



**SUSTAINABLE DEVELOPMENT IN THE
EUROPEAN COMMISSION'S INTEGRATED
IMPACT ASSESSMENTS FOR 2003**

FINAL REPORT

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EXECUTIVE SUMMARY

This report reviews whether and how sustainable development considerations have been addressed in the extended impact assessments of European Commission proposals produced in 2003, the first year of operation of the Commission's new impact assessment system.

In a June 2002 Communication (COM(2001) 726), the Commission established an internal system of integrated impact assessment for all major Commission proposals. This was to bring together in a single integrated system all existing internal Commission procedures for impact assessment. In particular, reflecting commitments in the EU's Sustainable Development Strategy, impact assessments were to address 'the full effects of a policy proposal' (including) 'estimates of its economic, environmental and social impacts inside and outside the EU'. This was an ambitious and far-sighted initiative, and accordingly the first year of operation of the IA system in 2003 was to be an opportunity for 'learning by doing' in preparation for the full operation of the system in 2004.

All Commission proposals listed in the Commission's annual work programme are subject to a short, preliminary impact assessment, on the basis of which a limited number of initiatives with major economic, environmental or social implications are selected for an 'extended' impact assessment. Of the 580 proposals listed in the Commission's 2003 work programme, 43 were formally identified as requiring extended assessment. However, those not selected included several with significant effects on aspects of sustainable development. Of the 43 selected proposals, 21 extended assessments had been completed by April 2004. This shortfall reflected delays in the publication of proposals, or in some cases the withdrawal of a proposal altogether. The criteria for the selection of proposals for extended IAs have been unclear, and indeed the system as a whole has not been transparent, with many of the assessments not readily available to the public.

Commission Guidelines on Impact Assessment

The Commission issued Guidelines to directorates-general in preparation for the launch of the system in 2003. It is not clear which aspects of these Guidelines are mandatory, and which are discretionary. None of the 2003 IAs follow them fully, and a small number pay little attention to them. The treatment of sustainable development issues in the Guidelines is brief and not easy to understand. Moreover, the Guidelines give the impression that impact assessment is a one-off event, rather than an extended *process*, that should be staged in order to reflect the successive steps in the process of policy development.

Operation of the Commission's Impact Assessment system in 2003

The quality of the 2003 extended assessments has been uneven, and several of them have been poor. This partly reflects the circumstances of the first year of operation of the system, but other factors under the Commission's control have contributed. There has been no formal mechanism for ensuring quality control; resources for

undertaking assessments, and for the provision of advice, guidance and training are limited; and there appears to be no institutional framework within which 'learning by doing' can take place in practice. There are no formal arrangements for involving Member States in impact assessments, even though it is often only Member States who are able to provide the Commission with national data, and details of likely implementation arrangements and their consequences. Approaches to stakeholder consultation have also varied widely between directorates-general. Generally, industrial interest groups have been more closely engaged than environmental or social groups, reflecting their considerably greater resources.

Content of extended impact assessments

The analysis of the policy problem to be addressed tends to reflect the perspective of the responsible directorate-general, suggesting that inter-service consultation should be strengthened. Similarly, proposed policy options almost always fall within the competence of responsible directorates-general. Most IAs put forward between two and four options, but in four cases only one option is put forward.

The range of impacts assessed is limited, and falls well below the number proposed in the Commission's Guidelines. Little explicit attention is given to issues of sustainable development, or to trade-offs between its different elements. Most attention is paid to economic impacts. The treatment of environmental and particularly social impacts is limited. Most impacts are discussed in qualitative terms. Where quantification is attempted, most attention is paid to short-term economic costs. Few attempts are made to quantify longer-term environmental or social benefits. Commission Guidelines on clarifying *ex post* monitoring and evaluation needs are generally not respected.

Data limitations have restricted the consideration of many potential impacts, particularly environmental and social. A permanent infrastructure for more extensive data collection and analysis needs to be established to underpin the assessment system. This cannot be done on a short-term, *ad hoc* basis in response to the needs of specific proposals.

1. INTRODUCTION

1.1 Introduction

In June 2001, the Göteborg European Council adopted the EU's first Sustainable Development Strategy (EU SDS), and at the same time called for the introduction of 'mechanisms to ensure that all major policy proposals include a sustainability impact assessment covering their potential economic, social and environmental consequences'. Subsequently, the Commission's Communication *Simplifying and Improving the Regulatory Environment* (COM (2001) 726) proposed that 'a coherent method for impact analysis' would be introduced for all major Commission proposals, by the end of 2002. This would bring together in a single integrated system all existing internal procedures for impact assessment. A further Communication on Impact Assessment issued in June 2002 (COM (2002) 276) provided more details of how the new system was intended to operate. This was followed by detailed methodological and procedural guidelines issued by the Commission in three volumes in the autumn of 2002. On the title page of Volume I of the Guidelines, the following extract from the Commission Communication on the EU SDS is reproduced:

'Sustainable development should become the central objective of all sectors and policies. This means that policy makers must identify likely spillovers – good and bad – on to other policy areas and take them into account. Careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU.'

This far-sighted initiative on the part of the European Commission is to be applauded. While many different forms of impact assessment have been introduced around the world – particularly by many of the OECD's member countries - there are currently few examples of impact assessment systems which fully address sustainable development considerations in a balanced and comprehensive way. This is one of the reasons why the Commission chose to introduce the new IA system gradually, and to regard its first year of operation in 2003 as an opportunity for 'learning by doing'.

The United Kingdom has for some time been an acknowledged frontrunner in the field of Regulatory Impact Assessment (RIA), and guidance from the Cabinet Office's Regulatory Impact Unit on RIA has recently been revised to address a wider range of sustainable development issues. For its part, the Department for Environment, Food and Rural Affairs (Defra) and its predecessors have over the past decade sought to strengthen the integration of environment and sustainable development in EU policy development. For this reason, the UK is in a good position to support the further development of the Commission's impact assessment system with the benefit of its experience.

Accordingly, the Institute for European Environmental Policy (IEEP) was commissioned in December 2003 by Defra (Europe Environment Division) to

produce a consultancy report reviewing the extent to which considerations of sustainable development have in practice been incorporated into the first 'wave' of impact assessments on proposals and initiatives in the Commission's work programme for 2003.

The report is based on an overview of all the extended impact assessments published for 2003 (see Appendix II) and a detailed analysis of eight specific case studies (printed separately as an Annex to this report). In addition, interviews were undertaken with officials in the European Commission, the European Environment Agency, Defra, and with representatives of relevant NGOs.

The project was undertaken by a team led by David Wilkinson (Senior Fellow at IEEP London), which included Malcolm Fergusson; Claire Monkhouse; Catherine Bowyer; Astrid Ladefoged; James Brown and Agata Zdanowicz. The conclusions and recommendations of the report are the responsibility of IEEP alone, and do not necessarily represent the views of Defra.

2. COMMISSION GUIDANCE ON IMPACT ASSESSMENT

2.1 Introduction

The Commission's 2002 Communication on Impact Assessment (COM(2002)276) was followed by the publication by the Strategic Planning and Programming Unit in the Secretariat-General of more detailed Guidelines, in three parts:

- An operational guide, clarifying roles and procedures;
- A reference manual describing in general terms how to carry out an impact assessment;
- A set of Technical Annexes directed to specialists.

The Commission's Guidelines reflect approaches to impact assessment practised elsewhere (including in the UK), and they set out a rational, step-by-step approach structured around the following questions or issues:

- What issue/problem is the proposal expected to tackle?
- What is the main objective the proposal is expected to reach?
- What are the main policy options available to reach the objective?
- What are the impacts – positive and negative – expected from these different options?
- How to monitor and evaluate the results and impacts of the policy
- How has stakeholder consultation been approached?
- What is the justification for the final policy choice?

