NEPP.

Second, is that for the relevant government policies and decisions the environmental impacts are described, reported and taken into account in the decision-making. The mechanisms for this are the E-Test (legislation) and EIA. This, however, does not cover the whole field. The usual continuation process adds to these mechanisms as the third procedure. Finally other environmental integration measures include sectoral ministry plans, target group initiatives and target group management instruments.

12.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

There are four main bodies involved in the EIA of legislation, see Figure 12.2.

Key pieces of Legislation include:

- *National Environmental Policy Plan (NEPP 1, 2 & 3)*: An authoritative document guiding all aspects of Dutch environmental policy (RRI, Undated).
- *EIA Act 1987*: Act requires an SEA of a number of plans, programmes and sectoral policies (Sadler & Verheem, 1996).
- *Environmental Management Act 1993*: integrated and systematic body of environmental law. Includes regulations regarding EIA. This Act is primarily framework legislation.
- *Spatial Planning Act 1965*: applies to all levels of government (central, provincial and local) regarding the creation of plans.
- *Environmental Test 1995*: E-Test of legislative proposals.

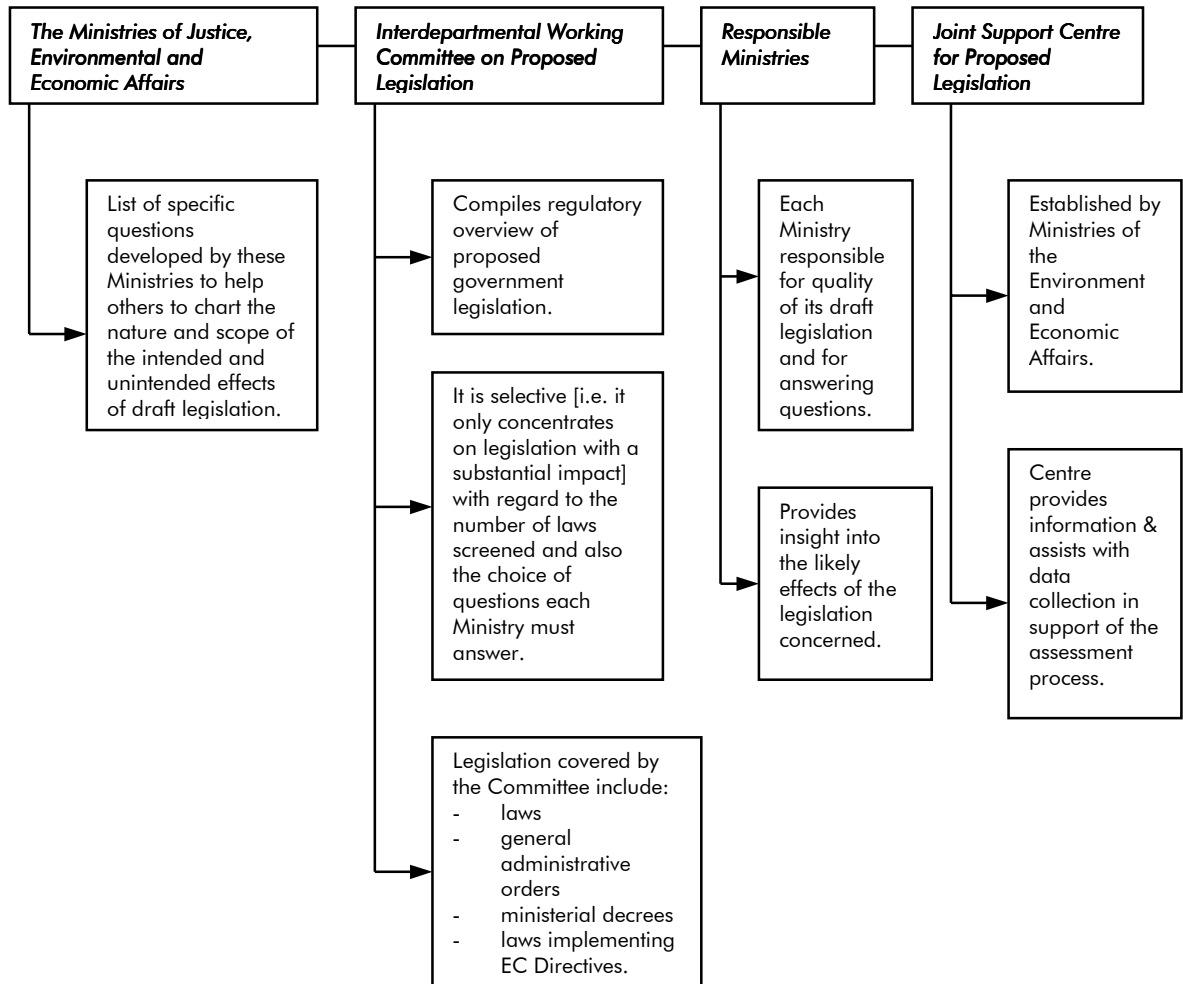


Figure 12.2 Main bodies involved in environmental assessment of legislation (Source: adapted from de Vries, 1997)

• **Contacts:**

- P. Lispet, Coordinator Distribution, Ministerie van Volkshuisvesting
- Jan Jaap de Boer, Ministry of Housing, Spatial Planning and the Environment
- Jan Joost Kessler, Sean Platform, <http://www.seanplatform.org>
- Sibout Nooteboom, DHV Environment and Infrastructure

Chapter 13

Portugal

13.1 Introduction

Portugal is a Parliamentary Democracy divided into 18 districts and 2 Autonomous Regions (Azores and Madeira). Environmental matters are the competence of the Ministry of Environment as of 1997, when it was created.

13.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is being integrated into decision-making processes on PPPs exclusively through consultative bodies (especially the National Council for Sustainable Development). There are no formal SEA procedures.

13.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

In 1995 Portugal passed its National Environmental Policy Plan (Resolution of the Council of Ministers 38/95 of 9 March) which was revised and up-dated in 1998. As part of the process of defining the Plan, major groups were represented on several advisory bodies, such as: the Social and Economic Council, the Managing Council of the Environmental Promotion Institute (IPAMB), the National Water Council, the Hydrographic Basins Council, the General Directorate of Forests, the National Institute for Quality, the Air Management Commission, the Eco-Labeling Advisory Forum, the Protected Areas General Councils and the Protected Areas Advisory Council.

The responsibilities for Sustainable Development lie in the Ministry of Environment, created through Decree-Law 230/97 (30 August). Its responsibilities are specified in its Article 2 and include:

“(a) To create the conditions which allow the promotion of sustainable development...through the application of instruments which regulate the economic activity and economic instruments which motivate favourable behaviour for the protection and management of natural resources”

“(b) To develop a National Environmental Protection Strategy, based on the permanent observation of the state of the environment and objective-oriented, through the development of a National Environmental Policy Plan as well as plan and programmes for the management of specific environmental protection areas: water, air, soil, noise and nature protection”

“(n) To promote the strategic environmental and social integration between the Public Administration and the different parties through environmental contractual processes and integration plans, based on environmental responsibility”.

Amongst the bodies which depend on the Ministry of Environment is the Directorate General for the Environment (DGE), whose responsibilities include (Article 11):

“(a) Support in the definition, execution and technical evaluation of the environmental policy, through diagnosis and studies on the state of the environment”

“(b) The co-ordination and planning of initiatives in the frame of an integrated policy for the sector”.

The Law on the Environment (Law 11/87) provides for public participation to take place in the formulation and implementation of environmental and land-planning policies. As well, Law 35/98 (18 July) defining the status of environmental non-governmental organisations (ENGOS), states that ENGOS have the right to be informed and participate in the decision-making process on:

- “(a) environmental policy plans and projects...
- (b) sectoral plans with impacts on the environment
- (c) regional, municipal and special plans for land use planning and urban planning instruments...”

As well, Article 6 of Law 35/98 states that ENGOS have the right to participate in the definition of environmental policy as well as the general guiding principles for environmental legislation. In Portugal the integration of environmental concerns into the decision-making process on PPPs is done mainly through the National Council for Sustainable Development, which is a consultative body.

The National Council for Sustainable Development was created through Decree-Law 221/97 (20 August, 1997) as a consultative body which includes representatives from different sectors, environmental NGOs, diverse associations, academics and renowned public figures. The Council is a member of the European Consultative Councils and is composed mainly (2/3) by members of the civil society, unlike other similar bodies, such as in Spain, which is mainly composed of sectoral authorities.

Although there is an obligation to consult the Council prior to the approval of certain PPPs (as defined in Law 10/1987, modified in 1999), this does not always take place. Some procedures for environmental integration have been proposed through non-binding documents (despachos) and which are sometimes applied due to public pressure. However, such documents do not define any strict SEA procedures. The horizontal and vertical communication mechanisms are not specified in any document.

The Council for Sustainable Development has internally decided to act more pro-actively than re-actively in order to maximise their efficiency. Thus they only respond to requests on

strategic matters. At local level there are 16-17 "green municipalities" with environmental integration, mostly urban. The most efficient of these are Oeiras and Sintra in the greater Lisbon area and Maia in the greater Porto area.

13.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The Council Regulation for Structural Funds requires an environmental assessment of Regional Development Plans and is the only requirement of that sort in Portugal (all of Portugal is classified as Objective 1). No SEA legislation has been created nor guidelines issued and SEA is not considered in the revised EIA legislation either.

With regards to Regional Development Plans, the Portuguese National Development Plan 1994-1999 was subjected to an environmental assessment in order to comply with EC Regulation 2081/93. The assessment was undertaken according to the EC's Vade Mecum for Use in Providing Environmental Information Relating to Plans, Programmes and Projects Financed Through the Structural Funds (1990) although the details of the SEA are not known since the document was classified as confidential (except for the non-technical summary). No systematic application of a SEA methodology has been applied to the new Regional Development Plans either.

13.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

As mentioned above, only the Ministry of Environment through its consultative bodies.

13.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Agenda setting is mainly in the hands of the sectoral authorities, although the National Council for sustainable development and environmental NGOs can propose initiatives for PPPs.

13.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Decision-making on PPPs is the competence of the sectoral authorities.

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Chapter 14

Spain

14.1 Introduction

Spain has a pseudo-federal structure with a central government and 17 Autonomous Communities (AC)¹, each having competence in regional environmental matters. Although there might be certain mechanisms at national level for the integration of environmental considerations into decision-making processes, these affect only policies, plans and programmes (PPPs) of national relevance. Some ACs have adopted their own mechanisms for integration of the environment into decision-making, which affect regional PPPs. This also applies for SEA mechanisms; whilst at State level there is no SEA legislation, some ACs have already set up such legislation.

14.2 Extent to Which the Environment is Integrated into Decision-Making

At national level integration of environmental considerations is very limited. The only area where more serious efforts have been made are regarding the development of Regional Development Plans (i.e. seeking Structural Funds). Due to the provisions established in Council Regulation 1260/1999, a Network of Environmental Authorities has been created and guidance on SEA for Regional Development Plans has been issued. Other consultative bodies have been created, such as the Assessment Council for the Environment and the Sectoral Environmental Conference, although with limited input in the decision-making process.

Many regions have set up Regional Assessment Councils for the Environment, in a fashion similar to the national government. However, some regions have developed SEA legislation, setting an example for the national authorities to follow (e.g. Castilla y León, Castilla-La Mancha and Basque Country). At local level there are few examples of integration mechanisms. The most common are through Local Agenda 21s such as the Network of Cities and Towns Towards Sustainability (in Catalonia) which is formed by small and medium-sized municipalities with the aim of working with a common framework and co-operation.

¹ Andalucía, Aragón, Asturias, Balearic Islands, Canary Islands, Cantabria, Castilla y León, Castilla-La Mancha, Catalonia, Extremadura, Galicia, Madrid, Murcia, Navarra, Basque Country, La Rioja and Valencia.

Decision-Making and Communication Mechanisms

Decision-making on PPPs are subject to traditional decision-making mechanisms where a body is responsible for the definition of the PPP, has to make certain consultations and then defines the final PPP. For example, the definition of the National Waste Plans is the responsibility of the Ministry of Environment (Sub-Directorate General of Environmental Quality). According to Law 10/1998 on wastes, such plans have to be defined by integrating the different regional plans. Also, the final plan is subject to approval by the Council of Ministers after consultation with the Sectoral Environment Conference, which has representatives from the different Autonomous Communities. In the water sector a more participative initiative has been undertaken. The consultative body in the water sector is the National Water Council with representation of the Ministry of Environment, the Autonomous Regions, the Water-Basin Bodies, Professional Associations, NGOs and Associations of water users. In 1998 a White Paper on Water in Spain was issued for public consultation; this document has set the basis for the final development of the Hydrological Plan.

The communication mechanisms during the decision-making process are not specified. Usually the vertical communication takes place through the consultative bodies, which have representatives from the Autonomous Communities and civil society (e.g. the National Water Council, the National Council for Nature Protection, the National Forestry Council). Horizontal communication does not always take place and, in any case, no formal communication mechanisms exist. The only established horizontal communication mechanisms are through certain fora, such as the National Environment Network (i.e. dealing with Structural Funds) and the National Council for Climate (dealing with planning in the light of climate change).

14.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

National Level

The Ministry of Environment (MoE) was created in 1996 (through Royal Decree 758/1996) and its basic organic structure was defined in August of the same year (Royal Decree 1894/1996 as modified by Royal Decree 1646/1999). The MoE's functions include the development of national environmental Plans and Strategies. Certain bodies have been created and mechanisms defined in order to integrate environmental components within the decision-making processes on PPPs. This has been attempted through the definition of a consultative body, the Assessment Council for the Environment (Consejo Asesor de Medio Ambiente, CAMA), which integrates members of different sectors, representatives of environmental authorities from the ACs and representatives of civil society. Another body is the Sectoral Environment Conference (Conferencia Sectorial de Medio Ambiente, CSMA) which studies and solves questions regarding the application of environmental policies (especially from the EU).

The only area where strategic environmental assessments are undertaken at national level and greater degrees of integration have occurred is in the definition of the Regional Development Plans, pursuant to obtaining Structural Funds. In order to enhance co-ordination at this level, the National Network of Environmental Authorities (Red Nacional de Autoridades Ambientales, RNAA) was created and SEA guidelines were defined.

Assessment Council for the Environment (CAMA)

The CAMA was created in 1994 by Decree 224/1994² (modified by Decrees 1720/1996 and 255/1997). The objective of the CAMA is stated in Art. 1 of Decree 224/1994:

"The Assessment Council for the Environment is created with the objective of favouring the participation of the organisations representative of social interests and persons of renown prestige in the elaboration and follow-up of an environmental policy oriented towards sustainable development..."

The CAMA is a consultative body that depends on the Ministry of Environment. Its president is the Minister of Environment and the two vice-presidencies are taken by the Secretary General for the Environment and the General Director for Environmental Quality and Evaluation. It also integrates representatives from other departments within the Ministry of Environment (Nature Conservation, Coasts, Water Quality and Hydraulic Works), representatives from environmental NGOs, labour unions and others from the civil society.

The CAMA has the following functions:

- (a) Give advice on the Law proposals and Royal Decree proposals as well as plans and programmes of State level that the President of the Council proposes.
- (b) Issue reports and proposals on environmental issues, on their own initiative or responding to petitions by the ministerial departments.
- (c) Propose measures to motivate the creation of employment related to environmental protection activities.
- (d) Propose measures to meet the international environmental agreements.
- (e) Promote the co-ordination between the public and private initiative in environmental matters, facilitating the undertaking of inter-sectoral environmental policies.
- (f) Propose measures related to environmental education.

Although the advisory status of the CAMA is clear in the legislation that defined its functions, the sectoral pieces of legislation do not make it mandatory to consult the CAMA in the definition of their sectoral plans and programmes. The CAMA is consulted on the initiative of sectoral (and other) authorities to issue their opinion. In any case, since 1996 (approximately) the activities of the CAMA have been almost stalled due to the non-attendance of many experts and NGOs to the sessions, as protest to the alleged lack of dialogue on the part of the Minister of Environment.

² Real Decreto 224/1994 (14 febrero), por el que se crea el Consejo Asesor de Medio Ambiente.

Sectoral Environmental Conference (SEC)

The SEC is a co-operation organism between the State Administration and the Autonomous Communities which facilitates the study and solution of questions related to the application of environmental policy (especially that related to the EU). Its role in the decision-making process on PPPs is, however, not clear. Only Law 10/1998 on Wastes, establishes that "The National Plans [for waste management] will be approved by the Council of Ministers after debate with the Sectoral Environmental Conference..."

National Network of Environmental Authorities (NNEA)

The NNEA was created in December 1997 as a response to the recommendations made in the Framework Regulation 2081/93/EEC on Structural Funds as well as the Council Regulation 1260/99/EC. At EU level, the Spanish network is co-ordinated through the European Commission, with the Networks of Environmental Authorities constituted in the different Member States. The NNEA is formed by the environmental authorities of each Autonomous Community (Environmental Councils), by the Ministry of Environment and by the different ministries which have responsibilities in the management of the structural funds: Ministry of Economy, Ministry of Agriculture, Food and Fisheries, and Ministry of Work and Social Affairs.

