



Experiences with public participation in the European Commission's Impact Assessment with respect to EU legislation

Aarhus & Espoo Convention: Joint Meeting on Public Participation in Environmental
Decision-Making: Focus on EIA. Geneva, 29-30 October 2012

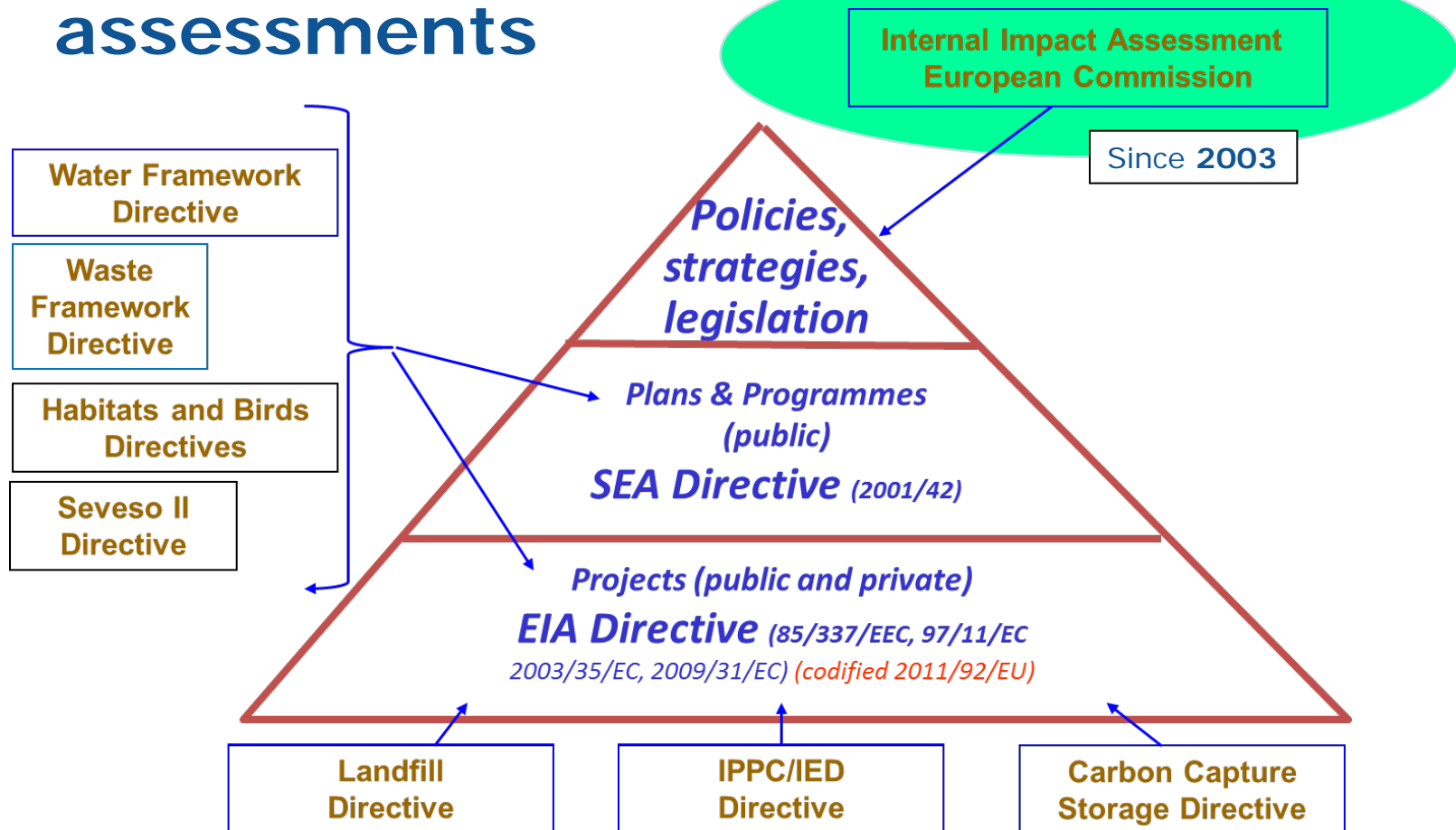
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Outline

1. Impact Assessment (IA) within the European Commission: *Why, what and how?*
 2. Experiences with public consultation in IA
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3. Recent development: Public consultation in the revised EIA Directive of the EU (proposal adopted 26 October 2012)
 4. Other examples of public participation in EU secondary legislation

The EU framework of environmental assessments



What is the EU Impact Assessment (IA) procedure?

- Before the European Commission proposes new initiatives it assesses the potential **economic, social** and **environmental** consequences that they may have.
- **Impact assessment** is a set of logical steps which helps the Commission to do this.
- It is a process that **prepares evidence for the Commissioners** on the advantages and disadvantages of possible policy options by assessing their potential impact.
- The IA report is used during the **legislative process** (Council and European Parliament)

What is the Rationale behind IA?

