



**IEEP Evidence to the House of Commons Environmental Audit Committee
Inquiry: Pre-budget 2004 – the road ahead**

1 Introduction

The evidence submitted concerns one of the areas of focus of the EAC Inquiry - impact assessment.

The Institute for European Environmental Policy (IEEP) is a not-for-profit research institute with offices in London and Brussels. We have a primarily European focus and a considerable amount of experience regarding the environmental aspect of impact assessment at the European level. Whilst aware of the principles and operation of the UK Regulatory Impact Assessment (RIA) system, in this evidence we would like to focus on the relationships between the EU and UK approaches, rather than RIA itself. We raise a number of issues regarding the processes involved at each level, and some more generic questions relevant to impact assessment at whatever level it is undertaken, whether UK, European or global, especially the problems inherent in quantifying environmental impacts and comparing them with other types of impacts.

2 Impact assessment at the EU and UK level – processes

2.1 The Importance of policy assessment at the EU level

A high proportion of all domestic policy (estimated at around 80 percent in the case of environment policy) originates from the EU. Consequently it is essential that the UK engages fully in the development of EU policy at an early stage, in order to inform and influence legislation. The European Commission's internal system of integrated assessment presents an opportunity to do this. Established in a June 2002 Communication, the system was designed to provide policy-makers with clear analysis, in advance, of the likely effects of Community measures, to enable them to improve the coherence between different policy priorities, to identify win-win opportunities and to highlight any trade-offs that may need to be made between competing objectives. As has also occurred at the UK level, the new EU system brought together and formalised a number of existing separate procedures for impact assessment.

The new procedure originally required all Commission policy proposals listed in the European Commission's annual work programme to be subject to a short, preliminary

impact assessment (IA), on the basis of which a limited number of initiatives with major economic, environmental or social implications were selected for a more in-depth 'extended impact assessment'. A pilot phase of the system was launched in 2003, with 'extended impact assessments' being carried out on a selection of dossiers. From January 2005 all Commission proposals are now subject to an extended impact assessment (now termed simply 'impact assessment'), although with a greater emphasis on making the IA 'proportionate' to the significance of the likely impacts. The Commission has approached IA as a 'learning by doing' exercise, allowing the system to be established relatively quickly and to be reviewed and revised as lessons emerge.

An important element in developing the assessments is stakeholder consultation, and this has been carried out to varying degrees of success for the IAs completed so far. **However, there is no formal process specifically for consulting Member States, and there is much variability in whether responses are submitted from EU25 governments/ministries.** For example, for the internet consultation on REACH, only six Member States, including the UK, submitted position statements. No southern Member States, nor accession countries, submitted comments¹. **The consultation of Member States at this early stage is something that arguably needs to be more formalised,** given the need for the Commission to have an understanding of impacts at each Member State level, and for the EU25 to fully appreciate the likely domestic implications of policy proposals.

Whilst this level of engagement does happen in a few cases, it appears to be *ad hoc*, with RIAs completed only on those Commission proposals where there is perceived to be a major impact. It is also not clear whether all UK RIAs relating to EU proposals are sent to the European Commission, nor the extent to which they are used in practice during negotiations.

The UK RIA system is therefore not only important for assessing the impact of formal Commission policy proposals. It could be used to inform EU policy at a much earlier stage of development through the Commission's IA process. The benefits of this would be manifold, including:

- ensuring the European Commission is more aware of the implications for the UK;
- helping to shape the proposal at an earlier stage, which is more effective than trying to amend proposals in Council later in the process;
- increased awareness of what is on the horizon at the EU level and the likely implications for the UK;
- a head-start in developing the UK negotiating position; and
- protecting against future implementation problems.

2.2 *Coordination and Quality Assurance*

¹ However, there was regular contact with Member States through meetings with the competent authorities, and several Member States participated in Technical Expert Working Groups.

