



Institute for
European
Environmental
Policy

**Workshop on Best Practice in Analysing and
Developing Environmental Policies**

Workshop Report

**Workshop on Best Practice in Analysing and Developing Environmental Policies
15 November 2005, British Embassy Brussels, Rue d'Arlon 85, 1040 Brussels**

Aim of the Workshop

Member States have considerable flexibility in transposing EU environmental policy which often leaves choices to them over the level of ambition, the measures they take to reach their targets and other factors that affect the costs and benefits of environmental policy in Europe. This flexibility will only pay off if Member States carry out systematic policy assessment that help them see where and how they can use it to implement EU environmental policy more cost efficiently.

The aim of the policy exchange workshop was a) to identify good practice in Member State analysis, b) to consider how best to share good practice and c) understand the barriers that need to be addressed and how they could be overcome. The debate addressed a wide range of EU Directives, although it was informed by case studies on the national emission ceilings (NEC), habitats and packaging waste Directives. The focus was in particular on:

- What are the national approaches for assessing the options for implementing Directives?
- What use do Member States make of stakeholder consultation in the analytical process?
- Where are cost and benefit analyses used?
- Where can the assessment processes be improved and what can usefully be done by whom and by when?

Outcomes of the Workshop

There was a general consensus that good ex-ante assessment pays off by producing better policies. More Member States are putting in place frameworks so that such assessments can be done, but the practice is still not systematic. The workshop led to a better understanding of the reasons, barriers and issues that affect countries' attitudes and applications of ex ante assessments. The workshop also made some progress on identifying ways forward.

The main points of the workshop are presented below building mainly on the discussions, though keeping some key points from the presentations. The focus of the summary is on the aspects related to the possible ways forward. Case specific details are not repeated and readers interested in more detailed information are invited to see the presentations circulated¹ and the workshop background report. The agenda of the day and the list of participants are included as Annexes 1 and 2.

¹ Also available on IEEP web site: www.ieep.org.uk

Overview of application of ex ante assessments

- **There is a lot of flexibility in many Directives.** This flexibility includes a) level of coverage (eg the nature of an ‘installation’ under IPPC); b) level of ambition (eg biofuels Directive where countries can set own targets); c) timescale (eg the IPPC permitting timetable, reaching favourable conservation status under the habitats Directive); d) which instruments to use (eg NEC, Water Framework Directive); e) technical standards (eg BAT under IPPC); f) institutional responsibility (eg the IPPC Directive); g) piggybacking (eg implementing the packaging Directive through existing national measures); h) and the possibility for a radical change (eg IPPC and the water framework Directive for some Member States).
- **A growing number of Member States are adopting formal ex ante assessment frameworks** (where the structure of the assessment process is formalised) that require them to undertake ex ante assessments before deciding how to transpose EU environmental policy. However, the countries with formal obligatory impact assessments are still in a minority. Among the Member States, the UK has had its Regulatory Impact Assessment (RIA) in place the longest. Ireland and Belgium (Flanders region) have also recently set up formal systems for ex ante assessments and the Czech Republic is planning to introduce such a system in the future.
- **Other Member States operate generally on a more ad-hoc basis.** This approach can be more flexible but risks missing some elements of the analysis. There is mixed interest amongst these countries in developing a formal ex ante assessment framework, due to a wide range of reasons and barriers.
- **Consultation** has been used in most countries in various contexts and for various benefits, including reducing resistance to Natura 2000 site designation. This consultation usually helps with the refining of proposals and creation of buy-in. However, there is some evidence of consultation ‘fatigue’ among stakeholders that needs to be addressed in the future.
- Overall, the workshop showed that there is **increasing use of ex ante assessment** in Member States, but that the practice could be more widespread and is not common to all countries. Reflecting this, there is an interest in more systematic exchange of good practice.
- **Costs and benefits analysis** is still only sparsely used though there is an appreciation that presenting costs (burdens) and benefits in the broader (non-quantitative) sense is helpful. There is mixed perception as regards making the use of cost-benefit analysis (CBA) as it was argued that CBAs are only one method to help decide implementation options. The use of CBAs was, however, generally supported. It was also agreed that CBAs are not ‘a perfect science’, but rather a tool to ensure that the political debate is better informed. In general, there is a feeling that CBAs are helpful in improving and justifying environmental policies in a difficult political climate (as in REACH).
- There was general consensus that **good ex ante assessment improves policies by helping Member States to use the flexibility available to them.** It can help them to understand what is required and to identify the most attractive options for implementation. This can increase the cost-efficiency with which EU environment policy is implemented or even increase the level of ambition.