Representatives from the EC are also present in the network's plenary sessions: DG Environment, DG Regional Policy, DG Employment and Social Affairs, DG Agriculture and DG Fisheries. It is an objective of the NNEA to integrate environmental considerations in the development plans financed with Structural Funds. This involves an environmental assessment of the proposed development plans (as well as post-project assessment and monitoring), and the assessment of integration criteria in other development sectors.

In its first meeting, in February 1998, the Network created a Working Group whose first task would be the definition of Environmental Indicators and a methodology for undertaking the Preliminary Environmental Evaluations for each of the ACs included in the Objective 1 regions (which was approved in the second meeting in May). The second task of the Working Group was to develop a methodology for undertaking the Strategic Environmental Assessment of the Regional Development Plan. This Manual was finally developed based on the EC's Manual for SEA of Regional Development Plans. An inter-sectoral initiative has been set up with regards to climate change. The Council of Ministers created the National Council for Climate (created by Royal Decree 177/1998) under the leadership of the Ministry of Environment and with representation of 9 other Ministries. The Council is responsible for developing and implementing a National Strategy for Climate Change after reaching consensus with all the sectors involved.

Regional level

Decision-Making and Consultative Bodies

Not all of the Autonomous Communities in Spain have established a consultative body in environmental matters with inter-sectoral representation and/or representation from the civil society. The ones that have are:

Andalucía

Committee for Integrated Actions for Sustainable Development (Comité de Acciones Integradas para el Desarrollo Sostenible).

The Committee was created by Decree 249/1988 (modified by Decree 488/1996) and has representation of each of the Sectoral authorities in Andalucía. Part of its functions are the proposal, evaluation and follow-up of plans and programmes whose objective is the harmonisation of socio-economic development and the promotion of employment with the environment and the sustainable use of natural resources. It is also responsible for giving advice on Plans related to Natural Resource Planning, Land Use Planning, Development Plans, and other Plans which affect protected natural areas.

Balearic Islands

Balearic Commission for the Environment (Comisión Balear de Medio Ambiente).

The Balearic Commission for the Environment was created through Decree 38/1985 and its membership has been altered through further legal texts, the last one in October 1999 through Decree 212/1999 of the Balearic Islands. Decree 38/1985 also created a "Permanent Commission" with representation from the different sectors and the Presidents of Specialised Committees.

Catalonia

Assessment Council for the Sustainable Development of Catalonia (Consell Assessor per al Desenvolupament Sostenible de Catalunya).

The Assessment Council for the Sustainable Development of Catalonia was created through Decree 311/1998. It is a consultative body comprised of persons of "renowned prestige" in society. Sectoral authorities may consult them on policies and legislative proposals with potential impacts on the environment and sustainable development, and their opinions are not binding.

Extremadura

Assessment Council for the Environment of Extremadura (Consejo Asesor de Medio Ambiente de Extremadura).

The Assessment Council was created through Decree 1/1999 and has, amongst its functions the production of reports on PPPs if requested by the competent authorities. Its members include representatives from the various sectoral authorities as well as representatives from NGOs and other social groups.

Galicia

Delegated Commission of Galicia for the Environment (Comisión Delegada de la Xunta de Galicia para el Medio Ambiente); Galician Committee for Environmental Integration and Co-ordination (Comité Gallego de Integración y Coordinación Ambiental); Provincial Committees of Environmental Integration and Co-ordination (Comités provinciales de Integración y Coordinación Ambiental).

The Delegated Commission was created through Decree 15/1994 and modified by Decree 239/1999. It is presided over by the President of the Autonomous Region and its members include the different sectoral authorities. Its functions include the "adequate co-ordination of the environmental policy with the other sectoral policies". The Galician Committee was created through Decree 72/1998. It is composed by the different Sectoral Authorities and presided by the Head of the Environmental Council. Amongst its functions is the proposal for the integration of environmental policy in the sectoral policies as well as act as a consultative body for the Environment Council. The Provincial Committees act as a consultative body such as the Galician Committee but at local level.

Madrid

Environment Council of Madrid (Consejo de Medio Ambiente de la Comunidad de Madrid).

The Environment Council was created through Decree 103/1996 and subsequently modified by Decrees 25/1997 and 93/1998. This is a consultative body presided by the Environment and Regional Development Council and with representatives from the sectoral authorities and social organisations.

Murcia

Regional Environmental Assessment Council (Consejo Asesor Regional de Medio Ambiente).

The Regional Environmental Assessment Council was created by Decree 42/1994 as a consultative body presided over by the Councillor for Environment and with representatives from different sectoral authorities and social groups.

Basque Country

Environmental Commission of the Basque Country (Comisión Ambiental del País Vasco), Environment Assessment Council (Consejo Asesor de Medio Ambiente).

The Environmental Commission was created through the Environmental Protection Law of the Basque Country (Law 3/1998) in its Article 9 as a consultative body. The Commission is formed by representatives of the Environment Department, representatives of other Government Departments whose activities are related to the environment, representatives of local authorities of historical territories and representatives of the Association of Municipalities. Amongst its responsibilities, it gives its opinion on legislation proposals and on plans and programmes within the Environmental Framework Programme. The Assessment Council is defined in Article 12 of Law 3/1998 as a consultative body composed of representatives of sectoral authorities and social groups.

14.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

National level

There is no SEA legislation in place in Spain at national level. The only area where SEA occurs is in the preparation of the Regional Development Plans, through the Network of Environmental Authorities. In this case there is an internal assessment methodology based on the EC's Manual on the Environmental Assessment of Regional Development Plans and Structural Fund Programmes of the EU. The Network of Environmental Authorities has also defined Environmental Indicators.

Regional level

The Autonomous Communities of Castilla-La Mancha, Castilla y León and the Basque Country already have SEA legislation in place. On the other hand, the Regions of Andalucía, Balearic Islands, Canary Islands, Cantabria, Murcia and Valencia include certain PPPs within the list of activities that require an EIA.

Castilla-La Mancha

The SEA legislation of Castilla-La Mancha is defined in its Law 5/1999 (8 April) on Nature Protection³. Section II of the Law corresponds to the "Environmental Assessment of Plans and Programmes". The plans and programmes subject to an SEA are listed in Article 24.2: watering, agricultural or cattle-keeping development or transformation, forestry, wastes, wastewater treatment, land planning, industrial, energy, mining, roads, transport, hydraulic works and tourism. The Council for Environment is the Competent Environmental Authority and the Assessment Council for the Environment must be consulted in cases of plans and programmes of regional importance or which affect more than one province. However, no specific procedures have been adopted for its implementation nor guidelines been issued.

Castilla y León

The EIA and SEA procedure in Castilla y León is defined in Law 8/1994 on Environmental Impact Assessment and Environmental Audits, modified by Law 5/1998 and regulated by Decree 209/1995. Article 19 of Law 8/1994 establishes the sectors for which SEA is mandatory: forestry, tourism, agriculture, cattle-keeping, industrial, energy, mining, roads, transport, land use planning, industrial wastes, urban wastes, cattle-keeping, hospital wastes and others as deemed necessary by the government of Castilla y León. Article 20 establishes the general criteria that are to define the contents of the SEA. Decree 209/1995 established the regulations for EIA and SEA. The SEA procedure is defined in Articles 41-44, including a voluntary scoping phase, a public participation phase (undertaken by the promoter of the PPP) and the final decision.

³ Ley 5/1999 (Castilla-La Mancha), de 8 de abril, de Evaluación de Impacto Ambiental. BOE, 25 de mayo de 1999.

Basque Country

The SEA legislation of the Basque Country is defined in Law 3/1998 on Environmental Protection. The plans and programmes subject to SEA are listed in Annex IA, these include: land-use planning guidelines, land-use plans, sectoral territorial plans and other plans and programmes with territorial impacts, urban land-use plans and their modification affecting non-urban lands, subsidiary norms for planning and their modifications which affect non-urban lands, special plans and their modifications which affect non-urban land. However, the specific procedures for SEA have not yet been defined.

Other Regions

Other regions consider certain PPPs as activities which require an EIA and thus go through the same procedure (i.e. EIA). Such PPPs are outlined below, including the respective EIA legislation.

Andalucía

Applicable legislation:

- Law 7/1994 on Environmental Protection
- *Decree 292/1995 Regulations for Environmental Impact Assessment in the Autonomous Community of Andalucía*

PPPs subject to the EIA procedure:

- General Plans of Urban Land-Use planning, Complementary and Subsidiary Planning Norms as well as their revisions and modifications.
- Plans and Programmes of Physical Infrastructures with potential environmental impacts.

Balearic Islands

Applicable legislation:

- Decree 4/1986 regulating the Environmental Impact Assessments

PPPs subject to the EIA procedure (simplified EIA procedure):

- General Urban Land Use Plans, subsidiary norms, partial and special plans including their revision and or adaptation.

Canary Islands

Applicable legislation:

- Law 11/1990 on the prevention of ecological impacts.

PPPs subject to the EIA procedure:

Detailed EIA

- Agriculture
- Plans for Woodland management
- Irrigation plans
- Infrastructures
- Insular plans for waste management

Detailed EIS only if it takes place in an ecologically sensitive area

- Agriculture
- Grazing and grazing lands enhancement programmes

- Woodland management plans

Cantabria

Applicable EIA legislation:

- Decree 50/1991 on Environmental Impact Assessment (modified by Decrees 77/1996 and 38/1999)

PPPs subject to the EIA procedure:

Detailed EIA

- Management plans in the service areas of ports

Simplified EIA

- Infrastructure projects
- Land-use plans, Sectoral Director Plans, Natural environment management plans.
- General municipal plans for urban management and complementary and subsidiary planning norms, as well as their modifications and revisions affecting non-urban lands or which imply an alteration or implementation of industrial use in urbanisable land.
- Definition of urban lands and/or rural nuclei.

Murcia

Applicable EIA legislation:

- Law 1/1995 on Environmental Protection.

PPPs subject to EIA:

- Urban land use plans and programmes

Valencia

Applicable EIA legislation:

- Law 2/1989 on Environmental Impact Assessment
- Decree 162/1990 regulating Environmental Impact Assessment

PPPs subject to EIA:

Detailed EIA

- Infrastructure projects
- Land-use planning instruments
- Land-use plans
- Territorial action plans
- Territorial land-use programmes
- General municipal urban land-use plans
- Complementary and subsidiary planning norms

Simplified EIA

- Land-use planning instruments
- Instruments for urban land-use which develop superior-range planning when required
- Except in urban lands, special autonomous plans and their modifications
- Special conservation plans of nature beauties, landscape protection, conservation and enhancement of the rural environment and protection of gardens and forestry areas.

14.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

These are described above. Integration is mainly the responsibility of consultative bodies with sectoral representation and (sometimes) representation of social groups (NGOs, trade unions, industrial and commercial associations, etc). However, these are consultative bodies and the responsibility for approval of PPPs resting with the competent sectoral authority. For the regions that have SEA legislation in place, the competent authority is the environmental authority.

14.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Consideration

Agenda setting lies almost exclusively with the sectoral authorities, although the consultative bodies may propose initiatives for PPPs.

14.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The sectoral authorities are the decision-making bodies on PPPs and the regional environmental authority is the decision-making body for the regions which have implemented SEA legislation and provisions.

Key pieces of legislation

Castilla-La Mancha

Law 5/1999 (8 April) on Nature Protection

Castilla y León

Law 8/1994 (24 June) on Environmental Impact Assessment and Environmental Audits of Castilla y León

Decree 209/1995 (5 October) by which the Rules for Environmental Impact Assessment of Castilla y León are approved.

Law 5/1998 (9 July) which modifies Law 8/1994 (24 June) on Environmental Impact Assessment and Environmental Audits of Castilla y León

Basque Country

Law 3/1998 (27 February) General Environmental Protection Law of the Basque Country

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Chapter 15

Sweden

15.1 Introduction

Sweden is a constitutional monarchy with a parliamentary form of government. The Parliament consists of one chamber. Members of Parliament are directly elected by proportional representation for four-year terms as from January 1995. The administration is organised in a network of 100 central administrative agencies e.g. Swedish Environmental Protection Board. At regional level the national Government is represented by 21 county administrative boards (länstyrelse) led by county governors (landshövding). In addition to the county administrative boards there are County Councils at regional level, elected in connection with the general elections. The County Councils take care of e.g. traffic and regional planning. Sweden is divided into 288 municipalities that provide such services and facilities as roads, housing, water and sewerage supply.

Sweden adopted an Environmental Code (Miljöbalken) in 1999. This new legislation is structured on the basis of environmental principles and objectives. Its overall objective is to facilitate the process of making sustainability goals operational through principles that provide the basis for concrete requirements.

15.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making to a fair and partly strong extent. The Swedish Government has for a long time put sustainable development very high on the political agenda. A National Sustainable Strategy has been adopted and a National Co-ordination Mechanism of Sustainable Development has been established, in which e.g. the Ministry of Environment, the Forest Administration and Ministry of Agriculture participate. In order to facilitate and give advice on Agenda 21 activities the Government has established a National Agenda 21 committee with participation from parliamentarians, NGOs and, the corporate sector. The Government has formulated National Environmental Quality Goals for development in Sweden within various areas and sectors, which have been adopted by the Parliament. National Boards are responsible for formulation and implementation of action programmes for achieving the environmental goals. The National Board of Agriculture has, for example, presented a plan for achieving the goals set for organic farming activities.

From 1999 the Environmental Code is the legislation that covers most environmental problems. The Environmental Code is a result of a major review of environmental legislation. Specific laws on many subjects have been brought together in one code. It covers aims and general principles on the relations between human society and the

environment. It also covers land-use principles and replaces earlier Natural Resources Act. The Environmental Code is supplemented by the possibility for the Government to create binding Environmental Standards for certain areas.

The Environmental Protection Agency supports Local Agenda 21 activities. All Swedish local authorities work with the implementation of Local Agenda 21 initiatives and half of them have employed Agenda 21 co-ordinators, who arrange seminar courses, practical counselling activities for the general public etc. Environmental issues in higher education were emphasised in the Governments Research Bill 1997 – 1999.

15.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Swedish Government's Bill 'Environmental Quality Objectives' was presented in 1998 and states the ways in which the environmental policy should be conducted to achieve the overall objective of sustainable development. Furthermore, the Government was ready to adopt the Environmental Code by the end of that year. The Code integrates different pieces of environmental legislation so that the guiding principles agreed by Parliament are applicable to all sectors covered by the Code as well as new instruments relating to environmental quality norms and action programmes for specific areas. Strategies, policies, plans and programmes for different areas are developed by a number of National Boards covering specific areas. The responsibility for implementation of the strategic documents is shared between Boards, the state agencies and to a certain extent local authorities.

Various Commissions have been established for the purpose of developing and renewing of instruments to be used in the conduct of the sustainability strategy. An Environmental Classification Commission, which formulates and makes quality norms operational, has been established, as well as a Tax Change Committee, an Eco Management and Audit Scheme Commission and an Ecocycle Commission. Also the Swedish procedures concerning standardisation have gradually been developed. The central agencies have a rather independent position regulated in general instructions and policies issued by the Government. Environmental management systems have been established among central authorities on a pilot project basis. The overall policy framework of public sector activities is decided by the Cabinet of Ministers and the Parliament, but local governments have a wide latitude of discretion when preparing and carrying out public programmes.

The activities of the county administrative boards are in the main directed to regional development, including construction and environmental protection. Local authorities play an important role in environmental protection work. At local level municipalities are responsible for integrated planning. At regional level, county administrative boards are responsible and at national level the National Board of Housing, Building and Planning is in charge of integrated planning. Only matters with impacts in several municipalities are dealt with at regional level. The central Government is active in land-use planning only through legislation, standards and principles. The State provides guidance and supervision to local governments through orders and regulations and monitoring of local governments

by state agencies. The legislation on planning and building matters establishes detailed regulations on how different programmes should be managed. The relationship between the central Government and local governments is characterised by co-operation in various areas and in different forms. The Environmental Protection Agency, the National Board of Housing, Building and Planning, the Swedish Association of Local Authorities and representatives from county administrations have performed evaluations of work by county administrations on their environmental strategies (Local Agenda 21).

Statistics Sweden is responsible for the work on indicators for sustainable development. Representatives of major groups are not involved in this work. The Environmental Protection Agency is responsible for environmental monitoring activities, including defining conditions to meet targets previously set effectively. The Protection Agency has been commissioned to present a comprehensive annual report on environmental policy work in Sweden with reference to the hundred or more national objectives adopted by Parliament.

15.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The implementation of the Swedish EIA/SEA system is divided between 3 main authorities – The Agency for Nature Protection, Swedish Board of Planning and Building and the Ministry for the Environment. So far EIAs have primarily been used for projects and not for policies and programmes. Today EIA provisions are incorporated in more than 20 Acts. A number of institutions are to report, with proposals for provisions and legislation, on EIAs in their sector, such as forestry and agriculture. The Environmental Protection Agency has issued general recommendations in the report 'EIAs in Environment Protection and Nature Conservation Acts'. As a general rule environmental impacts assessments shall be included in government bills and other proposals for comprehensive decision-making of a strategic character (Governmental Bill 1993/1994). Work is in progress to systematically include EIAs at an early stage of the political process such as in the Governments Bill 'Municipal Comprehensive Planning' under the Planning and Building Act. 'Environmental objectives and indicators in spatial planning and SEA' (SAMS) is the title of a comprehensive research project that includes various case study areas – e.g. SEA of municipal plans and SEA of plans related to National Urban Parks.