A range of issues relating to sustainable development need to be taken into account in answering all of these questions. However, in this regard there are two specific features of the Guidelines that are not satisfactory:

- The discussion of issues and impacts relevant to sustainable development is brief and unclear;
- The assumption that impact assessment is an *event* rather than a continuing *process* circumscribes opportunities to strengthen policy coherence and 'mainstream' sustainable development considerations.

These are discussed further below, in section 2.2 and 2.3.

Some elements of the Commission's Guidelines appear to be mandatory – for example, in relation to transparency, internal co-ordination, consultation and reporting – while others are described as 'just common sense suggestions for how best to proceed' (and are therefore presumably not mandatory – although this is not made explicit). Suggestions for improvements to the Guidelines are specifically invited. This suggests that the Guidelines will be subject to periodic review and revision.

2.2 Treatment of Sustainable Development in Commission Guidelines

On the front cover of the Commission's Guidelines is quoted an extract from the Commission's proposal for an EU Sustainable Development Strategy, *A Sustainable Europe for a Better World*:

‘...Sustainable development should become the central objective of all sectors and policies.... Careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU’.

Despite the prominence given to the principle of sustainable development, the Commission's Guidelines and Technical Annexes subsequently devote rather little attention to detailing its implications for impact assessment. A list of possible impacts is included in Volume 3 of the Commission's Technical Annexes *How to do an Impact Assessment*. The list comprises ten separate categories of economic impacts, 13 environmental, and 15 social (see Box 1 p.20), divided into about 150 sub-categories. Commission directorates-general are in addition invited to contribute extra categories and types of impacts. The question of the availability of data - or the resources needed to collect them - in order to assess impacts in all these categories is not addressed.

Volume 2 of the Technical Annexes lists three basic questions to be considered in relation to sustainable development:

- Does the proposal have an impact on the maintenance, renewal or destruction of stocks of resources (natural, human, social and manufactured)?
- Does the proposal affect the technical efficiency with which resources are used to produce ‘well-being’?
- What are the distributional impacts of the proposal?

The first two questions beg a very large number of questions and assume that Commission desk officers have a sophisticated understanding of sustainable development concepts. The question of identifying distributional impacts is regarded in the Guidelines as ‘crucial’, but ‘not a simple matter’. On a more concrete level, the Technical Annex states that IAs should also consider whether the proposal affects the major unsustainable trends identified in the EU SDS, and has an impact on any of the structural indicators used to monitor progress with the Lisbon process. There are 14 headline Lisbon indicators, only three of which are environmentally related, backed up by a larger publicly accessible database.

In view of the rather limited treatment of sustainable development in the Commission's Guidelines, IEEP produced - for the purposes of this project - its own list of sustainable development principles derived from a range of national, EU and international sources that might be used to assess impacts on sustainability. These are included in the checklists in Appendix II of this report.

2.3 Impact Assessment – An Event or a Process?

A more fundamental weakness of the Commission's IA Guidelines is the impression they give that an extended impact assessment is a one-off *event*, rather than an extended *process* over time. If IA is conceived as an event, then a decision has to be made as to the stage in the policy process at which assessment should take place – and this gives rise to the danger that an assessment will either be too early, or too late. The Commission's Guidelines rightly point out that:

‘Early co-ordination between services is essential in order to avoid the single sector approach and to anticipate and resolve potential issues very early in the process. It also allows for optimal use of all relevant in-house knowledge.’

A significant proportion of the 2003 extended assessments have indeed been of initiatives at an early stage of development – for example, essentially descriptive Communications (despite contradictory Commission guidance that Green Papers should normally be excluded from the process). In these instances, it has not been possible for officials to follow closely the Commission's IA guidelines in relation to the selection of specific options and identification of detailed impacts, because the proposals have not been at a sufficiently mature stage of development to enable their identification. (Specific examples are discussed in section 3.2) This is likely to be a particular problem for DG Environment during 2005 when impact assessments are to be undertaken on most of the 6EAP Thematic Strategies. Some of these will propose general policy frameworks, leaving detailed measures to be developed later and/or by Member States or sub-national authorities.

On the other hand, delaying an extended impact assessment to a later stage in the policy process will exclude other directorates-general and stakeholders from participating in discussions on crucial issues such as the analysis and definition of the problem to be addressed, and the objectives to be pursued.

The extended assessment of **the trans-European transport network (TEN-T) guidelines** had to be compressed into little more than a month in the summer of 2003. This was because the target date for the publication of the proposal was brought forward by the Commissioner, while at the same time, the High-Level Group of Member States (responsible for defining corridors and priority projects) did not finally publish its proposals until June 2003. This separation between key prior policy decisions and the process of impact assessment was widely regarded as unhelpful.

This suggests that impact assessment should be regarded not as a one-off event, but as a ‘rolling’ process that should continue throughout the course of policy development – possibly over an extended period of time. Accordingly, an IA would be broken down by stages according to specific milestones in the policy process, with questions tailored accordingly. Thus at the ‘Green Paper’ stage it is not appropriate to seek to do a comprehensive assessment of detailed impacts, but rather to analyse and define the problem, and clarify objectives. (Indeed, Green papers

should effectively be a report of the early stages of an extended impact assessment). Later stages of the impact assessment would need to be delayed until stakeholders have had the opportunity to examine a wide range of possible options and instruments. Indeed, for Commission proposals reflecting a high degree of subsidiarity (with impacts consequently dependent on the differing implementation arrangements in Member States), it might be more appropriate for later stages of the impact assessment to be undertaken by the Member States themselves.

The extended impact assessment on the reform of the **CAP sugar regime** was undertaken at an early stage when the options for future reform were still open. This enabled extensive consultation on an analysis of the problems to be addressed, and the options available. However, a full impact assessment was not carried out because at this early stage a wide range of variables relating to the future implementation of concrete measures had still to be defined, and so the IA does not include a preferred option. The later stages of the IA are expected to take place at a later stage.

The Commission's failure to distinguish between IA as an event and as a process has made it difficult for desk officers to apply the Guidelines to a number of initiatives, and creates the prospect of having to repeat impact assessments as policies are sharpened up.

2.4 Conclusions

- The Commission Guidelines on Impact Assessment are not sufficiently explicit in respect of those aspects, which should be regarded as mandatory, and those that are discretionary only.
- The treatment of sustainable development issues in the Guidelines is brief, not easy to understand, and insufficiently detailed to be of practical use in an extended impact assessment.
- The Guidelines give the impression that impact assessment should be a one-off event, rather than an extended process, at successive stages of which only some of the assessment questions can be appropriately answered. This makes the Guidelines difficult to apply in practice, and could require the unnecessary repetition of the entire IA process at later stages in the policy development process.

3. OPERATION OF THE IMPACT ASSESSMENT SYSTEM IN 2003

3.1 Introduction

The Commission's 2002 Communication on Impact Assessment proposed the gradual introduction of the new IA system from 2003, with 2004 being the first full year of its operation. It was acknowledged that in the early stages a 'learning by doing' approach would be required, and that the quality of assessments could be expected to improve over time.

Certainly, there were striking variations in the quality of the assessments produced in 2003. On the one hand, the assessment on the reform of the CAP sugar regime is generally acknowledged to be good, while that in respect of the proposed recovery of southern hake and Norway lobster stocks is poor. In the first year of the operation of the new IA system, poor quality can be partially explained by short time scales; the consequent inability to commission support from consultants; the absence of sufficient training; and the attempted application of IA to initiatives already a long way down the path of development. Nevertheless, some things might have been done better.