In the UK the RIA process is coordinated and quality assured by the Cabinet Office RIA Unit, and there is high-level commitment of the Prime Minister. While at the EU level the Commission Secretariat General coordinates the process, **there is no formal mechanism for reviewing and ensuring the quality of completed IAs.**

Several reviews of the experience so far with the Commission IA system have highlighted the need for quality assurance². The quality of the 2003 extended assessments has been uneven, and several of them have been poor. This partly reflects the fact that it was the first year of operation of the system, but other factors have contributed. There was no formal mechanism for ensuring quality control; resources for undertaking assessments, and for the provision of advice, guidance and training are limited; and there has been no institutional framework within which 'learning by doing' can take place in practice.

The Commission's Secretariat General has proposed a number of steps to reform the IA system, including revised guidelines and additional resources (although these are not quantified), but improving the system will be an ongoing process. **The UK has a well-recognised track record on regulatory impact assessment³, and through its role at the EU level could usefully share this experience with the Commission.** An opportune time to review and improve the Commission's IA system is presented by the UK's Presidency of the Council in the second half of 2005.

2.3 An ongoing process – assessing amendments to Commission proposals

There is an inter-institutional agreement (between the European Parliament, the Council and the European Commission) to undertake impact assessments on any amendments that they propose to make to a Commission proposal. A pilot impact assessment has now been undertaken under the out-going Dutch Presidency of a major amendment to the proposed Directive on Batteries and Accumulators. Through its role in the Council, the UK needs to consider how the national RIA process can feed into this. Experience with the REACH proposal has been positive in this respect, as the UK has taken a leading role in presenting alternatives to the Commission proposal and in providing impact assessments. However, this appears to be *ad hoc*.

Furthermore, the Council would need to organise assessments on proposed amendments in such a way that ensured a fair distribution of effort between the Member States, and the use of a common approach. Again, **the UK could take a lead in this area, given the existing level of expertise.**

3 The assessment of environmental impacts

Irrespective of the level at which impact assessments are carried out, there are always problems inherent in assessing environmental impacts, comparing these with social or economic impacts and identifying suitable trade-offs. Estimates of economic impact, particularly costs to those affected, are generally presented in a quantified form and can appear concrete and precise, even when very high levels of uncertainty are

² See for example Wilkinson, D et al (2004) Sustainable Development in the European Commission's Integrated Impact assessments for 2003, IEEP.

³ See for example Hertin, Julia (June 2004), *Sustainability and regulatory impact assessment in the UK*, SPRU.

involved. Environmental impacts are more difficult to capture in this way. For example, how can the potential impact of a project on a nature reserve be assessed, or the effect of better air quality on health? Even if impacts could be quantified, it is often difficult to attribute monetary values to them. In contrast, it is somewhat easier to quantify and attribute monetary values to the economic and employment impacts of policy. Consequently, there is a danger that environmental impacts, including the costs of inaction, receive less attention than should be the case in decision-making. In a political context where economic growth is becoming of even greater import EU wide, it is now, more than ever, critical that environmental considerations are not sidelined in assessments.

This problem presents important challenges. If, to be fully acknowledged, impacts need to be quantified or even have a monetised value, which methods need to be adopted to ensure environmental costs and benefits are adequately reflected? Monetisation of environmental benefits is in principle possible in some cases, using techniques such as contingent valuation. However, the data is frequently not available, there can be serious difficulties in the assumptions underlying research of this kind and there are major questions about the applicability of such methods to many of the issues that IA needs to address. Therefore monetisation may create as many problems as those it may appear to solve. **Perhaps the major challenge for both the UK and EU is how to ensure that qualitative information is given sufficient weighting in relation to quantitative data in policy appraisal/impact assessments. The use of other methodologies, such as critical thresholds as a way of limiting environmentally unsustainable trade-offs, should also be explored more fully.**

4 Conclusions

The UK and the EU are both making increasing use of tools that seek to assess and suggest trade-offs between social, economic and environmental impacts. At the same time, however, the EU system at least is coming under tremendous pressure to place greater emphasis on the competitiveness aspect of impact assessment. There are also specific demands to examine the administrative burden of many proposals. Given this political climate, it is all the more critical that assessment methodologies are as robust as possible and that any weaknesses are recognised and compensated for, so that IA is a tool for evidence based policy making and not the reverse. There is a particular opportunity for the UK to promote good practice in this direction.

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