15.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The relevant institutions and organisations responsible for integration of the environment into decision-making are summarised in Tables 15.1 (national level) and 15.2 (county and municipal level) below.

Table 15.1 Institutions and Organisations at National Level Responsible for Integration.

Approaches	Policy/Plans/Programmes National Level	Involved Institutions/ Organisations Responsible for SEA and/or Integration of Environment
<p>Major groups as the Swedish Society for Nature Conservation, Women's organisation, Q2000 and representatives from trade unions, industry and scientific community and local authorities are full members of the co-ordination mechanism</p> <p>Parliamentarians, NGO's the Corporate Sector and scientific community participate</p> <p>Cross sectoral activities</p> <p>Constructions as integral part of natural resources management</p> <ul style="list-style-type: none"> • Guiding principles are applicable to all sectors • environmental quality norms • instruments relating to norms 	<p>Sustainable Development Strategy</p> <p>National Agenda 21</p> <ul style="list-style-type: none"> • General environmental guidelines for development in Sweden Environmental Quality Objectives • National policies and programmes • Action plans and programmes in various areas aiming the achievement of environmental goals (ex. programme level Railway Planning) • Environmental Code • Instrument development • Indicators are under development, Monitoring Annual report – env. work 	<p>National Co-ordination Mechanism of Sustainable Development (Ministry of Environment, the Forest Administration, Ministry of Agriculture and other ministries participate</p> <p>National Agenda 21 Committee</p> <p>Parliament, Cabinet of Ministers</p> <p>National Boards (Agriculture, Forestry, Housing, Building and Planning etc.)</p> <p>Allocation of competences Boards and State Agencies Ad hoc commissions - eg. Ecocycle Commission Swedish Statistics</p> <p>Environmental Protection Agency</p>

Table 15.2 Institutions and Organisations at County and Municipal Level Responsible for Integration.

Approaches	Policy/Plans/Programmes County and Municipal Levels	Institutions/Organisations Responsible for SEA or Integration of Environment
<ul style="list-style-type: none"> • Top-down – policy guidelines and directives, legal provisions and regulations • Topic and Issue oriented networks • Counselling • Self-Government 	Implementation of National Policy Goals <ul style="list-style-type: none"> • Planning/EIA • Administration/protection and use of environment and natural resources • Service Provision 	County Councils Municipal Council State Agencies (County Administrative Boards) Administrations - municipalities
Awareness raising: <ul style="list-style-type: none"> • Public participation • Training/guiding Evaluation of environmental Strategies	Local Agenda 21	All local governments Employed Agenda 21 co-ordinators Representatives boards, local
Public participation	Spatial Planning Regional Plans (impact in more than one municipality- roads etc.)	County Administrative Boards Municipal Councils
Public participation	Municipal Plans Co-ordination of planning in the areas of e.g. water supply, waste,	Municipal Councils Ministries/local authorities/research institutions
Project/research Project/ research	<ul style="list-style-type: none"> • SEA of Municipal Plans • SEA and National Parks 	Ministries/local authorities/research institutions

15.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Development of Sustainable Development Policy and the National Agenda 21 Strategy

Swedish Society for Nature Conservation, Women's Organisation, Q2000 and representatives from trade unions, industry and scientific community are full members of the National Sustainable Development Co-ordination Mechanism.

National Policies and Programmes

Parliamentarians, Ministries.

Action programme development

Members of National Boards.

Ad hoc commissions – Instrument development – experts and interest representation

Eco Cycle Commission (Federation of Swedish Industries is participating), Eco-Management and Audit Scheme Commission, Tax Change Commission, special commissioner on standardisation.

Local Agenda 21

Local Politicians, citizens, NGOs

Regional and Municipal planning processes

County Administrative Boards – public participation

Municipal Councils – public participation

15.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The Environmental Code from 1999 constitutes the most important legal framework for protection and use of environment and resources. It replaces the old Environmental Protection Act as well as 15 other acts incorporated in the new Act (e.g. legislation on nature protection, environmental protection, waste, fuel, agriculture, water, pesticides, chemical products, genetically modified organisms, endangered species), The Planning and Building Act, Act of Maintenance of Farmland, Act on Right of Public Access, Act on Chemical Products, Waste Collection and Disposal Act, Sanitation Act.

The Railway Planning Act ensures that such construction becomes an integral part of decision-making on the management of natural resources.

• Contacts:

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- Aili Kaarik, Swedish Building and Planning Board
- Sten Jerdenius, Ministry of the Environment

Chapter 16

United Kingdom

16.1 Introduction

The UK is a parliamentary democracy, with the reigning Monarch as the head of state. The recent devolution of several different areas of national government responsibility to the Northern Ireland Assembly, the Welsh Assembly, the Scottish Parliament, the London Mayor and the Greater London Authority, heralds a change in the domestic political landscape of the UK, the implications of which are still evolving.

The Welsh assembly has had responsibility for environment and planning devolved. It must also prepare a plan to promote Sustainable Development. The success of this plan must be monitored yearly. The Scottish Parliament legislation does not specifically mention Sustainable Development. However, a committee of most of the parliament's ministers called 'Sustainable Scotland' has been formed, which is responsible for discussing the integration of the environment and the principles of sustainable development into the workings of the Parliament. The Northern Ireland Assembly includes a Department of the Environment, although there is no specific mention of Sustainable Development in the legislation. The legislation regarding the London Mayor requires that a report on the state of London's environment must be submitted every four years. All the mayor's activities must be integrated so that they are consistent with one another and the London Development Agency, (part of the Mayors responsibility), must contribute towards Sustainable Development.

The UK National Government has developed a strategy designed to integrate environmental considerations into government policy making and other operations, known as "Greening Government". This was developed from commitments made in the 1990 White Paper on the Environment "This Common Inheritance". Within the White Paper four integration mechanisms were proposed:

- A cabinet sub-committee for the environment
- Green Ministers for each Government Department
- Annual reports on progress made on environmental issues
- Guidance on incorporating environmental considerations into the government policy appraisal process (Policy Appraisal and the Environment).

Further mechanisms designed to complement the Greening Government initiative were proposed in the UK Strategy for Sustainable Development Strategy⁴ published in 1994, (DoE, 1994). These mechanisms included:

⁴ A commitment from the 1992 Earth Summit

- The UK Round Table on Sustainable Development
- The Government's Panel on Sustainable Development; and
- Going for Green - an awareness raising publicity campaign aimed at the wider public

Finally, the Labour Government strengthened the Greening Government initiative further by fulfilling election manifesto pledges to set up:

- An Environmental Audit Committee, and
- The Sustainable Development Unit

All these mechanisms theoretically provide the leadership, co-ordination and communication processes necessary to integrate the environment into decision-making. They provide the framework within which other mainstreaming initiatives are developed.

16.2 Extent to Which the Environment is Integrated into Decision-Making

The UK was the first country in the world to set up a dedicated Government Department of the Environment (McCormick, 1989). The UK was also the first to produce a Sustainable Development Strategy (1994) as part of the commitments from the Earth Summit. Furthermore, The Greening Government initiative was first announced ten years ago. Despite this substantial history of environmental initiatives and institutions there still remains much work to do on mainstreaming the environment within Government policy making. (EAC, 1999). Possible reasons for the (so far) disappointing results despite the promising start to the Greening Government strategy include:

- Minimal use of policy appraisal and the environment (CPRE, 1996; EAC, 1999)
- A general focus within the Government policy system on efficiency and throughput rather than outcomes and effectiveness (DETR, 1999a)
- The flexible approach to achieving environmental integration through highlighting best practice which has led to a variable success rate amongst departments
- Key areas such as capacity building through awareness and training have been neglected.

However, the new Sustainable Development Strategy together with the Environmental Audit Committee should help to address these concerns. The Sustainable Development Strategy was reviewed in 1998 and an extensive consultation exercise was undertaken with all documents available on the Internet. The new strategy was published in 1999 and identified priority areas for action and a comprehensive set of indicators and targets to measure the Government's progress. This set of over a hundred indicators can be summarised and presented under 15 headline indicators. Other commitments that were announced in the strategy⁵ included:

⁵ some commitments had already been announced separately.

- Reiterating a commitment made in the "Modernising Government" White Paper to produce and deliver an integrated system of impact assessment and appraisal tools in support of sustainable development.
- During the creation of any new public body the Government will consider whether to include sustainable development in its remit.
- Sustainable Development Commission - this new commission will subsume the Government Panel on Sustainable Development and the UK Round Table on Sustainable Development. Its role will be to monitor the progress of the Sustainable Development Strategy, provide a focal point for sustainable development and help develop consensus for action.
- An annual review of progress against 15 headline indicators will be published.
- A five-year review of the full strategy is planned.

Figure 16.1 below provides a summary of the key relationships between institutions and tools in the UK Sustainable Development Strategy.

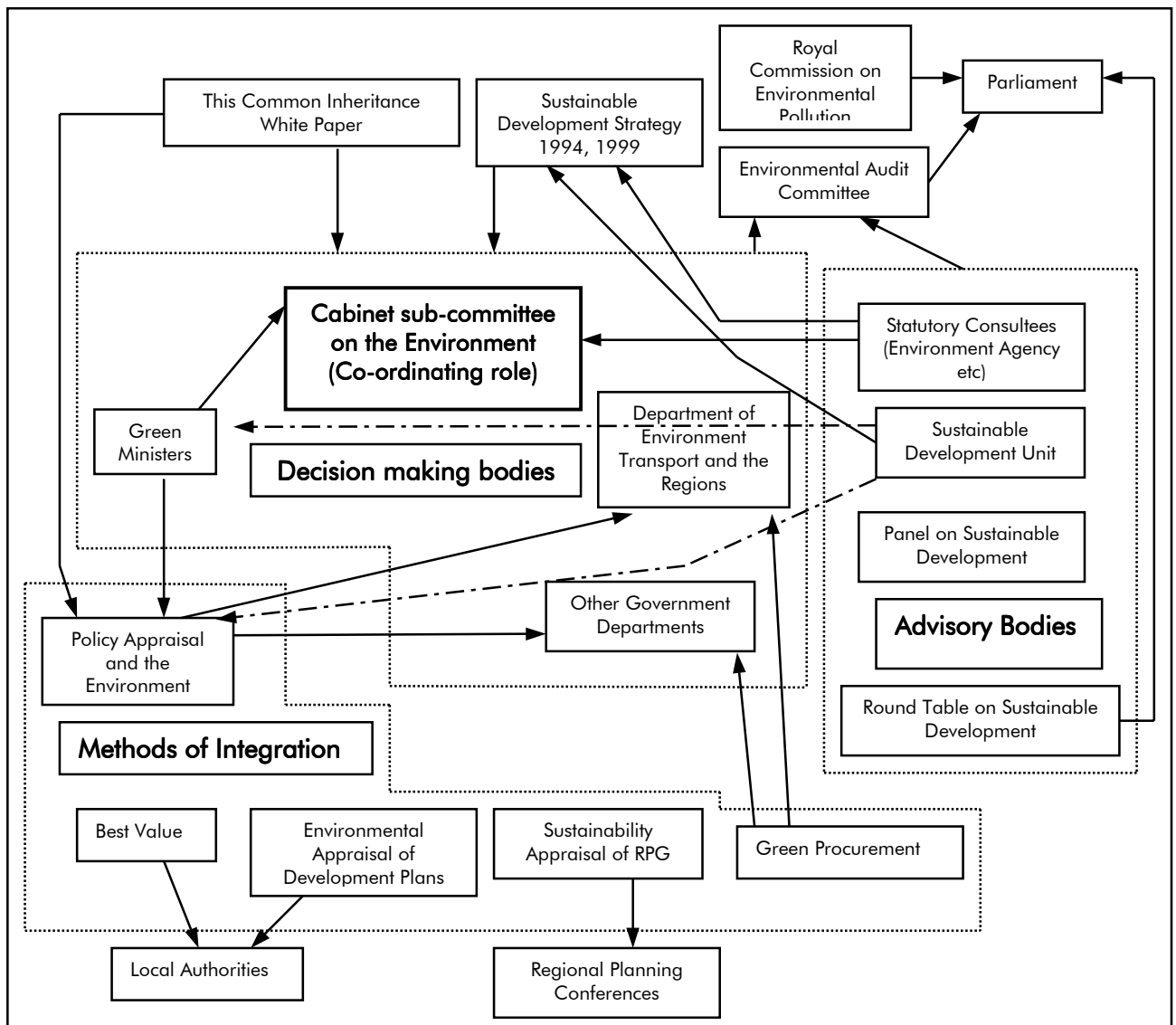


Figure 16.1 Sustainable Development Strategy, Institutions and Tools in the UK

16.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

There are a number of methods for assessing the strategic environmental impacts of policies and plans from central and local Government as well as statutory bodies. Moreover, there are other methodologies that have been identified as being good mechanisms by which to integrate the environment into decision-making.

Policy Appraisal and the Environment (PAE): - published in 1991 as one of the commitments from "This Common Inheritance" White Paper is adapted from the Treasury's cost benefit appraisal for Central Government policies (DoE, 1991). In 1994 the Government published a document to demonstrate its use and help promote best practice (DoE, 1994). However, the document showed that no Central Government policy had been appraised. A report by KPMG (DETR, 1998) found that one of the problems was that many people did not know how to use PAE. Consequently, the Government published guidance in 1998 (DETR, 1998), including checklists and screening criteria as well as points of contact. The Guidance does stress that PAE should be used side by side with the developing policy although the emphasis is still on appraising a policy that has already been developed. Furthermore, emphasis is still placed on quantifying and valuing the costs and benefits, there is no formal report, scoping stage or public participation. There are now several examples of the use of PAE (EAC, 1999).

Environmental Appraisal of Development Plans (EADP): - Planning Policy Guidance Note 12 on Development Plans (DoE, 1992) stated that all development plans (Local Authority Land Use Plans) must be environmentally appraised. In 1993 the Department of Environment (DoE) published 'The Environmental Appraisal of Development Plans: a Good Practice Guide' (DoE, 1993). This guide was produced from reviewing best practice from early attempts at environmental appraisals. The guide proposed a three-step process, using less quantitative techniques than those proposed by PAE:

- Characterise the environment.
- Scope the plan.
- Appraise the plan through determining the consistency of policies against objectives.

EADP does not include a separate formal report, to date it has been used primarily to appraise policies that have already been developed although should be used in parallel with plan development. There is no requirement to consult the public during its preparation, although the draft development plans themselves are subject to public consultation.

Sustainability Appraisal of Regional Planning Guidance (SA): - Regional Planning Guidance provides the framework for Local Authority development plans. Until recently there was no requirement to undertake a systematic environmental appraisal as is the case for development plans. The Government has decided to use regional planning as a test case for sustainability appraisal. The proposal advocates an objectives led approach, which includes setting targets and indicators as part of the appraisal. The appraisal is

based upon the performance of different options against sustainability criteria. However, there is no formal written report and no public participation (DETR, 2000a).

Environmental Impact Assessment: - The European Directive 85/337/EEC and the Amendment Directive 97/11/EC are implemented through the Town and Country Planning and other sectoral legislation.

The New Approach To Appraisal (NATA):- NATA was designed to appraise individual trunk road schemes and has subsequently been extended to include multimodal transport corridors (GOMMS) and integrated local transport plans. NATA provides a framework within which to bring together information from the Cost Benefit Assessment⁶ and the EIA. Five overarching objectives on: Integration; Accessibility; Environment; Safety; and the Economy, together with their related sub criteria are used to judge the performance of different schemes. The Integration objective specifically appraises the compatibility with other policy areas. The idea was to allow the environment to be considered on a more equal footing with economic and road transport considerations (DETR, 1998; 2000b). The latest versions of NATA include social exclusion and integration of the proposal with other policy areas, thus making it a precursor to a sustainability assessment. NATA contains no proposals for public consultation within its process and does not include a full written report or baseline study.

Environmental Management Systems (EMS): - The Government is committed, where it is cost effective, to ensure that all its departments should have begun introducing EMS by the end of this Parliament. Five departments already have EMSs in place. Green Ministers are responsible for monitoring progress. Initiatives to promote EMSs within Government departments include:

- An inter departmental group on EMS
- A public sector Help desk
- Environmental consultants on a call off contract.

Best Value: - The duty of best value is one that the Local Authority will owe to local people, both as taxpayers and users of Local Authority services. It aims to deliver:

- The correct balance between cost and quality
- Economical, efficient and effective service delivery
- Continuous improvement.

The environment is not a central commitment within Best Value, but it is included in the performance indicators to judge whether Best Value is being delivered. For example, the completion of a local air quality strategy and the proportions of re-used and recycled waste in an area.

Green Procurement: - The Treasury has issued advice to Government employees on environmental issues in purchasing (Treasury/DETR 1999, Environmental issues in

⁶ All road schemes must show a positive net present value via the Government is cost benefit assessment methodology COBA.