3.2 Transparency

There has been considerable lack of transparency in the system. The list of extended impact assessments undertaken in 2003, and the assessments themselves, do not appear centrally on the Secretariat-General's website. This has been blamed on technical problems, and improvements have been promised imminently. Some IAs do, however, appear on the websites of some individual directorates-general. For example, DG Environment has included in its website extensive details relating to the IAs on REACH and Batteries and Accumulators. This is exceptional, and other DGs have yet to make their IAs available.

Such a lack of transparency is ironic in view of the fact that one of the reasons for introducing the system was to increase public and stakeholder support for, and participation in, the development of Community policies.

3.3 Selecting proposals for extended impact assessment

The Commission's Guidelines on Impact Assessment set out the criteria for selecting proposals for extended impact assessment (p.12). These focus on whether the proposal is expected to

- result in substantial economic, environmental and/ or social impacts on a specific sector or several sectors
- have a significant impact on major interested parties
- represents a major policy reform.

In addition, the Guidelines also list types of proposals that would normally be exempt from any form of assessment (p7). These include *inter alia* ‘proposals like Green Papers where the policy formulation is still in process...’

Of the 580 proposals listed in the Commission’s 2003 Work Programme, only 43 were formally identified as requiring an extended impact assessment. However, those not selected included several with significant effects on aspects of sustainable development, including for example a Communication on an Action Plan for Organic Farming; a Communication on the Reform of State Aid Rules; and a Communication on General Crime Prevention – Priorities for the Next Five Years.

Of the 43 proposals identified for extended IAs, only 16 had been completed and were available by February 2004. Five additional proposals not originally selected were in fact subject to one, making 21 IAs in all. These additional proposals were: two proposals relating to the recovery of fish stocks; REACH; a draft Directive on safeguarding the security of electricity supplies; and the Trans-European energy networks guidelines

The identification of a proposal for extended assessment should be undertaken by the responsible Directorate-General in the preliminary impact assessment. However, the definition of what constitutes a ‘major’ policy proposal has not been clarified. The process of impact assessment appears to be generally regarded within the Commission as burdensome, and most DGs therefore have been reluctant to ‘volunteer’ their measures. However, the Secretariat-General and other DGs have insisted in a number of instances on the necessity of an extended assessment, notwithstanding the reluctance of the responsible DG. The list in the 2003 Work Programme was eventually finalized through political bargaining in a special meeting of Chefs de Cabinet.

In relation to the **Communication on Sustainable Tourism**, the Tourism Unit in DG Enterprise did not know that an extended IA was required until the 2003 Work programme was adopted. At this stage, six months’ work had already been undertaken on the Communication. The Tourism Unit felt that an extended IA was inappropriate for such a non-legislative initiative.

The decision to undertake an extended IA of the **Recovery plan for Southern Hake and Norway lobster** was also made at a late stage, with the consequence that little time and resources were available, and the IA had to be done at the same time as the development of the recovery plan, which was regarded as urgent. The IA was done by DG Fish in a few weeks, on the basis of existing studies and literature.

As a result, there is reportedly ‘widespread confusion’ within the Commission about the selection criteria. There has been some discussion that for the 2005 Work Programme, *all* measures will be required to undergo extended assessment. This

could have significant resource implications and may reduce quality standards further.

In the case of **REACH** (which did not appear among the 43 originally selected), DG Enterprise insisted that an assessment should be undertaken, because of its implications for industrial costs. This appears eventually to have been supported by DG Environment (although less enthusiastically because of the prospect of prolonged industrial lobbying). The UK was also active in pressing for an extended IA.

3.4 Nature of Commission proposals selected for extended assessment

Of the 21 initiatives subject to IA, most had some relevance to all three elements of sustainable development. Six, however, had either limited relevance to any sustainability considerations, or implications for only one facet. These were:

- Revision of the European Employment Strategy
- Non-discrimination on the basis of sex
- Switchover from analogue to digital broadcasting
- Communication on immigration, integration and employment
- Developing democracy etc in EU development co-operation
- Unfair commercial practices

Despite the advice in the Commission's Guidelines on the exclusion of Green Papers (see section 3.3 above), many of the initiatives subject to extended IA were in fact of a **high degree of generality**, making the assessment of future impacts highly problematic. Six of the 21 IAs related to essentially descriptive documents similar to Green Papers, with no concrete policy measures the practical impact of which could be subject to assessment.

In addition, several proposed measures were either of a **procedural or institutional nature**, or reflected a high degree of subsidiarity, such that the actual impact of the proposal depended on its interpretation in individual Member States. In relation to three IAs – the two proposals relating to fish stocks, and the Communication on the transition from analogue to digital broadcasting – the Commission explicitly draws attention to the need for Member States to undertake their own IAs on national implementation measures.

3.4 Inter-Service Consultations

The Commission's 2003 Work Programme identified a number of measures the assessment of which was to be steered by an Inter-service Group (ISG). The process of selecting these appears also to have been the result of political bargaining, rather than through the application of any clear criteria. A good example of an assessment steered by an effective ISG is that relating to reform of the CAP Sugar regime.

The ISG for the reform of the **sugar regime** was led by DG Agriculture, and consisted of several representatives each from no less than 13 DGs. The ISG held 17 half-day meetings between January and July 2003, including five hearings with various groups of stakeholders. A total of 14 written submissions were made by members of the ISG. The ISG was regarded by participants as having a significant influence on the selection of topics to be analysed, and the final shape of the assessment.

In practice, however, other DGs have been consulted in relation to most IAs, although both the level of inclusion offered by the lead DG, and the extent to which different DGs have wished to become involved, has varied. DG Environment and DG Enterprise have been active in insisting on their involvement in several assessments. However, the absence of resources dedicated to supporting involvement in the IAs undertaken by other DGs has meant that prioritisation has been essential. Not surprisingly, the more politically contentious is the proposal, the more other DGs have actively engaged in the assessment process – a good example is REACH. None of the assessments include a description of the separate positions of different directorates-general within the Commission.

A team of three Commission desk officers – two from DG Environment and one from DG Enterprise were involved in developing the IA for **REACH**. They all reviewed one another's contributions, as did their respective Heads of Unit. Other DGs involved in drafting and analysis included DG Economic and Financial Affairs (Ecofin) (economic modelling), and the Joint Research Centre (testing cost scenarios). The two DG Environment desk officers had contributed to the drafting of the Commission Guidelines on Impact Assessment, and the development of IA-Star, and so were understandably more positive about the IA process.

In relation to the **Recovery Plan for Southern Hake and Norway Lobster**, other DGs were consulted by DG Fish only when the first draft of the IA had already been completed. The Secretariat General was the most active in making comments, with little feedback from either DG Environment, or DG Regional Policy (Regio).

3.5 Involvement of Member States

There is no mechanism for ensuring the systematic involvement of Member States in the development of assessments. Where Member State representatives have contributed, this has occurred either on an *ad hoc*, informal basis, or through standing advisory groups (where these exist). For example, in relation to the IA on the Kyoto Protocol project based mechanisms, a specific Working Group on JI and CDM had been set up in the framework of the European Climate Change Programme, on which representatives of Member States and accession countries were represented. This is by no means the norm, however. In relation to the IA on the reform of the sugar regime, Member States were not formally consulted. Only if

a Member State took the initiative and specifically requested it, was access to DG Agriculture made available. On the proposed Directive on batteries and accumulators, only five Member States participated in the process of internet consultation.

The absence of a more formal link with the Member States is a major weakness in the Commission's IA system. Information on the different structures of implementation in individual Member States, and data in relation to consequent national impacts, are not readily available at EU level. Indeed, some IAs – particularly in relation to 'framework' measures incorporating a high degree of subsidiarity – have explicitly referred to the need for Member States to undertake their own IAs of implementing measures. The difficulty here is that few have yet established their own IA systems.

