

ROADMAP			
TITLE OF THE INITIATIVE	REFIT Evaluation of the Environmental Liability Directive 2004/35/EC		
LEAD DG – RESPONSIBLE UNIT	DG ENVIRONMENT – UNIT D.4	DATE OF ROADMAP	06 / 2015
<p style="color: red; font-weight: bold;">This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</p>			

A. Context and problem definition

<p>(1) What is the political context of the initiative?</p> <p>(2) How does it relate to past and possible future initiatives, and to other EU policies?</p> <p>(3) What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?</p>
<p>(1) This is an evaluation under REFIT, the European Commission's Regulatory Fitness and Performance programme. It will evaluate past and current performance and in so doing identify what is working well, and what is not. The evaluation will be against five criteria:</p> <ul style="list-style-type: none"> • Relevance: To what extent do the (original) objectives (still) correspond to the needs within the EU? • Effectiveness: To what extent did the intervention cause the observed changes/effects? To what extent can these changes/effects be credited to the intervention? To what extent do the observed effects correspond to the objectives? • Efficiency: Were the costs involved justified, given the changes/effects which have been achieved? What factors influenced the achievements observed? • EU-added value: What is the additional value resulting from the EU intervention(s), compared to what could be achieved by Member States at national and/or regional levels? • Coherence: To what extent is this intervention coherent with other interventions which have similar objectives? To what extent is the intervention coherent internally? <p>Article 18(2) and (3) of the Environmental Liability Directive 2004/35/EC (ELD) obliges the Commission to submit a report to the European Parliament and to the Council before 30 April 2014. The report shall include an assessment of whether a review of the Directive is necessary. The adoption of the Commission report has been delayed for various reasons: notably delays in national reports that provide part of the evidence base, the change in Commission and European Parliament in 2014 and the decision to include it as an evaluation under REFIT (and so increase its scope). The evaluation will be completed in the first half of 2015.</p> <p>(2) This is the second Commission report. In 2010, the Commission presented a report that addressed only the implementation of Article 14(2) ELD on the effectiveness of the Directive in terms of remediation of environmental damage and on the availability of financial security (COM(2010) 581).</p> <p>(3) The present ELD report and review is based on (a) the 2013 Member States reports on the experience gained in the application of the Directive, (b) the conclusions from the Commission report 2010, (c) studies launched by the Commission in 2012 (ELD implementation; feasibility of a fund/risk sharing facility) and in 2013 (legal analysis; biodiversity damage; ELD effectiveness), and (d) supplementary information from experts and stakeholder meetings and consultations.</p>
<p>What are the main problems which this initiative will address?</p>
<p>Not applicable</p>
<p>Who will be affected by it?</p>
<p>The main beneficiaries of the findings include operators/industry organisations, competent authorities/government experts, insurance brokers and associations and other financial security providers, NGOs and civil society representatives/academics.</p>
<p>Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?</p>
<p>In line with its obligations, the Commission is evaluating the performance of the Environmental Liability Directive.</p>

B. Objectives of the initiative

<p>What are the main policy objectives?</p>

The main objectives of the Directive are prevention and remediation of environmental damage based on the polluter-pays principle.
Do the objectives imply developing EU policy in new areas?
Not at this stage.

C. Options
(1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered?
(2) What legislative or 'soft law' instruments could be considered?
(3) How do the options respect the proportionality principle?
Not applicable.

D. Initial assessment of impacts
What are the benefits and costs of each of the policy options?
Not applicable.
Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?
Not applicable.
(1) Will an IA be carried out for this initiative and/or possible follow-up initiatives?
(2) When will the IA work start?
(3) When will you set up the IA Steering Group and how often will it meet?
(4) What DGs will be invited?
(1) No
(2)–(4) Not applicable.
(1) Is any option likely to have impacts on the EU budget above € 5m?
(2) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial Regulation? If not, provide information about the timing of the ex-ante evaluation.
Not applicable.

E. Evidence base, planning of further work and consultation
(1) What information and data are already available? Will existing IA and evaluation work be used?
(2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?
(3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?
(4) Is any particular communication or information activity foreseen? If so, what, and by when?
(1) The Commission has already gathered a wealth of data: <ul style="list-style-type: none"> - 27 Member States reports on the experience gained in the application of the ELD; - BIO Intelligence Service (2013), Implementation challenges and obstacles of the Environmental Liability Directive (in collaboration with Stevens & Bolton LLP); - BIO Intelligence Service et al. (2012), Study to explore the feasibility of creating a fund to cover environmental liability and losses occurring from industrial accidents; - BIO Intelligence Service (2014), ELD Effectiveness: Scope and Exceptions; - Milieu Ltd. & IUCN, Experience gained in the application of ELD biodiversity damage, February 2014; - Stevens & Bolton LLP (2013), Analysis of integrating the ELD into 11 national legal frameworks; - position papers from industry, insurance and NGOs; - reports from meetings with ELD government experts, from ELD stakeholder conferences/workshops and other data.
(2) The informational basis at this point in time appears to be sufficient. It was decided not to continue with further data gathering attempts.
(3) The abovementioned five implementation and evaluation studies were launched in 2012 and 2013 and

approved in 2013 and 2014 (three BIO IS studies, one Milieu study, one study by Stevens & Bolton)
(4) The REFIT evaluation will be annexed as Commission Staff Working Document to the report under Article 18(2) ELD (which is a Commission Communication by its nature) After the adoption of the report and evaluation will be further expert meetings and stakeholder conferences on the ELD, as in the past

Which stakeholders & experts have been or will be consulted, how, and at what stage?

See the stakeholder delineation above under A. Apart from the ongoing, normal consultation in many meetings and workshops, a dedicated internet stakeholder consultation is not planned before the ELD report and REFIT evaluation is being finalised.