'Smart regulation', using '*evidence-based decision-making*', in order to:

- Make better proposals
- Promote coherence:
consider **social**, **economic** and **environmental** impacts
-> could be considered as a *sustainability IA*
- Ensure transparent and open decision making
- Show all considerations given to a proposal

6 Steps: 'common sense' questions

- Identifying the problem (including the need for action)
- Defining the objectives
- Developing the main policy options
- Analysing the impacts
- Comparing the options
- Outlining future monitoring and evaluation

Quality control mechanism: Opinion of the internal/independent IA Board

Impact matrix (for all policy options)

	Qualitative Description	Quantitative Description	Monetary Estimate
Economic:			
Social:			
Environmental:			

First content, then choice of policy instrument

Consider the objective

- What do we want to achieve?
e.g. Increase in Green Public Procurement

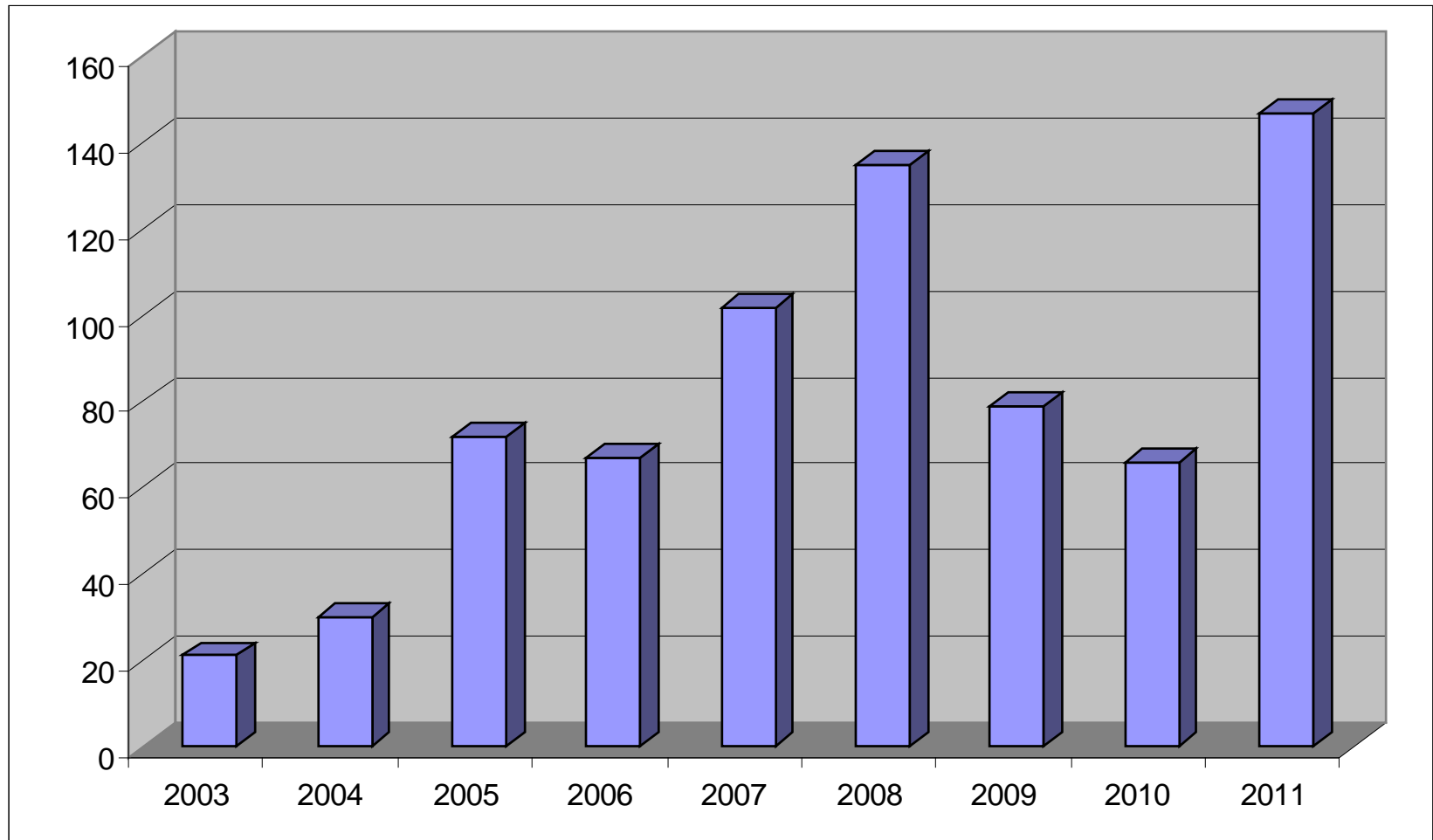
Think about content

- How might we do this?
 - Set criteria on what is 'green'
 - Share best practice
 - Set up Independent Authority to promote it

Then, think about the policy instrument

- In which different ways could we introduce this to MS?
Communication, Voluntary Agreement, Directive

Impact assessments since 2003



Experiences with public consultation in IA

The IA Process:

- Roadmaps
- Inter-service Group
- Studies, **consultations** = *Consulting the public*
- Report submitted to IA Board (IAB)
- IAB Opinion
- Inter Service Consultation (IA + proposal)
- Adoption by Commission (proposal)
- Transmission to Council and Parliament (IA report + IA Board opinion + proposal)
and **posting on website** = *Informing the public*

IA Stakeholder consultation

- No 'single' consultation (meetings, Working Groups, internet etc)
- Consult to get facts and/or opinion (data collection different from stakeholder consultation e.g. in reliability needs)
- Target key groups (opinions and their favoured options)
- If internet consultation: publish widely, minimum 12 weeks on-line
- One Voice to be used, also for meeting alerts



Web address of Europe voice;

http://europa.eu.int/yourvoice/consultations/index_en.htm

Example IA Stakeholder consultation: Revision EIA Directive

1. June to September 2010: wide public consultation on the review of the EIA, using a web questionnaire available in all EU official languages;
 - 1365 replies received (684 from citizens, 479 from organisations, companies and NGOs, 202 from public authorities and administrations).
 - In addition, the Institute of Environmental Management & Assessment (IEMA) sent a contribution (1815 responses).
2. Conference (on 18-19/11/2010, Leuven, Belgium), with specialised stakeholders: 200 representatives, from EU, international institutions, public authorities (national/regional/local), industry, environmental organisations, and the academic community

CONFERENCE FOR THE 25TH ANNIVERSARY OF THE EIA
DIRECTIVE:

SUCCESSES – FAILURES – PROSPECTS
LEUVEN, BELGIUM, 18-19 NOVEMBER 2010

THE LEUVEN INSTITUTE FOR IRELAND IN EUROPE (IRISH COLLEGE)
JANSENIUSSTRAAT 1 – B-3000 LEUVEN, BELGIUM

Lessons learnt

IA Board Report 2001:

http://ec.europa.eu/governance/impact/key_docs/docs/sec_2012_0101_en.pdf

- Stakeholder consultation is essential tool for producing high quality and credible policy proposals.
- The Commission should always provide feedback to stakeholders and report on how their contributions to the decision-making process have been used.
- We need close attention to the transparent and comprehensive presentation of different views of stakeholders throughout the IA reports. The Board will return submitted reports that do not provide the final results of stakeholder consultation.
- All public consultations launched from the beginning of 2012 should last at least 12 weeks; Commission services need to ensure that this is fully complied with. The Board will monitor compliance with this new requirement.

[Before 2012, the period of consultation was only 8 weeks and a lot of NGOs had complained for that and also the fact that the consultation period was not adjusting for allowing for X-mas and holiday periods]

Public consultation in the revised EIA Directive of the EU (proposal adopted 26 October 2012)

Problem: time-frames for the various stages of the EIA process are not specified or are not specific enough



Too short or too long public consultation

Public consultation: amended Articles 6 and 7

Article 6

- Time-frame for consulting the public on the EIA report:
 - ✓ 30 to 60 days (Aarhus Guidance: 45 days).
 - ✓ Possibility for extension by a further 30 days.
 - ✓ Conditions for extension:
 - in exceptional cases, where the nature, complexity, location or size of the proposed project so require.
 - the competent authority informs the developer of the reasons.
- Sufficient time for environmental authorities to be informed and consulted (Article 6(6)).

Article 7

- Obligation ('shall') to determine detailed arrangements.
- Time-frames for public consultation highlighted.

Development consent: amended Article 8

Article 8(1) –(new provision)

The decision to grant development consent shall contain: (...)

- c) a summary of the **comments** received pursuant to Articles 6 and 7;
- d) a statement summarising how environmental considerations have been integrated into the development consent and how the results of the **consultations** and the information gathered pursuant to Articles 5, 6 and 7 have been incorporated or otherwise addressed.

For projects likely to have significant adverse transboundary effects, the competent authority shall provide information for not having taken into account comments received by the affected Member State during the consultations carried out pursuant to Article 7.

Development consent: amended Article 8

Article 8(3) (new provision)

- The competent authority shall conclude its environmental impact assessment of the project within three months (+ 1 possible extension 3 months).
- 3 conditions:
 - ✓ all necessary information (EIA report + consultations) gathered.
 - ✓ where relevant, specific assessments required under other EU legislation concluded (e.g. Habitats Directive).
 - ✓ consultations (public, env. authorities, transboundary) completed.

Other examples of public participation in EU secondary legislation

- Directive 2001/42/EC (SEA Directive) – Environmental assessment with public participation for plans and programmes which are prepared for different sectors
- Directive 2003/35/EC implements Articles 6 and 9 (2), 9(4), (5) of the Aarhus Convention into EU law
- Directive 2003/35/EC also provides for participation of the public in the drawing up of certain plans and programmes foreseen under EU law on certain matters (Art. 7 of the Aarhus Convention);
- Plans and programmes under sector-specific legislation, e.g. Water Framework Directive 2000/60/EC (River Basin Management Plans), etc.
- Recent changes: Seveso III new provisions (using rules of EIA and IPPC, and 2003/35/EC) for public participation for planning and individual decisions (eg. Land-use planning, modification of establishments)



Thank you for your attention!

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