An initiative on Better Regulation launched in 2004 by the current Irish, and the three succeeding, Council Presidencies has called for the Member States to be more closely involved in the selection of Commission proposals for extended assessment, and in improving their quality. A step in this direction appears now to have been taken in respect of the supplementary impact assessment for REACH agreed in principle in March 2004 (see section 3.6). This is to be steered by a High Level Group comprising industry and other stakeholder representatives, together with representatives from the current and succeeding Council Presidencies, and the European Parliament. This is the first example of the formal participation of Member States in framing and overseeing an extended impact assessment. Further moves in this direction could result from the commitment of the Commission – welcomed by the European Council of 25-26 March 2004 – 'to further refine the integrated impact assessment process, working with the Council and the Parliament within the framework of the inter-institutional agreement on better lawmaking....'

3.6 Stakeholder consultation

Despite standard guidelines on stakeholder consultation produced as part of the Commission's *Better Regulation* initiative, approaches have varied widely between different impact assessments, in respect of the following parameters:

- The extent of consultation
- Who is consulted
- Timing
- Timetable
- Mechanisms
- Resources

The IA on the reform of the sugar regime was supported by extensive consultation, with six meetings organised to gather the views, separately, from industry and civil society representatives (Member States were not formally consulted). At the other end of the scale, consultation on the fisheries stocks recovery plans was very limited, and largely confined to industry representatives. Similarly, consultations on the proposed Batteries and Accumulators Directive was dominated by the contributions of industrial and retail representatives. In relation to the Kyoto

project-based mechanisms, the Commission at first appeared reluctant to consider proposals from NGOs.

Stakeholder consultation on REACH has been extensive. An internet consultation on the draft proposals ran from 15 May to 10 July 2003. Responses were invited using an online-based response form, although comments could also be submitted without using this format. Approximately 6400 responses were received, almost half of which were from industry and half from individuals. 142 NGOs, including trade unions, responded. In addition, two petitions were submitted, supported by 34,000 individuals and organisations, and a consortium of environmental NGOs presented a joint declaration: *Our demands for a toxics-free future*. Over 400 organisations and over 22,000 individuals signed the declaration, which was spearheaded by the European Environmental Bureau (EEB), Friends of the Earth and Greenpeace.

In relation to the timing and timetable of consultation, the IA on the reform of the sugar regime took place at an early stage in the process of policy development (in contrast to those in respect of fish stocks and the Kyoto project-based mechanisms). However, the consultations with NGOs in relation to sugar were called at very short notice, which was insufficient for proper preparation. As little as six days were available for development and environment NGOs to absorb and respond to Commission consultation papers

Mechanisms for stakeholder consultation can be either passive or active: stakeholders may either be given the opportunity to put forward their views via the internet, or be specifically invited to stakeholder workshops, or one-to-one consultations with the Commission. The IAs in relation to reform of the sugar regime, and the draft Directive on batteries and accumulators involved both. In relation to sugar, however, criticisms were raised concerning the organisation of separate workshops for different stakeholders, rather than an all-inclusive workshop where contending views could be challenged in debate.

Environmental NGOs have been *actively* invited to comment by the Commission only in respect of:

- Reform of the sugar regime (EEB)
- Pesticides Thematic Strategy (EEB)
- Reform of the tobacco regime (Legambiente)
- Financing Natura 2000 (Birdlife)

but not in respect of :

- REACH (although environmental NGOs did respond to the more general consultation process)
- Trans European Transport Networks.

In relation to the proposed TEN-T guidelines, a stakeholder conference in Barcelona was very publicly boycotted by the main Brussels-based environmental NGOs

working in this area, on the grounds that their concerns had not been reflected in preparatory discussions and documents.

NGOs have also been at a disadvantage in consultation exercises because of their very limited resources, in contrast to those of industry representatives. Indeed, the supplementary impact assessment of REACH agreed in a Memorandum of Understanding in March 2004 between the Commission (DGs Enterprise and Environment), and UNICE and CEFIC suggests that industrial interests have succeeded in re-opening the existing extended impact assessment on REACH. The additional studies are to be focused mainly on assessing costs to industry of the proposal. The work is to be financed largely by the industry, and is to be monitored by a Working Group, two-thirds of the (non-Commission) members of which are to comprise industrial representatives. Environmental NGOs have drawn attention to the fact that the neglect of environmental impacts in other IAs has, by contrast, not been accepted by the Commission as grounds for commissioning additional studies.

3.7 Resources

The quality of impact assessments in 2003 has been compromised by the limited resources made available to support this work. Within the Secretariat-General, there are just three officials responsible for steering the IA system as a whole. Every DG has at least one desk officer who acts as a focal point for impact assessments – in DG Environment, there are 2.5 staff, to be increased shortly by a further two. The extent to which the dedicated unit/official is involved in all IAs undertaken within a DG appears to vary. Practice in DG Environment is that assessments are ‘farmed out’ to the responsible technical unit, which has the requisite expertise (but often not the time).

Work on the IA in relation to **reform of the sugar regime** was undertaken by one desk officer in DG Agriculture, working full-time for six months. By contrast, the IA on **fish stocks recovery plans** was done in a few weeks by an adviser to the director-general of DG Fish and the Head of the Co-ordination Unit on the Structural Funds, when what should have been the lead department in DG Fish (Unit A1) considered it was already overloaded with other work.

For the 2003 assessments, few DGs used consultants to undertake their IAs – although many relied on pre-existing consultancy reports. This is partly a reflection on the short timescale imposed for many assessments. The IA on the TEN-T was apparently undertaken in one month (to be checked). However, the use of consultants is not made explicit in the SEC documents, so it is hard to say at this stage whether consultants were or were not used, or whether it has just not been reported in the official documents.

DG Environment is in the process of letting a framework contract for call-off assistance with its IAs, and is seeking to engage the European Environment Agency (EEA) more closely in the provision of relevant data and analysis. An important

question is where the boundary should be drawn in relation to the contribution of consultants. For example, should they be asked to identify policy options, or simply provide the collection and analysis of data?

3.8 Training and Advice

Reflecting the limitation on resources, the provision of central training and advice for desk officers undertaking impact assessment has been limited. Assistance began to be offered by the Secretariat-General from November 2003, when a one-day introductory course on IA was introduced. From February 2004, DG Budget has also offered training on the availability and use of models. A 'meet the IA experts' masterclass is also to be launched. In addition, DG Research is supporting a two-year project to develop and test a user-friendly computer-based tool to help quantify a range of impacts – the so-called IQ-Tools project. This will build on and extend existing models such as IA-Star.

Despite the assertion in the Commission's IA Guidelines that the first year of the new IA system would be used for mutual learning and the exchange of good practice, there appear to be no formal mechanisms in place to enable this to happen.

3.9 Quality control

The view of the Secretariat-General is that quality control can be adequately ensured through inter-service consultation, and that other DGs will not accept an inadequate assessment. However, section 3.4 indicates that the extent of involvement of other DGs in the process of impact assessment varies, reflecting the political importance of the dossier and the (limited) availability of resources.

The two IAs in relation to fish stocks were very short (9 and 14 pp respectively), and ignored most of the Commission's guidelines. The Commission nevertheless adopted the proposals on the grounds (as presented by DG Fish) that action was urgent.

OECD guidelines on regulatory impact assessment emphasise the importance of *both* a 'bottom-up' approach to impact assessment (to ensure that the assessment is 'owned' by the responsible department and is an integral part of policy development) *and* a central driving force to ensure the provision of guidance, advice and effective quality control. The approach of the Commission's Secretariat-General has emphasised the former at the expense of the latter, probably reflecting the relative status and authority of different Commission services. The danger of neglecting quality control is that the process of impact assessment will be discredited, and stakeholders (particularly NGOs) will refuse to participate.

