



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels,
D(2012)

Opinion

Title **An EU initiative for a directive amending Directive 2011/92/EU on the effects of certain public and private projects on the environment**

(draft version of 15 February 2012)

(A) Context

Environmental Impact Assessment (EIA) is the process of identifying, predicting, evaluating and mitigating the relevant environmental impacts from projects prior to decisions being taken and commitments made. Directive 2011/92/EU introduced a legal requirement to carry out an EIA of projects likely to have significant effects on the environment, prior to their authorisation. Its purpose is to harmonise the principles of the environmental assessment by introducing minimum requirements with regard to the type of projects subject to assessment, the main developer's obligations, the content of the assessment and the participation of the competent authorities and the public. Hence the Directive ensures approximation of national laws and a level playing field. The EIA is part of the permitting (development consent) process and is a tool to assess costs/benefits for the environment and making projects more sustainable.

(B) Overall assessment

The report should be significantly improved in several important aspects. Firstly, the problem definition should be considerably strengthened by providing more evidence, for instance on the magnitude of the problems and on the exact shortcomings to be addressed. The report should further develop the baseline scenario by presenting more thoroughly the likely evolution on the basis of the legislation already in place. Secondly, the report should establish a clear intervention logic by better linking problems, their drivers, objectives and policy options. Thirdly, the report should provide a more substantiated and differentiated impact analysis, including on regions/Member States, business/SMEs, wider socio-economic impacts and on administrative costs. Finally, the report should clarify the future monitoring and evaluation arrangements and should ensure that all relevant stakeholders' views are referenced systematically throughout the text.

Given the nature of these recommendations, the Board asks DG ENV to submit a revised version of the report, on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Strengthen the problem definition and improve the baseline scenario. The report should present a more comprehensive overview of the application of the current EIA directive indicating the magnitude of the practical application difficulties and illustrating problems observed in the Member States. It should then give a much more explicit definition and description of the concrete problems and shortcomings to be addressed and should demonstrate in a clearer way their relevance and magnitude, their underlying drivers and why there is a need to act now. This should include the presentation of a detailed problem tree and an explanation of differences in the application by Member States (e.g. concerning the screening exercise, number of EIA's). The report should present a detailed overview of the gaps in implementation and of infringements relevant to the application of the directive. Finally, the report should strengthen the baseline scenario by clearly outlining the weaknesses of the existing directive and by showing how the situation would evolve if no further EU action is taken. It should then present this strengthened baseline as a real reference for the comparison of the options. The report should also clarify potential overlaps with other (environmental) legislation.

(2) Establish a clear intervention logic and objectives. The report should strengthen the intervention logic by clearly connecting the problems/problem drivers and the objectives, and by linking the latter directly to corresponding policy options in order to substantiate the proportionality of the measures. In this context, the report should specify in more detail if and in which way the initiative is related to other policy initiatives. The objectives themselves should be presented in a more explicit and "SMART" way by breaking them down into general, specific and operational objectives in order to allow the options to be compared in terms of effectiveness and efficiency.

(3) Better present the content of the options. The report should improve the presentation of the options by including a more detailed description of the content of the feasible options together with a clearer differentiation between options 1 and 2 as well as sub-options 2a-2c and by avoiding a bias towards the preferred option. The justification for discarding certain options (notably option 4) should be provided up-front in a separate sub-section (with a more detailed analysis in an annex).

(4) Better assess and compare impacts. The report should considerably reinforce the analysis of impacts and should include clear explanations if certain impacts cannot be analysed, e.g. due to a lack of data. If impacts cannot be quantified then the report should at least include some information on the general magnitude of the expected impacts for the different options on the basis of reasonable assumptions. To accomplish this, the report should move relevant information from the annexes 12-14 to the main text. Moreover, the report should describe the major impacts in terms of administrative burden in a more proportionate manner by analysing the different (sub-) options on an equal basis, avoiding a bias towards the preferred option, and by including a description of the underlying methodology and assumptions. The report should assess more thoroughly the impacts on business, particularly SMEs and on sector competitiveness, as well as wider socio-economic impacts. The report should also provide a more differentiated assessment of the impacts by Member States. Finally, the report should compare the options explicitly against the baseline scenario in terms of effectiveness, efficiency and coherence.

(5) Clarify the future monitoring and evaluation arrangements. The report should provide more developed monitoring and evaluation arrangements, including a set of robust progress indicators that are clearly linked to the preferred option and operational objectives.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation.

The report should aim to achieve a better balance in the distribution of relevant information between the different annexes and the main text. The report should be shortened while retaining the most relevant information in the main text. Moreover the report should be streamlined and simplified in terms of language to allow the non-expert reader to fully understand the presentation and analysis. The report should present stakeholder views more systematically throughout the text.

(E) IAB scrutiny process	
Reference number	2012/ENV/003
External expertise used	No
Date of Board Meeting	14 March 2012