Purchasing). However, the Environmental Audit Committee (EAC) states more could be done to promote green procurement (EAC, 1999)

Public Service Agreements (PSA): - The Public Service White Paper sets out a requirement for public service agreements to be issued by each government department. PSAs set out a transparent framework for Government operations. They detail the Department's aims and objectives, the resources available to achieve them, and a set of measurable targets. Within the White Paper the requirement to increase "Sustainable Growth and Employment" is made. However, PSAs have been criticised for not including more specific criteria to do with environmental integration and sustainable development (CPRE, 1999).

16.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

National Policy: - National policy is supposed to be subject to Policy Appraisal and the Environment. In reality the Green Ministers Report (UK Government, 1999) states that "All departments have put in place measures to ensure their staff take proper account of the environment when policies are being developed" which does not necessarily mean the full application of PAE. Nevertheless, the use of internal auditors is a best practice mechanism that is being used.

Regional Planning Guidance (RPG): - RPG must be appraised using the sustainability appraisal methodology.

Development Plans: - Environmental Appraisal of Development Plans (see above).

Regional Economic Strategy: - The Regional Development Agencies must appraise their strategies' contribution to sustainable development (using sustainability appraisal).

Local Transport Plans and Multimodal Studies:- The New Approach to Appraisal must be applied to all transport plans and programmes as well as trunk road schemes and corridors.

Water Resources studies: - The Environment Agency is carrying out a new SEA of their water resources strategy. This has provided the framework and encouragement for some of the water companies to undertake their own SEAs. Increasingly private companies are carrying out SEAs of strategic options studies, the water industry being a good example of this.

16.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The Department of the Environment Transport and the Regions (DETR): - all the directorates have responsibilities towards the environment and sustainable development. It includes the Sustainable Development Unit (see below), and the Planning Inspectorate.

The Department of Trade and Industry (DTI): - Includes an environment directorate with particular concern to improve the environmental performance of industry.

The Ministry of Agriculture Food and Fisheries (MAFF): - Includes an environment directorate responsible for conservation, environmental protection and rural development.

Cabinet Committee on the Environment (ENV): - ENV is the principle decision-making body on sustainable development and the environment. It oversees and supervises the work of the Green Ministers Committee and receives reports from them twice a year.

Green Ministers Committee: - A green minister has been appointed in each of the main Central Government Departments. They are responsible for the integration of sustainable development (including the environment) across Government and the wider public sector. They promote the use of environmental appraisals and undertake to identify significant environmental impacts related to their Department's work.

Sustainable Development Unit: - The remit is to promote sustainable development across Government. It services the Cabinet Committee on the Environment, and the Green Ministers Committee. It has responsibility to report to the Environmental Audit Committee. It has responsibility for environmental appraisals across Government, for Local Agenda 21, to liaise with the Round Table on Sustainable Development, the Advisory Committee on Business and the Environment, the international aspects of sustainability for the Panel on Sustainable Development and the Government publicity campaign "Going for Green". It is also responsible for service level agreements between the Government Offices and the Regions.

The UK Round Table on Sustainable Development: - The Round Table was set up in 1995 to build consensus between groups that are traditionally opposed to one another on matters of the environment. Members include businesses, NGOs and academics.

British Government Panel on Sustainable Development: - Set up in 1994 to advise the Government on strategic issues arising from the sustainable development strategy and the other post Rio reports of climate change and biodiversity.

Environmental Audit Committee: - The Environmental Audit Committee was set up in 1998 to consider to what extent the policies and programmes of government department and non-departmental public bodies contribute towards sustainable development and environmental protection, to audit their performance against targets and to report the findings to the Parliament. The members of the committee are all MPs.

Royal Commission on Environmental Pollution (RCEP): - The RCEP is a permanent advisory committee of appointees, independent of Government, which chooses its own topics to investigate, and which reports to the Queen (Government).

The Advisory Committee on Business and the Environment: - Set up in 1991 to allow dialogue between Government and Business on environmental issues

Trades Union and Sustainable Development Advisory Committee.

Environment Agency (England and Wales)/Scottish Environmental Protection Agency:
- Formed in 1995 they have a legal duty to promote sustainable development, (within the discharge of their functions) and are responsible for pollution prevention and control, the former also for water resources and water-based recreation and conservation.

English Nature/Scottish Natural Heritage/Countryside Council for Wales: - Formed in 1991 they are the Government advisors on biodiversity and conservation, and they are responsible for the national Biodiversity Action Plan (BAP) and advising on Local Authority BAPs.

Countryside Agency: - Formed in 1998 it is responsible for rural issues and protection and enhancement of the wider landscape in England. Countryside recreation and rural development is a major aspect of its work. It publishes an annual State of the Countryside report.

Government Offices: - Includes the regional responsibilities of DETR, and other departments.

Regional Development Agencies: - They are responsible for attracting inward investment into the regions, and administering Government and European grants. They have a specific sustainable development remit.

Local Authorities: - They are responsible for Local Agenda 21 in their areas, as well as planning, nature conservation, air quality, energy efficiency, transport and CO₂ reduction.

16.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Prime Minister: - Is personally committed to the Sustainable Development Strategy. However, he is also committed to other policy areas not necessarily consistent with sustainable development.

Deputy Prime Minister: - Secretary of State at the DETR; represented the UK at the Kyoto agreement negotiations, chairs the Cabinet Committee on the Environment. Environment Minister: - chairs the Green Minister's committees and is the Green Minister at the DETR.

Green Ministers: - Each department has a Green minister who is responsible for mainstreaming the environment (see above).

16.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The key decision-making bodies, mentioned above, include, The Cabinet Committee on the Environment, DETR, DTI, MAFF, The Green Ministers Committee, The Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly, the London Mayor, The Government Offices, The Local Authorities, the Regional Development Agencies, The Environment Agency and English Nature.

The background influence of the UK can clearly be seen in the approach to the introduction of Policy Appraisal and the Environment and Environmental Appraisal of Development Plans. Emphasis was placed on disseminating best practice guidance rather than specific regulations on the mechanisms of environmental integration. This allows innovation, but leads to vast difference in standards of implementation. The inertia of the civil service (DETR, 1998), conflicting policies and the reluctance of some government ministers to fully embrace the integration agenda seem to have resulted in the slow progress of the Greening Government initiative to date (Aspinwall, 2000, pers. comm). However, auditing and monitoring have recently taken on an increased role with the creation of the Environmental Audit Committee, the Headline Indicators on Sustainable Development, and the Sustainable Development Unit. The sectors where strategic forms of environmental assessment are most developed are Land-Use Plans and Transport plans and programmes. Increasingly, SEA of water strategies and government policies is more common.

Key policy/legislation include: -

This Common Inheritance, White Paper (1991): - set out the framework for the future development of environmental policy and raised the profile of the environment. The White Paper also initiated the Greening Government strategy.

Environmental Protection Act (1990): - split the national Nature Conservancy Council, into equivalent ones for England, Scotland and Wales and then created statutory agencies with a countryside and nature conservation remit in Scotland and Wales, but separate countryside and nature conservation bodies in England.

Environment Act (1995): - set up the Environment Agency in England and Wales, the Scottish Environmental Protection Agency in Scotland. Laid out requirements for air quality and contaminated land.

Sustainable Development Strategy (1999): - set out indicators for sustainable development.

Wildlife Countryside Act (1981): - amended (1985) set out protected species.

• **Contacts:**

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- Department of Environment, Transport and the Regions

Chapter 17

Australia

17.1 Introduction

Environmental concerns are integrated into the decision-making process in Australia at the Commonwealth and State or Territory levels. Australia has a very well developed Environmental Impact Assessment (EIA) programme. Environmental assessments are conducted at the Commonwealth level, the State or Territory level, and often jointly or co-operatively between the two. EIA in Australia is largely project-based although there is movement towards policy level strategic environmental assessment (SEA) with the implementation of a national strategy for sustainable development.

17.2 Extent to which the Environment is Integrated into Decision-Making

The Commonwealth of Australia is a federation of self-governing States and mainland Territories. The Australian Constitution defines the scope of the Federal government's powers and responsibilities. Accordingly, all other matters are within the remit of the State and Territory governments. State and Territory governments also have established systems of local government in the form of local Councils. Australia has a comprehensive EIA programme at the Federal, State and Territory level of government. Prescriptive legislation mandating environmental assessment exists at the Commonwealth and State or Territory levels of government. Executive or administrative entities are in place to administer the assessment process. Australia has also developed a national strategy for ecologically sustainable development that is founded upon the key principle of "integrating environment and development considerations in decision-making."

17.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Environmental Protection (Impact of Proposals) Act of 1974 is the governing legislation for EIA in the Commonwealth. EIA is administered by Environment Australia, which acts under the authority of the Department of the Environment and Heritage, headed by the Minister of the Environment and Heritage (see below).

A proposal may only have to satisfy the environmental assessment requirements at the State or Territory level. Often, however, a proposal will invoke both Commonwealth review under the Act and State or Territory review according to local legislation. There is an Intergovernmental Agreement on the Environment that explicates the practice of joint assessment or co-operative assessment. In a joint assessment the proposal must satisfy both jurisdictions; typically each will agree to a process that meets its own criteria for

environmental assessment and each level of government issues a decision. In a co-operative assessment the proposal must simply satisfy one jurisdiction for environmental assessment (most often the State or Territory) although all requirements and processes will be considered. Only one decision is issued in a co-operative assessment.

Australia's EIA system is a project or proposal based system for assessment. There has been movement towards a more strategic environmental assessment at a broader policy level. The National Strategy for Ecologically Sustainable Development (NSES), for example, promotes co-operative decision-making between government, industry and community groups. The principles underlying this goal of sustainable development include the "integrati[on] [of] economic and environmental goals in policies and activities" and to "ensur[e] that environmental assets are properly value[d]."

The NSES includes a strategic approach to EIA that avows a new government focus on "improving the coverage and effectiveness of the EIA process and subsequent decision making process." One objective is "to ensure that the guiding principles of ESD are incorporated into environmental impact assessment, with emphasis on clarity of application and process, community access and post-approval accountability ...". Another is "to increase the sensitivity of the EIA process, its planning and policy context and consequent decision making, to cumulative and regional impacts." Note Australia's approach to SEA is to expand upon the existing EIA programmes in place, in contrast to the Canadian approach of creating a separate SEA regime.

The Commonwealth government has continued to ensure that the principles of sustainable development are included in its own decision-making processes. The Commonwealth strives to reflect its commitment to sustainable development in legislation and governmental programmes. The Australian International Development Assistance Programme, for instance, relies on these principles when providing development assistance. This commitment to sustainable development can also be seen at the State and Territory as well as local levels as reflected in planning and development legislation. Each level of Government as well as individual jurisdictions has responded to the recommendations of the NSES based on its own needs and priorities.

17.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The EIA Act "seeks to ensure that matters affecting the environment to a significant extent are fully examined and taken into account in Commonwealth government processes."

The Act applies to environmentally significant Commonwealth actions defined generally as "the formulation of proposals; the carrying out of works and other projects; the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the States and Territories); the making of, or the participation in the making of, decisions and recommendations; and the incurring of expenditure." EIA has been carried out for numerous public works sorts of projects, such as hydro-electric plant, an aluminium refinery, and airport expansion. SEA, or NSES, has

typically been applied on an inter-jurisdictional and sectoral basis, such as national level strategies for Forests, Waste Management and Biodiversity.

17.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

EIA

The EIA process is not described here, but a flow chart is available at:

<http://www.environment.gov.au/epg/eianet/eia/EPIPchart.html>

SEA

There is not a formal division of labour for strategic policy development. The different levels of government are engaged in a "continuing dialogue" for the promotion of sustainable development and compliance with Agenda 21 principles articulated in the 1992 United Nations Conference on Environment and Development.

17.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The responsibility for deciding whether there is a Commonwealth action and whether that action is environmentally significant rests with the Minister or "action Minister" (Minister of agency responsible for the proposed action). The Minister has some discretion in triggering the assessment procedure if he or she believes that the "decision would benefit from environmental assessment" (e.g. reasons other than environmental significance). The "proponent" is the person or body responsible for the proposal. This can be either a Commonwealth department or authority (if the proposal is a Commonwealth development), a State or Territory department or authority or a private company (if the proposal is a private sector development requiring Commonwealth involvement). Once a proposal has been referred by the Minister, the proponent must provide some preliminary information to Environment Australia, referred to as a Notice of Intention (NOI). NOI is a brief summary of the proposal that includes a description of the proposed project, alternatives, the current stage of development, a description of the environment, an indication of the potential impacts on the environment and any safeguards and standards to be applied to protect the environment. This information enables the Minister for the Environment or Environment Australia to make a decision about the level of assessment appropriate for that particular proposal. The Act provides for four levels of assessment (1) assessment without the preparation of an Environmental Impact Statement (EIS) or a Public Environment Report (PER); (2) assessment following the preparation and public review of a PER; (3) assessment following the preparation and public review of an EIS; and (4) examination by a Commission of Inquiry. Finally, it is the action Minister who is responsible for making a final decision with respect to a proposal. The Minister for the Environment does not have veto power over this decision although his or her input (comments, suggestions or recommendations) must be considered by the Minister.

17.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Decision Making Bodies:

- Department of Environment and Heritage [Commonwealth]
- Environment Australia Environment Protection Group Environment Assessment Branch [Commonwealth]
- Intergovernmental Committee on Ecologically Sustainable Development (ICESD) [Inter-jurisdictional]
- Council of Australian Governments (COAG) [Inter-jurisdictional]
- Department of Lands, Planning and the Environment [Northern Territory Government]
- Queensland Department of Housing, Local Government and Planning [Queensland]
- South Australian Department of Housing and Urban Development (DHUD) [South Australia]
- Department of Environment and Land Management (DELM) [Tasmania]
- Western Australia Ministry of Planning [Western Australia]

Key legislation:

- The Environmental Protection (Impact of Proposals) Act of 1974 [Commonwealth]
- World Heritage Properties Conservation Act 1983 [excluded from Commonwealth]
- Intergovernmental Agreement on the Environment [Inter-jurisdictional]
- National Strategy for Ecologically Sustainable Development (NSES) [Inter-jurisdictional]
- Land (Planning And Environment) Act 1991 [Australian Capital Territory]
- Environmental Planning and Assessment Act 1979 (as amended 1993; see also Environmental Planning And Assessment Regulation 1994) [New South Wales]
- Environmental Assessment Act [Northern Territory]
- Local Government (Planning and Environment Act) 1990 – 91 [Queensland]
- Development Act 1993 (as amended by the Environmental Protection Act 1993) [South Australia]
- Environmental Management and Pollution Control Act 1994 [Tasmania]
- Environment Protection Act 1986 (see also Environment Protection Act 1986 - Administrative Procedures) [Western Australia]

Chapter 18

Canada

18.1 Introduction

Canada has well-developed Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) programmes. The two programmes comprehensively address project based assessments and policies, plans and programme assessments in Canada at the federal level.

18.2 Extent to Which the Environment is Integrated into Decision-Making

Canada is a federal parliamentary democracy. The parliament consists of an elected House of Commons, which initiates most legislation, and a nominated Senate. Government is essentially led by the Prime Minister, generally the leader of the party holding a majority in the House of Commons. The Constitution Act of 1867 does not specifically mention the environment, however parliamentary authority is inferred from other provisions, such as those pertaining to state lands, fisheries, and criminal law. The Constitution assigns considerable authority to provincial legislatures; implementation of many national policies, including fulfilling international treaty obligations, requires extensive consultations between the federal, provincial, and territorial governments. This de-centralized power structure is reflected in the environmental laws at all levels of government.

EIA

For purposes of environmental assessment, the most recent legislation is the Canadian Environmental Assessment Act (EAA) passed in 1992. The EAA mandated the creation of the Canadian Environmental Assessment Agency (CEAA) to replace the previous Federal Environmental Assessment Review Office (FEARO). The CEAA is a national organization charged with administering and promoting environmental assessment policies and practices of the federal government. The CEAA operates independently although it both reports to and advises the Minister of the Environment on environmental matters. To encourage public participation in the assessment the CEAA maintains a public registry system whereby projects in numerous localities and sectors can be reviewed based on the level of assessment invoked by the project. The EAA is designed to be a tool for decision-making at the federal level. The purpose is to introduce potential environmental effects of proposed projects as early as possible and to establish as "an open and balanced process" for the assessment of said projects. Projects that require federal action or decision will trigger the assessment process. Based on the complexity of the project and likely environmental effects the project will be assessed through screening, comprehensive study, mediation, and panel review. Public participation is encouraged at all stages of

assessment. Finally, the Act states that sustainable development is a “fundamental objective” of the environmental assessment process. There are also harmonised agreements for joint assessment when a project invokes both federal and provincial review. Canadian Environmental Protection Act (CEPA), earlier environmental legislation (discussed below), authorized the federal environment minister to enter into agreements with provincial governments in order to reduce duplication of efforts. Many of the provinces have EIA legislation and administering entities.