3.10 Conclusions

- The quality of several of the extended assessments undertaken in 2003 is poor. This is partly because of the circumstances of the first year of

operation of the system, but a number of other factors have contributed to this situation. There is no formal mechanism for ensuring quality control; resources for undertaking assessments, and for the provision of advice and guidance, are limited; and there appears to be no institutional framework within which 'learning by doing' can take place in practice.

- The IA system has been unnecessarily un-transparent. The confidence of stakeholders and the public, and continued improvements in quality, depend upon the publication of all IAs, preferably in one place, on the Secretariat-General's website.
- The selection of Commission proposals for extended impact assessment has not been systematic. Selection should be on the basis of clear criteria, rather than political horse-trading.
- However, requiring in future an extended assessment of *all* Commission proposals could lead to a decline in quality, and should be considered carefully.
- There are no formal arrangements for involving Member States in impact assessments, even though it is often only Member States who are able to provide the Commission with national data, and details of likely implementation arrangements and their consequences.
- Approaches to stakeholder consultation have varied widely. Generally, industrial interest groups have been more closely engaged than environmental or social groups, reflecting their considerably greater resources.
- The provision of training should be reinforced - particularly in relation to identifying and assessing impacts in relation to sustainable development.

4. THE CONTENT OF EXTENDED IMPACT ASSESSMENTS

4.1 The form and structure of the IAs

The length of the IAs ranged from 79 pages (Batteries and Accumulators) down to just 9 pages (southern hake and Norway lobster stocks). **None followed fully the Commission's IA Guidelines:** most made an effort at least to follow the principal headings, but some paid them little attention (eg the two proposals from DG Fish). Only the proposal on batteries and accumulators presented a 'long-list' of available options, from which a shortlist could be chosen. Normally, the shortlist was presented *ab initio*, from which the preferred option was then selected.

Roughly half of the assessments referred to **studies and/or the work of consultants**. However, all of this work appears to have pre-dated the launch of the assessment process, rather than being an integral part of it. This is probably a reflection of the short timescale available for this first round of IAs, and the shortage of resources. A more frequent use of consultants is likely in the future

All assessments made reference to **stakeholder consultation**, but how it was treated varied widely. At one extreme, two-thirds (17 pages) of the IA on the Communication on the Integration of Environmental aspects into European Standardisation was devoted to an exhaustive description of multi-stakeholder meetings, participants, internet consultations and findings. At the other, stakeholder consultations were described in just a few sentences.

The **use of models and quantitative tools** was limited, and was usually associated with studies that pre-dated the assessment. Three initiatives in relation to chemicals (REACH); GHG emissions trading; and TEN-T made most use of models and detailed economic analyses. A fuller discussion of the use of models can be found in section 5 below.

4.2 Content of IAs

Analysis of the problem

Almost all of the assessments presented an analysis of the problem to be addressed – but only from the perspective of the responsible directorate-general. One of the limitations of the Commission's guidelines is their omission of what should be the very first stage of an impact assessment - that is, a discussion of the definition (or 'framing') of the problem. Policy problems may be approached from a variety of perspectives. For example, interventions may seek to address either their causes or their consequences - and then there is normally a wide choice of contributory causes to choose from, as there is for affected social groups, regions or countries. Where the emphasis is placed will be determined by the departmental and ideological preconceptions of the policy maker.

The IA on the reform of the CAP tobacco regime is a good illustration of this. The assessment presented the problem principally as a socio-economic one (the future

livelihood of affected tobacco producers in Greece and Italy), and a technical one (how to accommodate tobacco within the framework of a reformed CAP) – but not explicitly in terms of how the reform of the tobacco regime might help to reduce smoking within the EU. This was notwithstanding the reference in the EU SDS to the review of the EU's tobacco regime under the heading 'Public Health'.

In relation to the Commission's proposal on GHG emissions trading in the context of the **Kyoto Protocol's project based mechanisms**, the problem is described as addressing climate change. However, the more immediate problem the proposed Directive is seeking to address is the fact that the EU could have difficulties in meeting its Kyoto commitments without the flexibility that linking the Kyoto project mechanisms to the EU emissions trading scheme could offer.

The definition of the problem plays a crucial role in any impact assessment, since it sets the framework for the subsequent identification of objectives, and the choice and analysis of available policy options.

Statement of Objectives

Almost all of the IAs included a statement of objectives. In most cases, these were expressed in qualitative rather than quantitative terms (exceptions were batteries and accumulators; groundwater; and fish stocks). Most expressed objectives in terms of desired *results* or outcomes (ie changes in the behaviour of sectors or actors), rather than in immediate *outputs* (changes in policy instruments or structures) or *impacts* (eg changes in the ultimate state of the environment). Examples of the latter were the IAs on fish stocks, where the objective was defined as 'the return of stocks to within safe biological limits'. Because of their very general nature, the assessments of the European Employment Strategy and the proposal on the security of electricity supply focused on immediate policy *outputs*.

Selection and Description of Policy Options

Most, but not all, IAs presented a number of policy options. The IAs in relation to REACH, the European Employment Strategy and fish stocks in each case presented only one option without discussing alternatives. Otherwise, the number of alternatives ranged from eleven (Immigration, Integration and Employment) to two. Most IAs put forward between two and four options. In all cases but four (REACH; groundwater; and fish stocks (2)), these included the do-nothing, business-as-usual option. The exceptions appear to reflect the influence of pre-existing policy or legislative commitments. (For example, in the case of fish stocks, Regulation 2371/2002 requires the Commission to produce recovery plans for stocks falling below safe biological limits).

In the case of **REACH**, the proposed regime was set out in the IA rather than a range of policy options. This was justified by DG Environment on the grounds that policy options had already been outlined in the 2001 White Paper.

In the case of only two assessments (Sustainability of European Tourism, and Intelligent Vehicles) were options presented that fell outside the remit of the directorate-general presenting the proposal. Consequently, options have tended to reflect only incremental changes in intensity or timescale from 'business as usual'. This raises questions about the timing and extent in practice of inter-service consultation (see section 3.4).

Assessment of Impacts

The Commission's Guidelines on Impact Assessment set out a range of economic, environmental and social impacts that desk officers should consider, with a number of sub-divisions in each case, amounting in all to more than 150 areas to be considered (see Box 1).

Box 1: List of impacts from Commissions IA Guidelines (Annex 5)					
Economic impacts		Environmental impacts		Social impacts	
		Air quality			
Economic growth		Water quality and resources		Social Cohesion	
Price levels and stability		Soil protection		Employment Quality	
Effects on public authority budgets		Climate		Public health	
Human capital / employment		Resources		Health systems and security	
Economic cohesion		Biodiversity, flora, fauna		Social protection and services	
Innovation		Land use		Consumer interests	
International performance		Natural and Cultural heritage		Education	
Market structure		Waste or recycling		Social Capital	
Microeconomic effects		Human safety or health		Liveable communities	
Effects on households		Environmental risks		Equality of opportunity	
		Mobility or the use of energy		Culture	
				International co-operation	
				Governance and participation	
				Fundamental human rights	
				Security, crime or terrorism	

However, of the 15 IAs with relevance to all three elements of sustainable development (see section 3.4 above), only about one-third actually address all three, and even then with markedly differing levels of detail. The range of impacts considered overall is generally limited. Social impacts generally are afforded least attention, with the focus principally on employment. International impacts are rarely referred to.

Analysis of **environmental impacts** is limited in comparison with economic factors. Not surprisingly, environmental impacts are addressed in more detail in proposals issuing from DG Environment - but in the case of other DGs, they are given only limited attention. In the case of **REACH**, over 14 pages of the 33 page document are focused on economic impacts. This is broken down into sub-sections on testing and registration (3.5pp), downstream users (5pp), innovation (3pp), international

impacts (1pp) and competition and effectiveness (1pp). In addition, four pages are dedicated to explaining characteristics of the chemical industry, such as turnover, distribution in the EU and environmental performance. The same level of detail is not afforded to environment and health issues, which together cover only four pages.