Possible way forward – key points from the workshop

Use of ex ante assessment – in general

- It was generally agreed that **ex-ante assessments are worth investing in** because they are useful tools to inform and shape discussions and feed into the debate. Whilst there is some good practice around, Member States could do more systematic assessment.
- In some Member states (notably in the smaller countries) **limited amount of resources** restrict the possibility to do systematic ex ante assessments. In this context, it was noted that it would be useful for the small Member States to be able to build on Commission assessments, learn from other countries' assessments (eg transfer some insights to get 'ball park' insights) and develop a priority list of areas that would be most effective/beneficial to assess. Again, this would benefit from a more systematic exchange of good practice.
- It is clearly important to **build internal capacity** (eg people, skills, money) to carry out assessments. It was noted that establishing a network to exchange experience would be very valuable to some countries (focusing mainly on the important cases).
- It is important to **obtain stakeholders' engagement** for carrying out ex ante assessments already early in the policy process. This way ex ante assessments can adequately cover the available range of options, obtain buy-in by the right stakeholders, and have an impact on the final policy decision-making process. It remains to the Member States to explore how to achieve this in practise.
- **Availability of data** to carry out assessments is always a problem. To solve this, greater use could be made of benefits and data transfer. Additionally, in some cases more weight could be given to (robust) qualitative insights.
- There is a **need to develop trust in the results** in order to increase the degree to which they are bought into. In this context, it is important to involve the stakeholders throughout the process. It is also crucial to ensure clear communication of the process to the stakeholders, notably in order to clarify the expectations and explain the proportionality of analysis (ie if implementation could have significant impacts, major analysis is likely).
- Undertaking **high quality, detailed analysis is time consuming** and time pressures (eg a transposition deadline) can undermine the robustness of the analysis. It is therefore important to ensure that the assessment process is well planned and starts early – something more likely where there is a formal framework in place.
- **Ex ante assessments should be linked to earlier ex post assessments**, as there are links between different legislation. Ex post assessment should be done regularly and undertaken reasonably soon after implementation as early results could be used to revise the legislation or aspects of practical implementation.

Consultation:

- Consultation, although a time consuming exercise, is regarded as a **useful investment**, which pays back at the end. However, consultation is of most use only when it is an integral part of the over all policymaking process.

- **Consultation can be used throughout the process.** It is seen not just as a means of obtaining views with respect to a proposal (eg costs) and for communicating results. Consultation can also be used earlier in the policy making process to identify implementation options, targets and objectives. The workshop participants felt that there were some missed opportunities for using consultation early enough in the process.
- It is important to **make stakeholders feel that their opinion and input can influence** the policymaking process. Engaging the stakeholders already at an early stage of the process helps to achieve this. The consultation process also needs to be properly and proactively managed in order to reach the right stakeholders, manage stakeholder bias and actively bring out positive sides to balance the more vocal views. As regards stakeholder bias: in consultations sectoral interests often dominate cost benefit analysis (on the cost side) and this needs to be taken into account by those undertaking the analysis and by other stakeholders.
- **Consultation should be targeted.** Not all stakeholders need be involved in all the stages of the policy making process. In more technical cases, consulting a smaller appropriate audience early on and later turn to a broader audience might be more appropriate (e.g. appointed committee model).
- **Ex post evaluation of the consultation process is useful** and, if needed, consultation processes can be fine tuned as regards to the outcomes of the evaluation.

Costs and benefits analysis:

- **Costs and benefits analysis could be carried out more often** as a means of raising information on the options and inputting into the decision making process, side by side with other information on the pros and cons of implementation options that cover transparency, equity, legitimacy. It should be kept in mind that the choice of options is more than a simple question of cost-effectiveness.
- **It might not be feasible for all countries systematically to use cost and benefit analysis** for all Directives. This is due either to a lack of need (eg the implementation path is obvious given national circumstances, context and systems) or lack of experience in undertaking the cost benefit analysis, influenced by limited national capacity. It was felt important (eg in Malta and Latvia) therefore to develop a checklist of which Directives would be the most important to cover.
- There is **interest in sharing information and best practise experiences.** This reflects the fact that more Member States are moving towards systematic impact assessment. For example, during the workshop, Member States requested more guidance on how to carry out good benefits and costs analysis - e.g. to estimate benefits of nature and biodiversity. The Commission was seen as having a role in this exchange of good practice.
- It was agreed that **benefits assessment could be usefully integrated into the consultation process.** People often value seeing the benefits over the cost.

Annex 1 - Agenda
Workshop on Best Practice in Analysing and Developing Environmental Policies
15 November 2005 - British Embassy Brussels

8:30 Registration and coffee

Session I: Overview: Analysing and Developing Environmental Policies

9:00 Welcome and introduction by the chair - Robin Miège (DGENV)

9:15 Flexibility & Impact assessment: An Overview - Andrew Farmer (IEEP)

Session II: Assessment Processes - 10:15

National Cases, Discussant Response and Discussion.

Case 1: UK - Mark Courtney (Cabinet Office, UK)

Discussant response – Per Mickwitz (Ymparisto - Finnish Environment Institute)

Discussant response: Jan Dusik (Ministry of Environment, CR)

Discussion

Coffee – 11:15

Session III: Assessment Tools – Use of Analysis of Benefits and Costs - 11:35

National Cases, Discussant Response and Discussion.

Overview of Use of costs and benefits analysis – Patrick ten Brink (IEEP)

Case 2: NEC in France – a short introduction: Cécile des Abbayes (Bio, France)

Discussion response: Otto Linher (European Commission)

Discussion

13:00 Lunch

Session III: Assessment Tools - Use of Consultation - 14:00

National Cases, Discussant Response and Discussion.

Case 3: Sweden and Natura - Jan Terstad (Ministry for Sustainable Development, Sw)

Discussant response – Estonia and packaging – Peeter Eek (Ministry of Env., Estonia)

Discussion

15:00 Breakout on assessment techniques (3 groups)

(1) stakeholder consultation;

(2) analysis of costs and benefit;

(3) what are the barriers and solutions to choosing a good implementation path?

Facilitators: Consultation: David Wilkinson
 Costs and Benefits: Patrick ten Brink
 Implementation choices, barriers & solutions: Andrew Farmer

Coffee – 16:00

Session IV: Plenary: Reporting back from breakout groups -16:20

16:40 Discussion: Needs and Way forward

What are the needs, what are the barriers, what are the solutions, who can make solutions happen?

17:15 Chairman's conclusions

17:30 End of the day

Annex 2 - Attendance list
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Name	Organisation	Country	Email
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