SEA

Canada has been consolidating and revamping its environmental legislation striving both to maintain the existing EIA programme as well as to implement comprehensive environmental integration through the use of SEA. The most significant statutes are the Canadian Environmental Protection Act (CEPA), the Environmental Assessment Act (EAA), and the establishment of the Commissioner of the Environment and Sustainable Development.

The Canadian Environmental Protection Act (CEPA), 1988, was the initial environmental protection statute, covering human and environmental health. The Act consolidated five major laws administered by Environment Canada, namely those dealing with contaminants, water, air, ocean dumping, and the Department of the Environment. The administration of the CEPA was to be reviewed by a parliamentary Standing Committee, the Committee on Environment and Sustainable Development. While the CEPA made inroads at consolidating the patchwork of environmental legislation and regulations, the committee was critical of the CEPA and observed that new trends in “environmental thinking” require an updated approach to environmental management and sustainable development.

The Environmental Assessment Act (EAA) was passed and implemented in response to these criticisms. The EAA specifically integrates sustainable development requirements into all federal planning and decision-making, spelling out the exact responsibilities and procedures for all federal projects. The act applies to the broad range of situations in which the federal government has decision-making authority, including in its roles as a proponent, land manager, financial contributor, or regulator. As discussed above, the EAA also mandated new EIA procedures.

As mentioned in the Green Plan of 1990, the federal government has been striving to better co-ordinate the environmental aspects of its various departments. The most significant action towards this goal is the amendment to the Canadian Auditor General Act that created the Commissioner of the Environment and Sustainable Development. The Commissioner is specifically charged with the task of monitoring the federal government's environmental performance. The amendments provide a legal basis by which all federal departments are required to prepare sustainable development strategies and action plans. The strategies are supposed to be presented to Parliament within two years and must state how all-departmental activities will fulfil the requirements of sustainable development. It has

been observed that if properly enforced, this requirement could radically alter federal environmental policy. Rather than being confined to a few departments with clear environmental pursuits, sustainable development would theoretically be incorporated into all departmental operations. The Department of Finance, for example, would have to adjust tax policy to promote environmental quality.

The most recent SEA legislation was passed in 1999. Canada passed a "Cabinet Directive on Environmental Assessment of Policy, Plan and Programme Proposals" that mandates federal departments and agencies to consider environmental issues when promulgating government policy, programme, plan and regulatory proposals. The culmination of legislative efforts from the CEPA to the EAA to the Commissioner, the Directive most resolutely sets out a framework by which the federal government must implement SEA.

18.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Canadian environmental ministry, Environment Canada, has primary responsibility for formulating national environmental policy. This includes directly managing several statutes relating to the environment, as well as co-ordinating the development of federal policies and the actions of other departments with respect to the environment. This responsibility is especially important due to a new measure that requires all federal departments to prepare sustainable development plans for their operations. The stated objective of Environment Canada is "to foster a national capacity for sustainable development in co-operation with other governments, departments of government, and the private sector." On the inter-jurisdictional level, Environment Canada co-ordinates federal and provincial policies through the Canadian Council of Ministers of the Environment.

At the federal level, all ministerial heads of departments are required to conduct a SEA of policies, plans, and programmes based on the 1999 Directive. The Commissioner of the Environment and Sustainable Development oversees these processes. Integration of the environment is designed to contribute to the development of policies, plans and programmes on an equal basis with economic or social analysis. Ideally the level of assessment will correspond to the level of anticipated environmental effects. The SEA should address the scope and nature of the likely environmental effects, the importance of said effects as well as the need for mitigation to reduce or eliminate adverse effects. Public participation and complete documentation is expected of the department or agency conducting the SEA. These environmental factors are to be "fully integrated into the analysis of each of the options developed for consideration, and the decision should incorporate the results of the strategic environmental assessment".

18.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Ministers are expected to conduct a SEA when a proposal that has been submitted to the individual Minister of Cabinet for approval, if implemented, "may result in important environmental effects, either positive or negative." Departments and other agencies are

encouraged to conduct a SEA for other policies, plans and proposals. Additionally, a SEA may be initiated by public concern or potential environmental consequences warrant review.

18.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

EIA is conducted at the local levels of government upwards whereas SEA is conducted generally from the federal government downwards, and see above.

18.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

EIA

The responsibility for implementation of the EAA lies with the Minister of the Environment of the Department of the Environment. Based on the scope of assessment, the Minister is empowered with some oversight over the assessment process. Environment Canada is responsible for the Canadian Environment Assessment Agency (CEAA). The Minister is also responsible for co-ordinating with the provinces and is authorised to negotiate harmonised environmental assessment procedures (for joint review). Local decisions are vested in the Department or Ministerial heads of the local environmental government entities.

SEA

The responsibility for implementation of SEA occurs at the department level. The Commissioner of the Environment and Sustainable Development is responsible for oversight.

18.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Decision-making bodies:

- Minister of the Environment, Department of the Environment [Federal]
- Ministers, other agencies or departments [Federal]
- Environment Canada, Canadian Environment Assessment Agency [Federal]
- Commissioner of Environment and Sustainable Development [Federal]
- Canadian Council of Ministers of the Environment [Interjurisdictional]
- Director, Environmental Assessment Division, Environment Alberta [Alberta]
- Executive Director, Environmental Assessment Office, Ministry of Government Services [British Columbia]
- Manitoba Conservation [Manitoba]
- Minister of the Environment [New Brunswick]
- Minister, Department of Environment and Labour [Newfoundland and Labrador]

- Nova Scotia Environmental Assessment Board [Nova Scotia]
- Environmental Assessment Branch, Ministry of the Environment [Ontario]
- Minister of Environment and Resource Management [Saskatchewan]
- Environmental Assessment Section, Department of Renewable Resources [Yukon]

Key legislation:

- Canadian Environmental Protection Act (1988) [Federal]
- Canadian Green Plan for a Healthy Environment (1990) [Federal]
- Canadian Environmental Assessment Act (passed 1992) [Federal]
- Amendments to the Auditor General Act (1995) [Federal]
- A Guide to Green Government (1995) [Federal]
- Cabinet Directive on the Environmental Assessment of Policy, Plan and Programme Proposals (1999) [Federal]
- Canada-Wide Accord on Environmental Harmonization (Canadian Council of Ministers of the Environment) / Sub-Agreement on Environmental Assessment [Inter-jurisdictional]
- Canada-Alberta Agreement for Environmental Assessment Co-operation [Inter-jurisdictional]
- Canada - Saskatchewan Agreement on Environmental Assessment Co-operation [Inter-jurisdictional]
- Alberta Environmental Protection and Enhancement Act (see also Environmental Assessment (Mandatory and Exempted Activities) Regulation, AR 111/93; Environmental Assessment Regulation, AR 112/93) [Alberta]
- British Columbia Environmental Assessment Act [British Columbia]
- Manitoba Environment Act (see also Manitoba Regulation 164/88) [Manitoba]
- Environmental Impact Assessment Regulation 87-83 [New Brunswick]
- Environmental Assessment Act [Newfoundland and Labrador]
- Environment Act [Nova Scotia]
- Environmental Assessment Act [Ontario]
- Environmental Assessment Act [Saskatchewan]
- Environment Act [Yukon]

Chapter 19

Latvia

19.1 Introduction

Latvia is a parliamentary republic. The Seima is the highest political power in the country. All citizens (over 18 years of age) elect members in general elections according to proportional representation and voting for lists. The Seima consists of 100 deputies. The President, elected by Seima nominates the Presidents' Ministers, who form a cabinet. The Latvian constitution declares that Latvia is divided into 4 regions and for administrative purposes into 26 districts and 7 republic cities. The local authorities comprise 70 municipalities and 483 pagast authorities (from the soviet time) that are located in rural areas.

Since the restoration of independence in 1991, European integration has been a key foreign policy objective for Latvia. In December 1996 Latvia's EU integration policy was concretised with the adoption of the first National Programme for EU Integration. The EC Commission in 1997 accepted a National Programme for Adoption of the Aquis Communautaire. Updated National Programmes for integration into EU, which shall ensure transparent and rational co-ordination of action, have followed this programme. The main priority areas are the approximation of Latvian laws with those of the EU aquis, including approximately 70 directives in the field of environmental policy.

19.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is formally integrated into decision-making to a fair extent. However the decision-making systems in practice prove to be incoherent due to continuously changes initiated by pre-accession activities. These activities include massive capacity building, development of the Latvian legal system as well as lots of practical arrangements.

The Cabinet of Ministers accepted a National Environmental Policy Plan for Latvia in 1995. The plan sets out four long-term environmental policy goals, including 'integration of environmental policy goals in all branches and fields of life'. Policies, plans and programmes covering the different sectors are developed. The Regional Development Plans that are drafted as well as programmes under the Structural Funds Programmes have to undergo an environmental assessment procedure in accordance with the EC Handbook on environmental assessment of such plans and programmes.

The legal framework for environmental protection in Latvia consists of statutes that have been adopted at different times. There are a few remains from the pre-Soviet period (Civil Law 1937) whereas many standards on emissions and environmental quality from the

Soviet period were finally revoked in 1999. A third group belongs to the 1990s where legislation was adopted as a necessary step on the road towards a market economy. These measures included Law 'On Environmental Protection' (1991) and Law 'On State Environmental Impact Assessments'. The fourth group of environmental statutes is being developed as a result of the EU approximation process.

Although the mass of legislation grows, the relations between different statutes are not always well thought out by the legislator, who normally is in a hurry (Michanek and Blumberga, 1998).

The Ministry of Environment that was established in 1993 and its subordinate institutions including an impacts assessment body, monitoring institutions and 8 Regional Environmental Boards (permitting, control and enforcement activities) are responsible for the implementation of the environmental policy initiatives. Due to lack of traditions regarding cross-sectoral activities there are many factors at structural as well as actors level that may influence the effectiveness of implementation efforts. An example of lack of coherence between decision-making systems is the spatial planning system that is not connected with the systems covering the protection and use of the environment. In the field of monitoring plenty of data within various areas are sampled and analysed. However co-ordination and communication between responsible institutions to a large extent is lacking.

19.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Constitution (Satversme) does not include any provisions pertaining directly to the environment. In the constitution of the Republic of Latvia on 'Human and Civil Rights and Duties' there is the following provision: 'The protection of nature, cultural environments, landscapes, historical and architectural monuments and the environment shall be the duty of every individual, the general public and the State...'

The development of the Latvian legal framework is very much inspired by the Scandinavian environmental legal systems, especially the Swedish approach to development of coherent environmental protection systems. A draft law 'On Pollution' and a draft law 'On Water Management' that can be considered as the base for further approximation activities are expected to be adopted by the Cabinet of Ministers in autumn 2000.

EIA requirements since 1990 have been included in Latvian Legislation. The Law on State Ecological Expertise includes what is internationally recognised as EIA. The law that recently has been substituted by new legislation on EIA has helped the establishment of a significant environmental policy implementation instrument. The function of State Ecological Expertise has been to approve plans, programmes and construction projects prior to further development. The law thus did not only apply to individual harmful projects such as factories and roads but also to strategic decisions as 'pre-planning documentation', for economic and territorial development, planning and research materials, new technological

developments, draft regulations and methodological instructions for economic and natural resource use.

New legislation in accordance with the EIA Directive has substituted the Law 'On State Ecological Expertise'. The new EIA provisions emphasise that 'impact assessment is not required for plans of strategy, action plans, projects of national and development programmes, the adoption of which may have a significant impact on the environment. These plans must include a section providing information on the impact on the environment of the project in question'.

The EC Commission support pre-accession measures that are carried out within the frames of e.g. ISPA (Instrument for Structural Policies for Pre-Accession), SAPARD (Support for pre-accession measures for agriculture and rural development) and TINA (Transport Infrastructure Needs). The projects that are developed and carried out must follow the Structural Funds Process and the SEA stages in Structural Fund Programming.

A public administration reform that can be divided into two phases was initiated in 1990. In the first phase running from 1990-1993 the focus was directed towards the creation of boundaries between politics and administration, and between government and the emerging private sector. The efforts were largely ad hoc in this phase and it was operational rather than strategic issues that dominated. During the on-going second phase emphasis has been placed on decentralisation and development of effective local government. Legislation that divides the powers between central and local levels of government has been put into place – e.g. a Cabinet of Ministers Regulation on Physical Plans. In accordance with these regulations regional and local authorities are responsible for regional and town planning. So far the elaboration of regional and town plans however has turned out to be a difficult task to fulfil.

19.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Certain plans must include a section providing information on the environment of the project in question (action plans, projects of national and development programmes, the adoption of which may have significant impact on the environment). Certain projects have to undergo the Structural Funds Process and the SEA Stages in Structural Fund Programming (e.g. ISPA, SAPARD and TINA projects).

19.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The relevant institutions and organisations responsible for integration of the Environment into decision-making are summarised in Tables 19.1 (national level) and 19.2 (county and municipal level) below.

Table 19.1 Institutions and Organisations at National Level Responsible for Integration.

Approaches	Policy/Plans/Programmes National Level	Involved Institutions/ Organisations Responsible for SEA and/or Integration of Environment
First strategic document at national level	National Environmental Policy Plan for Latvia	Accepted by the Cabinet of Ministers Elaborated by MEPRD – Ministry of Environmental Protection and Regional Development
Section providing information on the impact of the environment of the project in question	Sectoral Policies, Plans and programmes	Responsible ministry, scientific community,
SEA – in accordance with A Handbook on Environmental Assessment of Regional Development Plans and EU Structural Funds Programmes	Regional Environmental Development Plans Structural Funds Programmes	Responsible ministries Committee's, including experts
	Approximation of EU Environmental Legislation	Ministries, private Latvian Consultancy Firms, Foreign Pre-Accession Advisers
	Latvian legal system Umbrella Laws – New 'Law on pollution – inspired by the Swedish Environmental Code'	
Monitoring programme development	State of the Environment – Annual report	e.g. Environmental Consulting and Monitoring Centre Hydrometeorological Institute Geological Survey Regional Environmental Boards

Table 19.2 Institutions and Organisations at County and Municipal Level Responsible for Integration.

Approaches	Policy/Plans/Programmes County and Municipal Levels	Institutions/ Organisations Responsible for SEA or Integration of Environment
<ul style="list-style-type: none"> • Top-down – policy guidelines and directives, legal provisions and regulations <p>Guidance from Spatial planning division, MEPRD</p> <p>Awareness raising: Example</p> <ul style="list-style-type: none"> • Public participation • Training/guidance 	<p>Implementation of National Policy Goals</p> <ul style="list-style-type: none"> • Planning • EIA • Administration/protection and use of environment and natural resources • Service Provision (e.g. Water supply) <p>Spatial planning lack of linkage to inter alia EIA system, environmental licensing system</p> <p>Rights and duties of citizens - Important basic principle; the right to 'freely acquire and disseminate information' e.g. regarding the environment. Each person has also the right to express views and ideas. NGO's started to develop in end of the 1980s and so far some of them have co-operated with state institutions but the NGO's until now have been most active in rural areas.</p>	<p>4 Regions, 26 Districts Regional Councils Municipal Councils</p> <p>8 Regional Environmental Boards Environmental Impact Assessment Board</p> <p>Municipalities</p> <p>Regional and Local Councils</p> <p>Institutions that are responsible for provision of information e.g. Regional Agricultural Department e.g. Agricultural Advisory Service e.g. regional and local planning authorities</p>

19.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Seima (Parliament)

Cabinet of Ministers

Ministry of Environment and Regional Development – includes an European Integration Unit

Project teams developing various plans and programmes covering different sectors (experts, interest organisations, civil servants)

NGOs – most important role – self-government in local government.

Regional Councils

Town Councils

19.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Constitutional Law on the Right and Duties of Citizens, Civil Law,
Law on the State Ecological Expertise (replaced but still important for explanations on
systems and functions)
Draft Law on Pollution, Draft Law on Water Management (Basic environmental legislation
and organisation) Sub-ordinate enactments and regulations
Legislation of Efficient Energy Use, legislation on Waste Management
Territorial planning legislation, land law, Nature Conservancy Legislation

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Chapter 20

New Zealand

20.1 Introduction

The economy of New Zealand, the island nation in the South Pacific Ocean, is largely based on its natural resources. As a result, there have long been environmental and resource protection measures in place. In an effort to consolidate the myriad local and national legislation, the Resource Management Act (RMA) was passed and implemented in 1991. The RMA is the basis for all resource management and environmental protection laws in New Zealand. The cornerstone of the RMA is the concept of sustainable management. Any action within the scope of the RMA must satisfy the principles of sustainability set forth in the RMA. The government followed up the RMA with the "Environment 2010 Strategy" published in 1994. The Environment 2010 Strategy is a long-term strategic plan that outlines some broad environmental goals. The Strategy identifies the government's five key environmental management goals: (1) integrate environmental, economic and social policies, (2) establish and maintain a coherent framework of law, (3) sharpen the policy tools, (4) build up the information base, and (5) involve people in decision-making. The Strategy is meant to both effectively reinforce the RMA processes as well as move New Zealand towards a more integrated system that promotes sustainable development.