A further major issue in respect of the environment is the difficulty in assessing the **local environmental impacts** of proposed EU 'framework' measures (see section 3.5). This is well illustrated by the IA on the **TEN-T guidelines**. Sufficient data and results were available for some 'global' environmental impacts such as regulated pollutant and greenhouse gas emissions to be calculated fairly realistically. However, as the precise routes of specific pieces of new infrastructure have not yet been determined, and there is also a lack of precise information on land use and nature protection sites, on-the-ground impacts could only be indicated in a rudimentary way. In particular, the impact of a controversial proposal for a corridor through the Kresna Gorge – an area of high nature value – was not addressed. Accordingly, the IA places great emphasis on the need for subsequent EIAs to determine local impacts, and argues that further studies will need to be undertaken before financing of specific projects or corridor programmes are undertaken.

A major problem encountered by all the IAs is the **limited availability of relevant data**. For this reason, the IA on the proposed recovery plan for southern hake and lobster stocks refuses to consider a range of impacts, since these 'would require complex bio-economic simulations...way beyond the remit of this assessment'. In the case of fish stocks, DG Fish has argued that there needs to be a pre-existing infrastructure of data and information covering not just biological trends, but also socio-economic information covering the characteristics of fishing fleets and communities. This cannot be collected in an *ad hoc* way for the purposes of individual impact assessments, but needs to be a continuing and cumulative process. DG Environment is currently discussing with the European Environment Agency how it might provide assistance with the provision of environmental data and analysis needed for impact assessments. Other EU agencies (such as the European Foundation for Living and Working Conditions, and the European Maritime Agency) might also be engaged more closely in the Commission's IA system. However, the specific impact on the bio-physical environment of particular policy measures requires detailed information relating to specific policy outputs (at both EU and Member States levels) and outcomes (or results). These cannot be anticipated in advance, and so the collection of such information may take some time, and may need to involve member States and sub-national authorities, rather than the Commission alone.

Most impacts are described qualitatively. Quantification is employed mainly in relation to economic impacts, and less frequently, to jobs. In the case of REACH, costs to industry are addressed extensively, while the longer-term and more diffuse environmental and health benefits are neglected. Monetisation is used infrequently – only in relation to GHG trading; Ten-T; TEN-E; REACH; the security of electricity supplies; and the proposal on batteries and accumulators. More information might potentially have been presented quantitatively – but this presupposes the collection of data and the development of models and scenarios, all of

which require resources and time. Moreover, care needs to be taken in relation to the presentation of quantified data. In the case of batteries and accumulators, a quantified model is used to determine the optimum rate (and therefore the proposed target) for the collection of portable batteries. However, nowhere are the assumptions of the model made explicit in the IA, even though the consultants responsible for developing it admit that the time constraints for undertaking the study from which it is derived meant that a number of factors are not taken into account.

Box 2 presents the range of impacts considered in relation to the proposed reform of the CAP sugar regime, and how this information is handled.

Box 2: Presentation of information in the IA on reform of the CAP sugar regime

1. Which areas of impact were covered by the ExIA? Please note whether assessment was qualitative, quantitative or monetary (Ql, Qty or M). (List of impacts from Commissions IA Guidelines, Annex 5)					
Economic impacts		Environmental impacts		Social impacts	
Economic growth	Ql, Qty	Water quality and resources	Ql	Social Cohesion	
Price levels and stability	Qty, Ql	Soil protection	Ql	Employment Quality	
Effects on public authority budgets	Qty, Ql	Climate		Public health	
Human capital / employment	Qty, Ql	Resources		Health systems and security	
Economic cohesion		Biodiversity, flora, fauna		Social protection and services	
Innovation		Land use	Ql	Consumer interests	Ql
International performance	Ql	Natural and Cultural heritage		Education	
Market structure	Ql, Qty	Waste or recycling		Social Capital	
Microeconomic effects	Ql, Qty	Human safety or health		Liveable communities	
Effects on households	Ql	Environmental risks		Equality of opportunity	
		Mobility or the use of energy		Culture	
				International co-operation	Ql
				Governance and participation	
				Fundamental human rights	

				Security, crime or terrorism	
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The Pesticides Action Network (PAN) has complained to DG Environment about the ‘systematic bias’ in questionnaires issued by industrial stakeholders in relation to the (still on-going) IA on the proposed Thematic Strategy on Pesticides. PAN considers that questionnaires emphasise the economic cost to farmers of measures to control the use of pesticides, while omitting to ask appropriate questions about economic, environmental and/or health benefits. Although some of these benefits are admittedly difficult to calculate, others are not - including benefits that could accrue to water companies through avoiding the additional treatment costs of purifying drinking water from pesticide residues. Where, in the short run, quantification in relation to environmental costs and benefits is not possible, it is important that the impact assessment makes this clear, and that undue attention is not afforded to statements of economic costs.

However, the conclusions of the European Council in March 2004 on Better Regulation (see section 3.5) gave added impetus to the Commission’s commitment to ‘refine’ the Commission’s IA system ‘with a particular emphasis on enhancing the competitive dimension and to develop in co-operation with the Council a method to measure administrative burdens on business’. There is a danger that such ‘refinement’ will further distort the balance in IAs between economic, environmental and social impacts, and the extent to which they are quantified.

4.3 Reference to Sustainable Development criteria

In view of the cursory treatment afforded to sustainable development issues in the Commission’s impact assessment Guidelines (see section 2.2), it is perhaps not surprising that they receive little explicit attention in completed IAs.

For example, fewer than half of the IAs (9) make explicit reference to the EU’s SD strategy or its priorities - and four of these nine were undertaken by DG Environment. In some cases (eg the proposal on unfair consumer treatment) reference is made to the priorities of the Lisbon process, but not to the EU SDS.

All IAs except one (unfair consumer treatment) made some (direct or indirect) reference to at least one of the 11 sustainability criteria in IEEP’s checklist. The number of criteria cited ranged from 8 (REACH) to 1 (tobacco, and fish stocks), the median being three. Almost all the assessments made reference to subsidiarity issues.

None of the assessments explored in any detail trade-offs between different SD considerations. Indeed, in relation to the recovery of southern hake and Norway lobster stocks, a position of ‘strong’ sustainability is presented, insofar as the recovery of stocks to within safe biological limits is considered to be non-negotiable

4.4 Monitoring/evaluation

Almost all IAs make some reference to monitoring procedures, normally the reporting obligations on Member States set out in proposed legislation. However, few specifically address the question of what specific data is required to assess the impact of measures, nor the indicators that would be required to measure progress. In addition, none of the assessments discuss the institutional framework, relative responsibilities, or methodological approaches to the *ex post* evaluation of the effects and effectiveness of policy measures.

4.5 Conclusions

- None of the 2003 IAs follow the Commission's Guidelines fully. Most make an effort to follow the principal headings, but their treatment is unequal. A small number of IAs pay little attention to the Guidelines.
- The analysis of the policy problem to be addressed tends to reflect the perspective of the responsible directorate-general, suggesting that inter-service consultation should be strengthened.
- Most IAs put forward between two and four policy options, but four propose only one. Options almost always fell within the competence of responsible directorates-general.
- The range of impacts assessed is limited, and falls well below the number proposed in the Commission's Guidelines.
- Little explicit attention is given to issues of sustainable development, or to trade-offs between its different elements.
- The international impacts of the proposals were rarely assessed effectively.
- Most attention is paid to economic impacts. The treatment of environmental and particularly social impacts is limited.
- Most impacts are discussed in qualitative terms. Where quantification is attempted, most attention is paid to short-term economic costs. Few attempts are made to quantify longer term environmental or social benefits.
- Data limitations have restricted the consideration of many potential impacts, particularly environmental and social. A permanent infrastructure for more extensive data collection and analysis needs to be established to underpin the assessment system. This cannot be done on a short-term, *ad hoc* basis in response to the needs of specific proposals.
- Commission Guidelines on clarifying *ex post* monitoring and evaluation needs are generally not respected.