20.2 Extent to Which the Environment is Integrated into Decision-Making

The integration of the environment into decision-making in New Zealand is addressed by the comprehensive Resource Management Act (RMA). The RMA prescribes a devolved model of decision-making relying on the level of government closest to the issue. The RMA also recognizes the right of the Maori, the indigenous people of New Zealand, to the nation's natural resources and incorporates the Maori interest in decision-making. The role of the central government is to set national environmental standards, determine national environmental policy and to monitor the implementation of the RMA. The regional governments, of which there are sixteen (16), provide more localized statements of environment policy and set out a general framework for the region's natural resources. It is the most local level of government, the district government that makes many decisions directly affecting the environment. There is some overlap between the levels of government and jurisdictional responsibility, but it is the district or regional governments that generally handle compliance with environmental standards and the issuance of permits.

20.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Ministry for the Environment is the national government organization that is responsible for the integration of environmental factors into decision-making. The Ministry's role is twofold: the Ministry advises the government on the environment and on various policies and their impacts on the environment and the Ministry also co-ordinates with others (more localized levels of government as well as businesses, NGOs, the public) to achieve effective environmental management, mainly through the RMA. The national government's environmental objectives are set forth in the "Environment 2010 Strategy." Included in the 2010 Strategy is an environmental management agenda with the goal of "integrat[ing] environmental, social and economic factors into the mainstream of decision-making in all sectors, at all levels."

The practical implementation of the RMA and the Environment 2010 Strategy is occurring at the regional and district levels. Directly elected local authorities are responsible for preparing regional policy statements and plans. All regional and district policies and plans must be consistent with and reflect national policy statements and standards, and all must uphold the principle of sustainable management. Some local authorities have formulated comprehensive strategic plans based on the principles of sustainability while others have developed limited strategic environmental plans.

20.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

On the national level, executives of all government departments proposing activities that will affect the environment are asked to consider environmental goals in their annual budget planning process. In addition, the Ministry for the Environment was assigned a reporting function that gives it the authority to review the policies of other departments if they have the potential for significant environmental impact. The Ministry and to a lesser extent the regional authorities promulgate environmental policy goals and environmental indicators to foster effective national environmental management. The RMA also requires Environmental Impact Assessments (EIAs) for all regional and district policies, plans, and programmes, as well as for all projects requiring permits. The Act requires the assessment of a number of factors beyond those traditionally considered in EIAs, including risk, social impact, and technology assessments.

20.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The Ministry for the Environment is responsible for formulating environmental standards and policies as well as for compliance with the RMA. The incorporation of environmental considerations into the decision-making process occurs mainly at the regional or district level of government.

20.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The Ministry of the Environment is managed by the Chief Executive and Secretary for the Environment. The Chief Executive oversees numerous policy groups within the Ministry purview, including a Resource Management Group, Standards and Indicators Group, Land and Water Group, Pollution and Waste Group, Sustainable Management Fund, a Strategic Policy Group (developing analytical frameworks for longer-term policy work), an Environmental Policy Group, the Maruwhenua (advice and information on Maori and Treaty of Waitangi issues in relation to environmental and resource management policies) as well as Regional Offices who liaise with regional and territorial local authorities. The only national policy statement for which the government is directly responsible is the Coastal Policy Statement, dealing with national priorities for the management of the country's coastal environment. This is the responsibility of the Minister of Conservation. Environmental policy plans are otherwise formulated at the regional and district level and must be consistent with the national sustainability guidelines.

20.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Decision-making bodies:

- Ministry for the Environment - policy advisory role and an added reporting function that allows it to review all government departmental proposals that would have significant environmental impacts.
- Parliamentary Commissioner for the Environment - independent auditor of central and local governments' environmental policies.
- Department of Conservation - plays a strong environmental advocacy role in the development of conservation policy, particularly in regard to coastal management.
- Planning tribunal- environmental court which acts as a court of appeals regarding the planning and implementation of the RMA.
- Regional / district councils.

Key legislation:

- Resource Management Act 1991 (RMA)
- The Biosecurity Act of 1993 - which prevents the introduction of unwanted organisms and provides for strategies to manage pests, weeds, and diseases
- The Forests Amendment Act of 1993 - sustainable management of New Zealand's indigenous production forests
- Fisheries Act 1996 - provides for the use, conservation, enhancement and development of fisheries resources
- Hazardous Substances and New Organisms Act 1996 - establishes the Environmental Risk Management Authority (ERMA) to assess hazardous substances or new organisms
- Ozone Layer Protection Act 1996 - designed to facilitate compliance with the Montreal Protocol

Chapter 21

Norway

21.1 Introduction

Norway is a unitary state. The central government is responsible for formulating national policy objectives. For many policy areas the responsibility for service delivery and administration is shared between central and local levels of government. Norway is divided into 19 counties and 435 municipalities. The relationship between these two levels is a sharing of responsibilities within various areas rather than hierarchical.

As a non-EU Member State Norway has to bring its laws and regulation in accordance with the European Economic Area (EEA) Agreement. Since the beginning of the 1990s and especially after 1996 the environmental policy has been elaborated on the basis of the overall objective of sustainable development, which has been trickled down through national policy goals, introduction of new instruments and institutional and organisational changes.

21.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making to a fair and partly to a strong extent. Norway adopted a National Sustainable Development Policy with a Report to the Storting (Parliament) in 1996 (Norwegian Government, 1996). A Strategy for the Environment in Development Co-operation was also adopted in 1997 as well as the first annual white paper on Environment Policy and State of the Environment submitted to the Storting by the end of 1999 (Norwegian Government, 1999). In this latter document it is stated that it is the intention of the Government to use sectoral plans based on the principles of management by objectives and cost-effectiveness to make clear the responsibility for all sectors for achieving environmental policy goals. As target groups for these sectoral plans the Government mention the public sector itself, including local governments, business and industry, consumers etc. Plans and programmes covering various sectors, topics and issues have been developed and adopted, e.g. National Activity Plan on Biodiversity, National Climate Change Policy Programme, Programme for Energy Conservation, Rural Development Support Scheme, National Programme for Water Supply, National Policy Guidelines and National Monitoring Programme for Water Quality, National Policy Guidelines for Planning (eg. in coastal and marine areas, ecolabelling, recycling/reuse, green accounting). Also a programme on access to the internet and a national web-site for sustainable development have been set up. A sustainable indicators programme that includes the administrative and practical set up for monitoring and evaluation of various policy areas on a yearly basis is under development.

The National Sustainable Development Policy is co-ordinated by the National Committee for Sustainable Development, whereas the overall responsibility for laying down principles for review of the strategy for environment and development co-ordination is delegated to The National Committee for International Environmental Matters. NGOs are represented in these Committees as well as representatives from business, trade and industry.

The general trend over the last decades has been to decentralise the responsibility for planning, administration and delivery of service. A reform of Environment Protection in Municipalities that was initiated by the end of the 1980s was followed by the Local Act in 1992. These initiatives which constituted new forms of political and administrative organisation in local government are now associated with the various activities aimed at the implementation of Local Agenda 21. However it is increasingly emphasised that the counties' and municipalities' responsibility for planning and environmental issues must take place within a policy framework consisting of objectives and guidelines formulated by the central government.

21.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The Norwegian approach to integration of the environment into decision-making is at central/state level to strengthen the central Government's role concerning monitoring and general policy formulation. The policy objectives and targets are made operational through a sustainable development indicators programme, which includes the setting up of administrative systems for promoting environmental concerns, monitoring systems and a systematic annual evaluation of the results of the policy. National environmental objectives are communicated to local authorities through formal channels as general national policy guidelines, policy directives and laws and regulations reflecting the values inherent in environmental objectives. The communication between different levels of governing, however, is also facilitated through counselling and more informal networks.

The legal framework for decision-making is formed by the Norwegian Constitution that sets out the right for humans (present as well as future generations) to live in an environmentally sound milieu. Since 1995, the environmental impacts of all new legislation and policy decisions must be assessed to take into consideration sustainable development aspects. The decision-making systems that are formed by environmental legislation are laid down in the Planning and Building Act, the Pollution Control Act, the Watercourses Regulation Act, the Energy Act, the Nature Conservation Act, the Agricultural Act, the Wildlife Act, the Forestry Act, the Aquaculture Act and the Land Act.

Spatial planning is closely related to the county and municipals levels. The County Councils are responsible for the county planning and the municipalities are responsible for the Municipal Master Plan. The approval of Municipal Master Plans has been delegated to the municipalities themselves, provided national experts or county authorities do not object.

The approach for implementing Local Agenda 21 initiatives includes the Environmental Education network, which is a joint effort of several ministries, which ties environmental education to Local Agenda 21. Comprehensive rules for public participation serve as a frame for awareness raising. As well, a number of guidance and training programmes for adults are intended for this purpose (e.g. the Environmental School).

21.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Since 1995, the environmental impacts of all new legislation and policy decisions must be assessed to take into consideration sustainable development aspects. According to administrative order ('Utredningsinstruksen' – Adopted by Royal Resolution 16 December 1994 and revised 8 December 1995) not only the administrative and economic effects but also environmental effects of all proposals submitted to the King in Council, the Cabinet and Parliament must be assessed by the responsible ministry.

At regional and local levels a small number of counties have made SEAs of regional plans on a voluntary basis as well as a number of municipalities have participated in a project on the application of EIA principles in land use planning initiated by the Ministry of the Environment.

Furthermore the Ministry of the Environment (MoE) in co-operation with other ministries, has elaborated on the application of EIA principles to sectoral programmes in fields of e.g. transport and agriculture. The Long Term Programme, which is published on a regular basis, and describes the Government's plans for the next four years and the perspective for the next ten years, is an example of integrating environmental considerations at programmatic level. In this programme the Government outlines that it will encourage the development of the already on-going Local Agenda 21 work at county and especially municipal level. A strategy of Agenda 21 implementation associated with the Reform of the Environment Protection in Municipalities is elaborated. Since 1997, Local Agenda 21 has been an integral part of the local municipality system. Some counties and a large number of municipalities have thus produced Local Agenda 21s.

The provisions of the Planning and Building Act relating to environmental impact assessment entered into force in August 1990. Since then the consequences for the environment, natural resources and the community have been assessed for more than 220 major development projects in Norway. The provisions have been revised with effect from 1997.

21.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The relevant institutions and organisations responsible for integration of the environment into decision-making are summarised in Tables 21.1 (national level) and 21.2 (county and municipal level) below.

Table 21.1 Institutions and Organisations at National Level Responsible for Integration.

Approaches	Policy/Plans/Programmes National Levels	Involved Institutions/ Organisations Responsible for SEA and/or Integration of Environment
Major groups participate in decision-making (NGO's , trade and industri org.)	<ul style="list-style-type: none"> •National Sustainable Development Policy •Strategy for Environment in Development Co-operation International 	National Sustainable Development Committee National Committee for International Environmental Matters
Cross sectoral activities	<ul style="list-style-type: none"> •National Policy Objectives •Sustainable Development Indicators Programme •Monitoring •Evaluation 	Parliament, Cabinet of Ministers State institutions Monitoring bodies
Administrative set up for monitoring and evaluation		
Report to the Storting	Annual White Paper on Environmental Policy and State of the Environment	Parliament
Government uses principles of Management by objectives and cost- effectiveness cross-sectoral activities	Sectoral Plans policy formulation, strategies, actions	Ministry of the Environment in co-operation with other ministries
Application of EIA principles – interdepartmental activities	Programmes e.g. in the areas of transport and agriculture	Responsible Ministry Ministry of the Environment
When sector ministries have to assess environmental effects of new legislation or decisions they must consult the Ministry of the Environment in the preparation process.	SEA of new legislation and policy decisions	Responsible Ministry Ministry of the Environment

Table 21.2 Institutions and Organisations at County and Municipal Level Responsible for Integration.

Approaches	Policy/Plans/Programmes County and Municipal Levels	Institutions/Organisations Responsible for SEA or Integration of Environment
•Top-down – policy guidelines and directives, legal provisions and regulations	Implementation of National Policy Goals	County Councils Municipal Council Administration State Agencies

<ul style="list-style-type: none"> •Topic and Issue oriented networks •Counselling •Self-Government <p>Phase I – reform of political and administrative organisation of local government Phase II – Implementation of Local Agenda 21</p> <p>Awareness raising: •Public participation</p> <p>•Training/guiding</p> <p>•Education/School curricula</p> <p>Public participation/self-approval</p> <p>Project/voluntary basis Project/voluntary basis</p>	<ul style="list-style-type: none"> •Planning/EIA •Administration/protection and use of environment and natural resources •Service Provision <p>Local Act 1992 Allocation of competencies</p> <p>Since 1997 – Local Agenda 21 part of municipal systems</p> <p>Training on ad hoc basis local politicians/citizens</p> <p>Programme which ties environmental education to development of Local Agenda 21.</p> <p>County Plans Municipal Master Plans Co-ordination of planning in the areas of e.g. water supply, waste, agriculture</p> <ul style="list-style-type: none"> •SEA of County Plans •SEA of Municipal Plans <p>Environmental Impact Assessment Law</p>	<p>County Councils Municipal Councils</p> <p>Central Government .- national strategy for Local Agenda 21</p> <p>Comprehensives sets of rules outlines structures The Environmental School</p> <p>The Environmental Education Network /various ministries</p> <p>County Councils Municipal Councils</p> <p>Ministries/local authorities/research institutions</p>
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21.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Agenda setting - the National Committee on the Sustainable Development Policy

Mechanisms for NGO participation in programmes for sustainable development were introduced in the late 1980s. Currently, NGOs participate in the conception, the establishment and evaluation of official mechanisms to review the agenda. NGOs, industry, trade and other interest organisations are permanent members of the National Committees on Sustainable Development and International Environmental Matters respectively.

National policies – natural resource aspects of sustainable development

National policies concerning various natural resource aspects of sustainable development have during the 1990s been presented in Reports to the Storting (Parliament), which have subsequently been adopted by the Parliament. The responsible ministries govern the preparation process of these national policies that involve different stakeholders. These policy making processes, which today are described as having the character of networking, include persons and institutions at European as well as nation state level, although Norway is a non-EU Member State (Olsen, 1996). The national policy on sustainable agriculture and rural development, which recently has been revised, is an example of such policy-making.

Agenda setting - local levels

The agenda setting at local level takes place within the framework of national policy goals and guidelines. The agenda setting processes are influenced by the persons involved in different initiatives, programmes and networks. The Norwegian Network of Health and Environmental Municipalities, the Programme for Eco-municipalities and the education network that aim to develop co-operation among educators, scientists, governments, NGO, business and other major groups, are examples of structures and actors that might influence the local environmental policy at agenda setting level.

21.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The natural resource aspect of sustainable development is handled in different policies, strategies, plans and legislation within the fields of agriculture, atmosphere, biodiversity, Energy, Forest, Freshwater, Land Management, Mountains, Oceans and Coastal Areas, Toxic Chemicals, Waste and Harzadous Materials etc. The policies to a large extent reflect the international conventions in which Norway takes part. The policies of land and area management reflect the patterns of human settlement in Norway as well as the geographical features of mountains and forest covering. The protection and use of resources for energy purposes is very central in Norway.

Key pieces of legislation are the Planning and Building Act, the Pollution Control Act, the Watercourses Regulation Act, the Energy Act, the Nature Conservation Act, the Agricultural Act, the Wildlife Act, the Forestry Act, the Aquaculture Act , the Land Act, the Continental Shelf Act.

• **Contacts:**

- Liv Hege Skagestad, Norwegian Pollution Control Authority.
- Ingwild Svensen, Ministry of the Environment.
- Toril F Bergsjö, NIBR

Chapter 22

Slovak Republic

22.1 Introduction

The Slovak Republic is a country in transition and a member candidate of the EU with a "typical" centralized administration system, caused by its development and history before 1989. That means, there are only administrative structures from state government (for the whole country, the regions/districts and the local level) and self-government ones at local level, but there is as yet no level between those two. To become a member of the EU it is requested to set up a structure of regional authorities (there are 8 Slovak regions, 438 independent municipalities) with elected representatives as at national and local level. That is one of the tasks yet to be undertaken by the Slovak Government. Consequently, for integration of the environment and SEA the national level is a very important one and needs to be examined carefully.

22.2 Extent to Which the Environment is Integrated into Decision-Making

The extent of environmental integration is prescribed by legislation and by executive regulations. For a rough overall assessment it can be seen as fair. Concerning the theoretical approach the extent to which the environment is integrated into decision-making is more than fair, but in practice it is assessed more or less as poor or at best fair (related to the framing conditions); for details see below.

22.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

For strategic environmental policy there are methods and instruments used like cost-benefit-analysis, environmental audit, Agenda 21, SEA and risk assessment. In the Slovak constitution there exist some general statements regarding integration of the environment. There exists ten principles (very general ones, e.g. "precedence of preventive over corrective measures"; "an awareness, that our generation bears a responsibility to future generations for the environment"; "payment of expenses connected with polluters eliminating environmental damage for which they are responsible") of a national environmental policy (1993), approved by the Slovak Parliament as Resolution 202/1993, containing long-term ("strategic", e.g. 80% reduction of SO₂, NO_x and dust emissions), medium-term and short-term objectives.

Environment policy follows a document titled "The Strategy, Principles and Priorities of the State Governmental Environmental Policy". For purposes of local needs and for NEAP

(National Environmental Action Programme) preparation, this document is being worked out at regional level in 38 district environmental offices.