5. USE OF TOOLS IN EXTENDED IMPACT ASSESSMENTS

5.1 Introduction

In an attempt to simplify the process of impact assessment, a range of tools and models has been developed for use within the Commission. These can be broadly divided into two categories: the first group focuses on qualitative impact analysis with electronic checklists, while the second comprises mainly quantitative models.

The main example of a qualitative impact tool is the IA^{STAR} software developed by the Joint Research Centre (JRC). This is the most elaborate current approach to identifying and evaluating effects of policies on the three dimensions of sustainability. The current version includes around 150 social, more than 250 economic, and around 250 environmental indicators. IA^{STAR} is based on indicators developed in the context of other studies and approaches. As regards the economic component, it makes use of indicators from the IMF and OECD. On environment, indicators from the OECD, World Bank, UN Commission on Sustainable Development (CSD), Eurostat and EEA have been included. As regards social impacts, publication and reports by the UNCSD and others have been integrated.

However, IA^{STAR} was not completed when the 2003 extended assessments were undertaken, and so was not used by Commission desk officers. Indeed, few of the models developed by the Commission have supported the production of IAs. This is discussed further below.

5.2 Application of Models

Fewer than half of the impact assessments make any reference to the use of models or other quantitative tools. Extensive use of models is made in the following three IAs:

- Proposal on the Kyoto flexible instruments (JI and CDM)
- REACH
- Revision of the TEN-T Guidelines

In the case of REACH, no less than ten studies were commissioned by DG Enterprise, based on micro-economic modelling to determine cost impacts to industry in relation to individual substances. A further three supplementary studies are also currently underway (see section 3.6). In the case of the IA on the TEN-T Guidelines, sophisticated computer modelling was employed to assess future traffic flows, while the IA on the Kyoto flexible mechanisms made extensive use of the POLES model (see Box 3).

By contrast, in the case of the proposed recovery plan for Southern Hake and Norway Lobster, no modelling was applied, even though there are tools available to estimate impacts of fishing restrictions on the fish processing and trading sectors. Most of those IAs incorporating modelling or other quantitative studies were obliged to use existing studies that pre-dated the launch of the extended assessment,

reflecting limitations on time and resources (eg the IA on the reform of the CAP Sugar regime).

The extent of the use of models and other quantitative tools appears to have been determined by the following factors:

- *The nature of the proposal.* Modelling is most appropriate when a proposal seeks to influence the behaviour of actors operating within a market system. In this case, causal relationships are relatively limited and predictable, and quantification is possible. By contrast, where proposals are very general and at an early stage of development (as in the case of Green Papers) modelling and quantification are not possible. Hence the IA on the Communication on Sustainable Tourism was obliged to use relatively simple multi-criteria analysis (MCA).
- *The extent of work already undertaken before the IA was launched.* In relation to the TEN-T Guidelines, extensive work had already been undertaken in relation to the proposed strategic environmental assessment (SEA) of the Guidelines; and in respect of the Kyoto flexible mechanisms, considerable work on modelling and scenarios in relation to greenhouse gas (GHG) emissions had been undertaken in the context of the GHG Monitoring Mechanism.

Box 3 : POLES

The **POLES** model is a partial equilibrium model of the world energy system up to 2030. Market equilibrium is simulated by matching energy supply and demand to changes in international prices, with a certain time lag. Long-term energy scenarios are simulated and the impact of policy interventions assessed, including environmental, energy, technology, research and industrial policies.

The model is made up of interconnected sub-models at the international, regional and national levels. In each of 38 regions (eg W.Europe, N. America, Middle East; China)) four sub-models deal with (i) energy demand by sector (ii) new and renewable energy technologies (iii) conventional energy and transformation systems (iv) primary energy supply.

Typical applications include:

- World energy scenarios until 2030
- Technological substitution over time
- International energy prices
- Simulation of CO₂ emissions
- Emissions trading
- Impact of technology change on emissions

5.3 Effectiveness of modelling

Presentation of Inputs and Outputs

Where models are used, the presentation of inputs and tool/modelling assumptions is generally absent or poor. In only one assessment (Transition from Analogue to Digital Broadcasting) is there a critical assessment of the usefulness of a particular tool (in this case CBA). In the case of the IA on batteries and accumulators, the optimum recycling target for portable batteries is derived from a cost curve produced by consultants, but there is no discussion of the evidence on which the graph is based. Generally, where external consultants have been used to undertake modelling, the suspicion remains that the predominantly generalist Commission desk officers are not in a strong position to challenge modelling assumptions.

Lack of data

In the case of all the impact assessments, the use of models has been constrained by the lack of relevant and reliable data to feed into them. This was particularly the case in relation to the IA on the Southern Hake and Norway Lobster recovery plan, where socio-economic data in relation to the industry and fishing communities was especially poor.

Inability to predict local impacts

Most available models tend to have a macro-economic or global focus, and are of little use in relation to assessing local environmental or social impacts. This was particularly the case in respect of the modelling used in the TEN-T Guidelines IA, where greenhouse gas emissions could be assessed, but not effects on local biodiversity. Generally, modelling appears to be particularly inappropriate for producing reliable assessments of local impacts where there are multiple 'decision-points' along the implementation pathway (see Box 4).

Box 4: Difficulties in modelling local environmental impacts

Policy Outputs

Variables include:

Stringency of legislation; type of policy instrument; degree of subsidiarity; varying institutional arrangements; effectiveness of enforcement

Policy Outcomes (or Results)

Effects on the behaviour of actors depend on their number, wealth, culture etc

Policy Impacts

Reflect all the above, plus the specific nature of the bio-physical environment.

5.4 Conclusions

- Fewer than one-half of the 2003 extended assessments appear to have made use of tools or models

- Where this has occurred, the tools employed have generally not been those developed within the Commission, but those supporting existing studies or used by consultants
- The use of models and tools is limited by the lack of appropriate data, particularly in relation to specific, local social and economic impacts.

6. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The operation of the IA System

- The introduction by the Commission of an integrated impact assessment system which seeks to take full account of sustainable development considerations is far-sighted and is to be welcomed.
- The objective of an effective system of impact assessment is to change the way in which public authorities develop their policies. As such, impact assessment requires a process of culture change that is likely to be difficult and protracted. Many of the difficulties experienced during the first year of the Commission's IA system have been a common feature of impact assessment systems elsewhere. Nevertheless, there are a number of areas where improvements could be made.
- While some of the extended assessments undertaken in 2003 are good (eg in relation to proposals on batteries and accumulators, and the reform of the CAP sugar regime), the quality of others is poor. A number of factors have contributed to this situation – for example, there is no formal mechanism for ensuring quality control; resources for undertaking assessments, and for the provision of advice and guidance, are limited; and there appears to be no institutional framework within which the promised 'learning by doing' can take place in practice.
- The Commission's Guidelines on Impact Assessment are not sufficiently explicit in respect of those aspects that should be regarded as mandatory, and those, which are discretionary only.
- The treatment of sustainable development issues in the Guidelines is brief, not easy to understand, and insufficiently detailed to be of practical use in an extended impact assessment.
- The Guidelines give the impression that impact assessment is a one-off event, rather than an extended process, that should be staged in order to reflect the successive steps in the process of policy development. At any one stage, only some of the assessment questions can be appropriately answered. For this reason, where IA is regarded as an event, the Guidelines are difficult to apply in practice. This could require the unnecessary repetition of the entire IA process at later stages in the policy process.
- The IA system has been unnecessarily un-transparent. Few directorates-general have published extended impact assessments for which they are responsible on their websites. The confidence of stakeholders and the public, and continued improvements in quality, depend upon the publication of all IAs, preferably in one place, on the Secretariat-General's website.