Moreover, the Slovak Republic has acceded to several International Conventions (e.g. UN Convention on Climate Change, Convention on Biological Diversity, Convention on EIA in a Transboundary Context and so on), and some accessions are being prepared. SEA guidelines and two handbooks are already drafted, but not yet in official use.

22.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Article 35 of the Slovak EIA Act also covers to a certain degree the strategic level. The application of environmental assessment is therefore obligatory for

- A substantial development policy, especially in the area of energy supply, mining, industry, transport, agriculture, forestry and water management, waste management and tourism
- Territorial planning documentation for the entire territory and for the regional and residential settlements of selected areas, especially in the centre of a region, urban conservation areas, spas, and particularly polluted localities
- Any proposal for generally legal binding directions that may have an adverse impact on the environment.

Note: No generally binding legal directive has yet been reviewed by this procedure.

There is, therefore, a significant gap between the theoretical requirements and the planning practice.

22.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

At the national level the Ministry of the Environment (MoE) is the main actor, responsible for many environmental issues and for landscape plans at regional level. In many areas jurisdictions overlap and require close co-operation between ministries concerned.

Within the Slovak Ministry of the Environment there are 38 district environmental offices. At local level the municipalities are the responsible authorities. A Slovak Environment Inspection, a Slovak Environment Agency (founded in the early nineties), a Slovak Commission of Environment and a federal Committee of Environment also exist.

The State Environmental Fund could be an important institution, but due to its limited resources its role for supporting environmental investments is very restricted.

The legal base for environmental monitoring issues is "The Concept of the Integrated Environment Information System", covering the whole country and consisting of 13 partial monitoring systems (air, water, fauna and flora, waste, settlement, land-use, geological factors, soil, forest, xenobiotics in food and animal feed, pressures on population caused

by environmental factors, radiation and other physical fields, and meteorology and climatology).

22.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

Key persons are: The staff of the Ministry of the Environment, regional governmental authorities, local authorities, different experts, e.g. from NGOs (the most active one is the "Union of Nature and Land Protectionists" SZOPK (Slovak abbreviation), which has signed a contract on co-operation with the MoE) and the important EIA Centres (in Bratislava there is an EIA Centre at the Slovak Technical University/Faculty of Architecture and another one at the Comenius University/Faculty of Natural Sciences). Their influence varies from case to case.

Until now, public participation was narrow, but support for increasing public awareness of environmental issues is an objective of the government.

22.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Each sector has its own separate legislation; town and country planning also has its own legislation. Environmental legislation is a horizontal one to which sectoral legislation cannot be in contradiction. It is important to state that land-use planning at national level is a competence of the Slovak Ministry of the Environment. More than one hundred generally obligatory regulations are in force within the responsibility of the Slovak Ministry of the Environment. They can be divided into regulations regarding:

- Environment generally
- Administration
- Particular sectors (sectoral policies: water management, waste management, air protection, nature protection (generally, national parks, protected landscape areas, natural reservation), geological issues and mining, territorial regional planning and building order)

The decision-making bodies are the competent ministries at the national level (especially the Ministry of the Environment, the Ministry of Forestry and Water Industry), the regional state government authorities at regional/district level, local self-government authorities at the local level. In 1997, preparation of the legislative framework and policy making process regarding environmental issues continued further in an effort to approximate them to EU standards.

Key pieces of legislation are:

- No 17/1992: Environment Act
- No 128/1991: Act on State Fund of Environment of Slovak Republic
- No 127/1994: Act on EIA
- No 595/1990: Act about Environmental State Administration

- No 238/1993: Clean Water Act
- No 238/1991: Waste Management Act/CSFR Act about waste
- No 309/1991: Act about protecting air against pollutants
- No 287/1994: Act on Protection of Nature and Landscape
- No 50/1976, 103/1990, 262/1990: Act about territorial planning and building order (building law)

• **Contacts:**

- Dr. Ingrid Belcakova and Prof. Dr. Maros Finka, both Slovak Technical University/Faculty of Architecture (Bratislava).
- Dr. Ingrid Belcakova is also working for the EIA Centre of the Slovak Technical University/Faculty of Architecture (Bratislava).
- Ms Jana Piackova, Slovak Ministry of the Environment.

Chapter 23

United States of America

23.1 Introduction

The United States has a well-developed system for integrating environmental concerns into governmental decision-making processes. There is some movement towards a more strategic approach to environmental assessment although the predominant basis is presently project based.

23.2 Extent to Which the Environment is Integrated into Decision-Making

The environment is integrated into decision-making at the federal and state government levels. The federal government adopted environmental legislation in 1969 that mandated that all agencies of the federal government “shall utilise a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making.” This initial legislation, the National Environmental Policy Act (NEPA), resulted in the creation in the Executive Office of the Council on Environmental Quality (CEQ). NEPA requires that all “legislation [or] other major Federal action *significantly affecting the quality of the human environment*” include a “detailed statement” assessing the environmental impact of such legislation or other action.

23.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The federal agencies are primarily responsible for administering the NEPA legislation. The responsible federal agency (for the legislation or action) must comply with the CEQ regulations promulgated pursuant to NEPA in addition to complying with the agency’s own internal rules governing environmental assessment or other pertinent federal legislation. Numerous additional laws and regulations covering environmental protection and natural resource management are also administered by federal agencies, typically more than one. Federal natural resource management is overseen, for example, by a number of different agencies in the Departments of Interior, Agriculture, Defence, Energy, and Commerce, among others.

The CEQ in conjunction with the Environmental Protection Agency (EPA) monitors actions undertaken by the federal government and the environmental assessment process. This division of labour among various agencies has resulted in a somewhat fragmented environmental policy, a policy not particularly conducive to the development of strategic decision making processes. There has been some movement to improve co-ordination among the agencies and their respective decision-making capability. The Government

Performance and Results Act (GPRA), for example, requires strategic plans for all agencies containing longer range goals and objectives, as well as performance indicators for all government programmes. Most agencies are involved in strategic planning and the strategic plans typically emphasise sustainable development as the framework for their activities. Some agencies have begun to develop joint strategies to address particular issues, ameliorating the policy fragmentation that has often characterised federal government efforts at environmental integration.

Most states have their own environmental assessment programmes in place. The CEQ has promulgated regulations concerning the duplication of federal and state environmental assessment requirements, which may permit joint environmental assessments or a co-operative environmental assessment. There are also co-operative programmes, for example, the State Environmental Goals and Indicators Project (SEGIP). The EPA pairs up with local state agencies, for example, the Florida Centre for Public Management, to help the state agencies improve their environmental management through technical and financial assistance in policy making. On the whole there is a well-developed environmental assessment programme in the United States at both the federal and state levels. There is room for improvement in co-ordinating various federal and state actors to achieve true strategic assessment, but the elementary framework for the integration of environmental factors into decision-making is in place.

23.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

The federal standard for environmental assessment is based on the 'significantly affecting the quality of the human environment' language in the original NEPA legislation. Agencies determine whether the legislation or action at issue invokes the environmental assessment requirements under the CEQ regulations. Based on statutory criteria the environmental assessment may not entail the preparation of an environmental impact statement in all cases. The agency may likewise prepare an environmental impact statement and conclude that there are no significant effects. The agency must include the environmental factors considered in the decision-making process in the public record once a decision has been made.

23.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The Council on Environmental Quality (CEQ) is an executive office charged with the task of administering NEPA. The CEQ interacts with the federal agency taking an action that warrants environmental review. The agency may be a cabinet department (e.g. Department of Agriculture) or one of the so-called "independent agencies" (i.e. do not report directly to the executive). Based on the guidelines promulgated by the CEQ, the federal agency may be required to submit an environmental assessment. The Environmental Protection Agency's (EPA) Office of Federal Activities reviews and publishes the environmental impact statements submitted by the federal agencies. Some states

operate their own environmental assessment and management programmes but also works co-operatively with other states in the region.

Many states have active environmental assessment programmes in place. Florida provides just one examples of state level environmental assessment. The Florida Assessment of Coastal Trends is a state based strategic environmental assessment programme. The group evaluates environmental indicators affecting the coastal ecosystem to provide a "basis for making strategic decisions about programmes and financial resources; and information about coastal issues and problems for other decision-makers and the general public."

California provides another nice example of environmental assessment at the state level. The California Environmental Protection Agency was created to unify the state level environmental authorities under a single agency. The underlying mission of the agency is to "improv[e] environmental quality in order to protect public health, the welfare of our citizens, and California's natural resources." The agency seeks to enhance environmental decision-making by streamlining the state environmental bureaucracy and by shifting decision-making to the lowest possible levels. Another progressive state in the area of environmental assessment and integration is Minnesota. The Minnesota Environmental Quality Board, in conjunction with the governor and other state environmental agencies, developed a sustainable development plan. The plan specifically strives to "build routine consideration of future generations into the decisions we make as citizens and consumers in our communities, businesses and government."

23.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

At the federal government level the chairperson of the CEQ is appointed by the President and approved (advice and consent) by the Senate. The director of a federal agency drafting legislation or contemplating a major federal action with significant environmental effects is responsible for making an environmental assessment or determining that an assessment is not needed based on the CEQ regulations. At the state level, typically the director or other figurehead of the state organisation responsible for assessment is the ultimate arbiter of environmental influence in the decision-making process. The Environmental Protection Agency in the individual state will often work with the regional federal EPA.

23.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Decision-making bodies:

- Council for Environmental Quality (CEQ) [Federal]
- Environmental Protection Agency (EPA) Office of Federal Activities [Federal]
- Executive and Administrative Agencies [Federal]

Legislation:

- National Environmental Policy Act (NEPA), 1969 as amended [Federal]
- Code of Federal Regulations, Part 1505 et. seq. NEPA and Agency Decision making, 43 FR 55999, Nov. 29, 1978 (as amended) [Federal]
- Government Performance and Results Act (GPRA), 1993

Chapter 24

Canadian International Development Agency

24.1 Introduction

The single most important principle for the adoption and effectiveness of the integration principle and SEA appears to be 'motivation' (Croal, 2000, pers. comm). Getting the key people on board, trained and willing to implement procedures is essential. Canadian International Development Agency (CIDA) seeks to implement best practice within the fields of environmental integration and SEA. There is a good understanding of the need for SEA to begin at the earliest possible stage in the policy, plan or programme cycle. SEA guidelines (CEAA, 1999) states that when a policy plan or programme is submitted to the cabinet, Ministers are all collectively responsible for ensuring that the environment is integrated into the decisions.

24.2 Extent to Which the Environment is Integrated into Decision-Making

According to CIDA (Croal, 2000, Pers. Comm) there is strong integration of the environment into the policy and decision-making process. CIDA is a Government Department that is headed by the Minister for International Co-operation. Canada's foreign policy statement released in February (1995) states:-

"The purpose of Canada's Official Development Assistance is to support sustainable development in developing countries in order to reduce poverty and to contribute to a more secure, equitable and prosperous world"

(CIDA, 1999)

CIDA also has a policy for environmental sustainability. The policy states:-

"CIDA's policy is to integrate environmental considerations into its decision-making and activities, and to work with its partners and developing countries at improving their capacity to promote environmentally sustainable development."

(CIDA, 1999)

Before any programme is progressed it is subjected to an initial compatibility assessment against the six key policies or programme priorities of CIDA. These relate to international, national and internal CIDA policies. They are:-

- Basic human needs
- Women in development

- Infrastructure services
- Human rights democracy and good governance
- Private sector development
- Environment

Other Canadian Government Departments with an environmental remit include the Canadian Environment Assessment Agency (CEAA), which reports directly to the Minister of the Environment, and Environment Canada, a statutory body with responsibility for environmental regulation and technical advice. There is also a national Round Table on Sustainable Development that acts as a think tank providing sustainability input across all Government policy areas.

The Canadian Environmental Assessment Act states that projects outside Canada are subject to the same regulations as those inside Canada. The CEAA is responsible for implementing the Act. The CEAA roles include

- Administering the environmental assessment process
- Providing advice to the Minister of the Environment on the Minister's responsibilities under the Act
- Providing opportunities for public participation in the federal environmental assessment process; and
- Promoting sound environmental assessment practices.

In 1999 the Canadian Cabinet released a Directive to all Federal Government Departments on a requirement to undertake an SEA where the impacts of a PPP are likely to be significant (CEAA, 1999). Interpretation of the screening criteria and SEA procedure is left to individual government departments like CIDA. The Minister for the Environment is responsible for promoting SEA and advising other Ministers. CEAA supports the Minister of the Environment and will provide guidance and training on SEA.

The System of SEA that is in place can be regarded as "strong" because all the SEA criteria are fulfilled including NGO involvement. The guiding principles of SEA include:

- Early integration
- Examination of Alternatives
- Flexibility
- Self assessment (each department/Agency has responsibility to carry out SEA)
- Appropriate level of analysis
- Accountability (even though there is a freedom of information act certain cabinet documents are restricted.)

24.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The strategy for implementing the CIDA policy for environmental sustainability includes the following elements:

- An implementation strategy co-ordinated by the Policy Branch that will include: objectives and priorities for each programme branch and sector.
- Each branch will develop its own sustainability objectives and priorities.
- Bilateral programmes will analyse country environmental policies as part of the country regional policy frameworks and develop environmental strategies where appropriate.
- CIDA will prepare guidelines for environmental programming and assessment, as well as develop the necessary support tools.
- CIDA will help build capacity in the countries of operation.
- CIDA will monitor international institutions on environmental matters as well as its own performance in the field.
- All staff will be trained in environmental sustainability.
- CIDA will promote openness and regular consultation.

Wider environmental integration within CIDA can be analysed under the following sub-headings:-

Leadership: Canada has a Commissioner for Environment and Sustainable Development who reports directly to Parliament. The Commissioner's role is to review progress of environmental integration. CIDA also has its own Minister.

Co-ordination: There are environmental specialists in each of the six programme branches of CIDA (Africa and the Middle East, Americas, Asia, Canadian partnership, Central and Eastern Europe, Multilateral). The Policy Branch takes the overarching responsibility for environmental policy and has the most environmental specialists working for it. Consequently, the Policy Branch takes a lead role in co-ordination.

Communication/Reporting: The reporting structure entails reporting to the vice president of each branch. These vice presidents then report to the Minister of International Co-operation. An environmental network consisting of 40 project officers, who are either interested or involved in environmental projects, allows officers to communicate difficulties and solutions between one another and come up with consistent approaches.

Guidance and Training: The Policy Branch is responsible for implementing training programmes and guidance on environmental issues.

Awareness Raising: A leaflet on the environment is distributed internally. People are encouraged to join the environmental network if they are involved in a project with significant environmental implications.

Targets/Objectives/Indicators: All three tools are integrated in to PPP design and implementation. CIDA adheres to results based management. The importance of meeting specific objectives through measurable targets is considered vital.

Monitoring/Auditing: There is an internal auditing Branch that is responsible for monitoring the environmental performance of CIDA. In addition, the Commissioner on the Environment and Sustainable Development carries out external audits.

CIDA has prepared a "Handbook on Environmental Assessment of Non-Governmental Institutions Programmes and Projects" (CIDA 1997). The handbook is designed to inform institutions' and organisation (NGOs) of the environmental criteria CIDA-funded programmes and projects must meet. The handbook states that CIDA has two tools for sustainable development; environmental analysis and environmental assessment. If an NGO wants funding for a programme of activities an Environmental Analysis must be carried out. An Environmental Assessment must be undertaken if it is required under the CEAA regulations. If not, an environmental analysis is used.

24.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

In 1990 the Canadian Cabinet directed Government Departments to consider environmental concerns at the strategic level of policies, plans and programme development. This directive was updated in 1999 to strengthen the role of SEA and clarify departmental responsibilities (CEAA, 1999). The screening criteria set out in the Directive are based on meeting two conditions

- The proposal is submitted to an individual Minister or Cabinet for approval; and
- Implementation of the proposal may result in important effects, either positive or negative.

Departments and agencies are also encouraged to conduct an SEA on selected PPPs as warranted. SEA is not required:

- When in an emergency situation there is insufficient time available.
- Where an economic matter such as a decision regarding an industrial sector is of such urgency there is insufficient time to conduct an SEA.
- For issues that have previously been assessed.

24.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

Involvement within environmental integration occurs right through Canada's policy and planning hierarchy. Beginning with Cabinet collective responsibility and the obligation of the CEAA and its Minister to ensure all departments carry out SEA, which in turn confers responsibility to the Minister for International Cupertino. The Policy Branch within CIDA plays an initiating and co-ordinating role in environmental integration. However, individual Programme branches, professional services and operations services all play a role in the strategy for environmental sustainability.

24.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The Minister for International Co-operation provides the leadership for implementing the environmental sustainability policy. Co-ordination is provided by the environmental specialists in each of the six branches of CIDA. Policy Branch takes the overarching responsibility for environmental policy and has the most environmental specialists working for it. Consequently the Policy Branch takes a lead role in co-ordination. Also, see above.

24.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The influence of the domestic background is reduced as the Canadian Environmental Assessment Act ensures that all PPPs both inside and outside Canada meet the required standards. Furthermore, a great deal of emphasis is placed on capacity building in the countries of operation as well as training its own staff. Emphasis is placed on strategies and procedures to achieve environmental integration rather than technical tools. The need for early SEA is a key principle behind CIDA's SEA process.

Chapter 25

The European Bank for Reconstruction and Development

25.1 Introduction

The European Bank for Reconstruction and Development (EBRD) has an environmental mandate as part of the founding agreement of the EBRD. Article 2.1 vii states that the Bank must "promote in the full range of its activities environmentally sound and sustainable development". This is unique amongst multilateral lending banks. As a consequence, the bank has created an environmental policy that seeks to ensure that environmental concerns are integrated into all stages of the Bank's project preparation and approval stages. On top of this, there are a number of general principles and objectives that guide the EBRD's approach to lending:

- Environmental appraisal of projects will be used to ensure they are environmentally sound
- Particular importance will be attached to projects that minimise damage or enhance the environment
- Build capacity for environmental management within the countries of operation
- Help implement environmental multilateral agreements
- Co-ordinate operations with other multilateral institutions
- Foster principles of public consultation
- Pursue best practice in internal operations

25.2 Extent to Which the Environment is Integrated into Decision-Making

In order to comply with the environmental mandate and meet general principles and objectives the EBRD has created an environmental strategy. The strategy embraces the following points:

- Each country and sector strategy will contain a section that describes environmental implications.
- Environmental appraisal will be used to both decide if an activity should be financed and help inform how environmental consideration can be best incorporated.
- The EBRD will promote and support appropriate environmental standards throughout its sphere of activity.
- The EBRD will promote environmentally orientated operations.
- The EBRD will develop technical co-operation with other multilateral institutions.
- The EBRD will continue to contribute towards regional and global environmental initiatives.
- The EBRD will help strengthen demand for environmental goods.

Within the Bank there are two foci for day to day environmental integration:

- The Environmental Appraisal Unit (EAU) – Evaluation, & Operational and Environmental Vice Presidency.
- The energy efficiency and municipal and environmental infrastructure teams which are situated in the Infrastructure Business Unit (Banking Vice Presidency).

With regard to guidance, training, and awareness, all staff attend a training course on the EBRD's environmental procedures. Within each of the 26 resident offices there is a designated liaison person for the environment. Finally, an environmental bulletin journal with summaries of all projects and their impact on the environment is published quarterly.

25.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

As discussed earlier environmental principles are integrated throughout the project development and approval process. The first phase is the identification of the project. The EBRD requests environmental information from the Sponsor who is seeking the loan in the country of operation. The environmental appraisal unit assigns specialists and draws up the Environmental Screening Memorandum (ESM) in light of the information submitted. The ESM identifies environmental issues and sets out the terms of reference for the type of assessment. If there is insufficient information an initial environmental examination is undertaken which may include a site visit. Once the assessment is complete the EAU prepares an Environmental Review Memorandum (ERM) which is supplied to the EBRD's employee in charge of the project (the Operations Leader). Finally, an Environmental Action Plan is prepared by the sponsor which details impacts and mitigation actions that need to be taken. The ESM will determine the type of environmental appraisal necessary. The main types of environmental investigations carried out on Bank operations are Environmental Impact Assessments (EIA) which are carried out on "A" category projects. Environmental Analyses are carried out on "B" category projects where a full EIA is not necessary. ("C" category projects have no identifiable environmental impacts). The remaining environmental investigations include Strategic Environmental Assessments (SEA), and environmental audits. These Appraisals are summarised below:

EIA: carried out to identify, predict and assess future environmental impacts associated with a particular operation where the impacts are potentially significant and cannot be readily identified, assessed or mitigated. Includes, scoping to identify the important issues and alternatives, and where appropriate should include an analysis of environmental costs.

Environmental Analysis: carried out on operations/activities where any future environmental impacts are potentially significant, but where, because of their nature, size and location, they can be readily identified, assessed and mitigated.

SEA: the process of evaluating the likely environmental consequences of a proposed plan or programme that has the potential to significantly affect the environment. Crucially, SEAs

are only carried out "as and when the need arises". In addition, an SEA will be totally influenced by the country of operation, as they have to request one. There may be a role for SEAs in connection with the revisions of existing sectoral policies prior to their approval by the Board.

Environmental Audit: These are not carried out instead of an appraisal but are often carried out in conjunction with one. Audits identify past or present concerns and potential environment, health and safety risks and liabilities associated with the operation. It covers the environmental condition of the site, operations and related facilities, together with current and pending environmental regulations that apply to the operation. It is usually conducted by a third party, such as an environmental consulting firm.

The classification of SEA is difficult as a full SEA is yet to be carried out by the Bank. However, it is clear that environmental assessment procedures are well established and an SEA framework is in place. The strong integration of environmental assessment into decision-making coupled with the existence of the environmental mandate indicates that the environment is, at least in its core areas of project finance, well integrated into EBRD policy and decision-making.

25.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

Strategic level environmental policy comes in two forms:

- Sectoral (e.g. transport)
- Country

Each strategy describes the environmental implications of the EBRD's proposals, and how these relate to the Bank's environmental mandate. National Environmental Action Plans and the work of other international institutions are drawn upon to describe relevant environmental issues associated with the development sectors within which the Bank's operations will be prepared. The EAU has an input to the policies. However, their importance is small compared to other Multilateral lending institutions such as the World Bank and the other regional Banks, as EBRD emphasises public private partnerships at a project level.

25.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The most significant roles in the environmental appraisal process are those of the Project Sponsor, the Operation Leader, and the Bank's Environmental Appraisal Unit (EAU). As projects progress, other roles are filled by the Office of the General Council (OGC), the Operation Administration Unit (OAU), and the Project Evaluation Vice Presidency. The Environmental Advisory Council (ENVAC) and the CEE Bank Watch group also have important roles within environmental integration. Their responsibilities are as follows:

Project Sponsor: to provide sufficient environmental information to the Bank (possibly with the aid of the EAU). The Project Sponsor is responsible for conducting all necessary investigations satisfactory to the Bank, and ensure that agreed environmental requirements are met.

Operation Leader: has overall responsibility, on the Bank's behalf, for the environmental aspects of the operation, to incorporate environmental requirements agreed with EAU in legal agreements, and to monitor their implementation during the involvement of the Bank in the operation.

EAU: review of preliminary environmental information, assistance in drafting Terms of Reference, participates in the selection of the environmental consultants and liaises with the Sponsors and consultants. Also, review results of environmental investigation, and preparation of Environmental Review Memorandum.

OGC: to incorporate environmental requirements agreed with EAU in legal documentation, and give advice on the legal aspects.

OAU: monitoring of covenants in legal documentation.

Project Evaluation Vice Presidency: to incorporate an environmental review component within an operation's overall evaluation.

Environmental Advisory Council (ENVAC): includes 12 environmental experts from the various countries of operation, which advise the president directly. They provide guidance to the Bank on the process and implementation of the Environmental Procedures.

CEE Bank Watch: A committee of NGOs, which monitors banking activities and their impact on the environment, is invited to the annual general meeting each year.

25.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

The President of the Bank has an advisory committee (ENVAC) of 12 independent environmental experts from different member countries, which advises the president. The CEE Bank Watch Environmental NGO Committee meet once a year with the president at the annual conference and review the Bank's environmental performance. The EBRD believes effective public consultation is a way of improving the quality of operations. Those potentially affected have the opportunity to express their concerns and views. The Bank's Board of Directors will take these into account, and the way these issues are being addressed by sponsors when considering whether to approve an operation.

25.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

The country of operation has a huge influence on determining whether an SEA is needed or not as it is only by their request that the SEA process will be initiated. In the absence of any national environmental assessment regulations EBRD carries out its own procedures ensuring that a baseline of environmental assessment quality is achieved. However, the availability and quality of information will vary from country to country. This results from the background context of each country having a huge influence on a prospective SEA.

The EBRD concentrates on promoting public private partnerships on specific projects. It does not as a rule fund the development of policies and plans, although occasionally a programme of projects will require funding which in turn may require an SEA. Generally it is the World Bank that funds policy and planning at a national level. Consequently, there is scope for closer co-operation in the field of SEA between the EBRD and the World Bank.

Chapter 26

The World Bank

26.1 Introduction

In 1987 The World Bank introduced structural changes designed to strengthen policies and procedures relating to environmental issues (World Bank, 1993). A Central Environmental Department was established to set the direction for the Bank's environmental policy, planning, research, and development strategies, with the aim of integrating environmental concerns into bank lending and policy work. Environmental Divisions were introduced to each of the four regional technical divisions to review Bank financed projects, and provide support for borrowers to design and implement more sustainable approaches to development. These measures dramatically increased the availability of staff to execute, monitor and support environmentally related activities (World Bank, 1993).

One of the most significant policy changes was the introduction of the Operational Directive on Environmental Assessment (OD 4.00, Annex A) in 1989. OD 4.00 was introduced to ensure all projects that were likely to have a significant impact on the environment were evaluated. It also provided guidance on screening and categorisation of projects and assessment procedure. The World Bank has since monitored these procedures, and had its First Annual Environmental Assessment Review in 1991. The result was the amended OD 4.01. The major change was a revision in the classification system of projects according to the nature and extent of their environmental impact (World Bank, 1993).

26.2 Extent to Which the Environment is Integrated into Decision-Making

Historically the Bank's environmental agenda has evolved in three distinct phases. Initially a "do no harm" policy was followed which was designed to minimise the impact on the environment (Phase 1). This was followed in the 1990s by a strategy of targeted environmental interventions as part of an environmental assistance programme; this has led to a substantial environmental portfolio of projects (Phase 2) (Environment Matters, 1999). The third phase has involved an increased effort to mainstream environmental concerns into other sectoral macro policies and operations within the Bank (Environment Matters, 1999).

The reorganisation of the Bank structure outlined above helped initiate and take this development in environmental policy forward. Furthermore, a World Bank Report on Regional and Sectoral EA states that there is now "a fairly substantial body of experience of using them in the context of bank funded programmes" (World Bank, 1999). However, the environment does not easily fit the Bank's traditional definition of a "Sector" and the basic

challenge of ensuring all sectoral activities are environmentally and socially sustainable remains (Environment Matters, 1999).

There is an impression that environmental integration is seen largely as a set of procedures that must be followed. True environmental integration necessitates that all Bank activities should have environmental considerations at the heart of their design and implementation. The lack of true integration is illustrated by the findings of a report on Sectoral and Regional EA at the World Bank (World Bank, 1999) which states that none of the SEAs reviewed were carried out at the early discussion and scoping stage in the plan or programme development. All of them were started after the plan or programme had been set out.

26.3 Mechanisms Allowing for Integration of the Environment at Agenda Setting, Policy Making and Strategic Levels

The World Bank undertakes a screening process of its projects to determine what is an appropriate environmental assessment to be implemented, The different types of SEA are briefly described below;

Sectoral EA: a tool used to examine issues/impacts related to a particular policy, plan, or programme, or a series of projects for a specific sector. It is used to evaluate and compare the impacts against those of alternative options; assess legal and institutional aspects; and provide recommendations to improve environmental management in the region. Between 1991 and 1996, 18 Sectoral SEAs had been undertaken with the peak of 8 in 1994.

Regional EA: a tool used to examine issues/impacts related to a particular policy, plan, or programme, for a particular region. It is used to evaluate and compare the impacts against those of alternative options; assess legal and institutional aspects; and provide recommendations to improve environmental management in the region. Regional EA is less established than Sectoral SEA. The reasons for this are that most borrowers are interested in sectoral assistance rather than for cross-sectoral or regional plans; the Bank's own *modus operandi* is more sector than regionally focused; and finally the methodology for regional EA is less well established than for sectoral EA.

Environmental Assessment is clearly seen by the Bank as part of the first phase of "do no harm", in the historical development of the Bank's Environmental policy outlined above. The role of EA is seen as improving design and helping to develop Environmental Management Plans. Environmental Assessment tends not to be seen as a tool for mainstreaming the environment (the third phase of environmental policy).

A possible example of the emerging initiative of environmental mainstreaming is the Country Assistance Strategies and the Environment (CASE) project. Country Assistance Strategies (CAS) are described as the "central vehicle for board review of the Bank Group's

assistance strategy for International Development Association (IDA)⁷ and International Bank for Reconstruction and Development (IBRD)⁸ borrowers" (World Bank, 2000). The CAS document includes a description of the Bank's strategy and priorities for that country, and provides guidance on the level and composition of the assistance measures (World Bank, 2000). Traditionally, the treatment of environmental considerations within the CAS has been "wide and variable" (World Bank, 1999). The CASE framework for a best practice study aims to mainstream environmental issues within CAS. The study is in the draft stage but initial recommendations include the following:

- The environment to be included in the CAS process in particular within stakeholder participation
- Environmental issues to feature in the core CAS text
- Performance indicators to include the environment.

However, despite its potential to help mainstream the environment it seems that CASE's primary objective is to focus its lending and funding on environmental projects, and its involvement in other sectors is to be limited to mitigation for other technical and sectoral programmes, apparently, rather than ensuring that environmental criteria will be used within the scoping and design process of all aspects of CAS. It is interesting to speculate the role an SEA or an equivalent could play in mainstreaming within CASE.

The Bank is also building an environmental strategy as part of the Comprehensive Development Framework⁹ (CDF). The environment strategy includes:

- Focus resources on areas where the most difference can be made
- Build awareness amongst Bank staff
- Define long term goals and performance bench marks based upon impacts and outcomes rather than processes and inputs
- Provide a transparent basis on which to evaluate the banks environmental performance
- Promote long-term partnerships with client countries.

Finally, environmental indicators are used within the Bank to monitor the performance of projects. The first set of indicators was set out in the World Bank Performance Monitoring Indicators Handbook (1996). The second edition note to the handbook sets out to help the reader select the appropriate indicators and help design a framework for their application. The Note suggests that indicators should be linked to project objectives and that an EIA, if available, should help identify appropriate ones.

⁷ IDA - is responsible for running the poverty reduction aim of the bank. Assistance is focused on the poorest nations.

⁸ IBRD - is responsible for providing loans to the middle income and credit worth poorer countries.

⁹ The Comprehensive Development Framework involves four principles regarding the role of social issues compared to economic ones, forging a partnership approach with governments, country ownership of the development strategy and long term visions.

26.4 Types of Policies, Plans and Programmes to Which SEA or Similar is Applied

World Bank projects go through an environmental screening process, whereby they are assessed for the need for an environmental assessment. The projects will fall into one of the four categories outlined below:

- Category A: a project likely to have significant adverse environmental impact will need an EA.
- Category B: a project considered having less environmental impact than Category A, a more limited EA is appropriate.
- Category C: a project considered having minimal/no environmental impact for which no EA is required beyond screening.
- Category FI: a project is classified in this category if it involves investment of Bank funds through a financial intermediary, in subprojects that may result in adverse environmental impacts.

26.5 Institutions/Organisations Responsible for SEA and Integration of the Environment into Decision-Making

The responsibility lies with the borrower to produce an environmental assessment and an associated environmental management plan, summarising adverse impacts, providing recommendations and measures to reduce the impacts, an implementation schedule, monitoring/reporting procedures, and cost estimates. Responsibility for overseeing and appraising project preparation lies with the Country Departments in the Operational Vice Presidencies who work closely with the Regional Environment Divisions. The Regional Environment Divisions are responsible for environmental screening, the EA terms of reference, monitoring progress, and a review of the findings. The Regional Environmental Divisions oversee work in their respective regions.

The Environment Department works closely with Operational Vice Presidencies particularly the Regional Environmental Divisions to ensure the EA process is fully integrated into Bank procedures. The Environment Department is part of the Environmentally and Socially Sustainable Development (ESSD) Vice Presidency. There are three areas within this Vice Presidency: 1) the Green Unit including land water and habitats, 2) the Brown Unit which includes land, air and water pollution, and 3) the Social Policy and Resettlement Division.

26.6 Persons Involved in Agenda Setting Process and Their Level of Influence in Decision-Making and Integration of Environmental Considerations

See above

For all projects in Categories A and B, during the EA process, the borrower consults project-affected groups and local non-governmental organisations about the projects environmental aspects and takes their views into consideration. Consultation with NGOs is an expanding area of public participation which the Bank hopes to increase (World Bank, 2000b).

EA Knowledge Nodes are an internal Bank wide initiative, set up to identify best practice and disseminate and cross-fertilise expertise. The main mechanism for dissemination is an internal web-site with around 125 documents representing best practice in Terms of Reference, EA presentations, and databases. The node is also a network of 20 expert practitioners, including a core team, within the Bank who meet periodically. They also seek external partnerships for knowledge sharing (World Bank, 2000b).

26.7 Decision-Making Bodies and Influence of Domestic Background and Sector; Key Pieces of Legislation

Key pieces of policy/regulation are the 1989 - Operational Directive on Environmental Assessment (as updated) and the forth coming Environment Strategy. The borrower is responsible for undertaking the EA all be it with key inputs at the scoping and reviewing stage by the Bank. The Bank will also provide technical assistance if required. The World Bank president is traditionally an American and the Bank is based in Washington DC in the USA.

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