- The selection of Commission proposals for extended impact assessment has not been systematic, and has not followed the criteria set out in the Communication on Impact Assessment and subsequent Commission Guidelines, particularly in relation to proposals at an early stage of development, such as Green Papers. Selection should be on the basis of clear criteria, consistently applied, and not on political horse-trading.
- There are no structured arrangements for involving Member States in Commission impact assessments, even though it is often only Member States who are able to provide the Commission with national data, and details of likely implementation arrangements and their consequences.
- Approaches to stakeholder consultation have varied widely. Generally, industrial interest groups have been more closely engaged than environmental or social groups, reflecting their considerably greater resources.

The Content of Impact Assessments

- None of the 2003 IAs follow the Commission's Guidelines fully. Most make an effort to follow the principal headings, but their treatment is unequal. A small number of IAs pay little attention to the Guidelines.
- The analysis of the policy problem to be addressed tends to reflect the perspective of the responsible directorate-general, suggesting that inter-service consultation could usefully be strengthened.
- Most IAs put forward between two and four policy options, but four propose only one. Options almost always fall within the competence of responsible directorates-general.
- The range of impacts assessed is limited, and falls well below the number proposed in the Commission's Guidelines.
- Little explicit attention is given to issues of sustainable development, or to trade-offs between its different elements.
- The international impacts of the proposals were rarely assessed effectively.
- Most attention is paid to economic impacts. The treatment of environmental and particularly social impacts is limited.
- Most impacts are discussed in qualitative terms. Where quantification is attempted, most attention is paid to short-term economic costs, rather than environmental or social benefits.

- Data limitations have restricted the consideration of many potential impacts, particularly environmental and social. A permanent infrastructure for more extensive data collection and analysis needs to be established to underpin the assessment system. This cannot be done on a short-term, *ad hoc* basis in response to the needs of specific proposals.
- Commission Guidelines on clarifying *ex post* monitoring and evaluation needs are generally not respected.

Recommendations

- The significant culture change required among Commission directorates-general to support an effective impact assessment system requires demonstrable political commitment at the highest level within the Commission. The incoming Commission President and College of Commissioners should at the earliest opportunity make an explicit declaration of support for the Secretariat-General's efforts to establish and strengthen the new IA system, and ensure that Director-Generals understand its political priority.
- This high-level support should be reflected at a practical level in the provision of adequate resources for impact assessment, within the Secretariat-General, in individual directorates-general, and among stakeholders with limited resources.
- The Commission should in particular establish a properly-resourced and staffed unit for reviewing and advising on the quality of impact assessments; and for providing more extensive training and guidance.
- An evaluation of the operation and effectiveness of the new impact assessment system, and its contribution to the EU's sustainable development strategy, should form part of the review of the EU SDS expected later in 2004.
- The Commission's IA system should be far more transparent and accessible. The Secretariat-General should ensure that all extended impact assessments and the contributions of stakeholders are available centrally on its website.
- The Commission's Guidelines on Impact Assessment should be subject to regular review and revision, in the light of experience in their practical application. In particular, guidance on incorporating sustainable development issues should be clarified and expanded. The Guidelines should also make clear that impact assessment should be regarded as a process staged over the life of the development of a proposal, rather than one-off event which will inevitably preclude proper consideration of all stages in the policy process.
- The categories 'Preliminary' and 'Extended' Impact Assessment, together with the Commission's criteria for selecting proposals for extended assessment, should be revised. *All* Commission initiatives should be subject to impact assessment, the first stage of which should be a scoping exercise, on the basis of a checklist, to establish the proportionality of the assessment required, and to identify those elements of the Commission Guidelines (particularly in relation to impacts) that are most relevant.
- In association with relevant EU agencies, the Commission should devote greater effort to establishing a permanent infrastructure for the continuous

collection and analysis of basic data required for impact assessment. Particular emphasis should be given to environmental and social data.

- Stronger links should be forged between the Commission's impact assessment system, and other Commission initiatives to strengthen the 'evidence base' of EU policies, particularly as regards *ex post* monitoring and evaluation.
- Member States should be willing at an early stage to contribute to Commission impact assessments relevant national data, and information on the likely effects of their administrative and implementation structures on the impact of proposed EU measures. They should undertake and make available their own impact assessments at an early stage in the process of policy development by the Commission.
- Building on the *Better Regulation* Council Working Group, Member States should exchange their experiences of impact assessment among themselves and with the Commission. Particular support should be made available to supporting the development of effective IA systems in the acceding Member States.
- The Council and the European Parliament should as a matter of course reject Commission proposals presented with an inadequate impact assessment.
- Stakeholders – and particularly NGOs – should give greater priority to contributing to Commission impact assessments, and should press the Commission to make available to them financial support for this work.

APPENDIX I : LIST OF AVAILABLE EXTENDED IMPACT ASSESSMENTS

Lead DG	Co-chef(s)	Title English	Proposal Adoption date	Proposal Reference	ExIA Adoption date	ExIA References	Included in 2003 list	
DG Agriculture		Council Regulation (EC) amending Regulation (EC) No 2075/92 on the common organisation of the raw tobacco	18.11.2003	COM(2003)698	23.9.2003	SEC(2003)1023	Yes	
DG Agriculture		Proposal for a reform of the common market organisation for sugar (Council regulation)	23.9.2003	COM(2003)554 – joint communication with tobacco and olive oil released alongside SEC(2003)1023 as well	23.9.2003	SEC(2003)1022 – this was being used as a consultation document	Yes	
DG Ecofin	DG Relex	Communication of the Commission on the State of play and development of the Euro-Med Facility	15.10.03	COM(2003)587	15.10.2003	SEC(2003)1110	Yes	
DG Employment		Communication outlining the approach for the revision of the European Employment Strategy	14.1.2003	COM(2003)6	N/A	N/A	Yes	
DG Employment		Proposal for a Directive on non-discrimination on the basis of sex (Art. 13)	5.11.2003	COM(2003)657	5.11.2003	SEC(2003)1213	Yes	
DG Enterprise		Communication: Basic orientations for the sustainability of European tourism	21.11.2003	COM(2003)716	21.11.2003	SEC(2003)1295	Yes	

DG Environment	DG Enterprise	Framework Legislation on Chemical Substances	29.10.2003	COM(2003)644	29.10.2003	SEC(2003)1171	No	
DG Environment		Proposal for a European Parliament and Council Directive on batteries and accumulators	21.11.2003	COM(2003)723	24.11.2003	SEC(2003)1343	Yes	
DG Environment		Directive establishing strategies to prevent and control pollution of groundwater	19.9.2003	COM(2003)550	6.10.2003	SEC(2003)1086	Yes	
DG Environment		Legislation on the Kyoto flexible instruments Joint Implementation (JI) and Clean Development Mechanism (CDM)	23.7.2003	COM(2003)403	23.7.2003	SEC(2003)785 (SEC(2003)798 – we do not have this doc)	Yes	
DG Fish		Proposal for a Council Regulation establishing measures for the recovery of the sole stocks in the Western Channel and the Bay of Biscay	23.12.2003	COM(2003)819	23.12.2003	SEC(2003)1480	No	
DG Fish		Proposal for a Council Regulation establishing measures for the recovery of the southern hake stock and the Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 of 30 March 1998 on the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms	23.12.2003	COM(2003)818	23.12.2003	SEC(2003)1481	No	

DG Info		Communication on the transition from analogue broadcasting to digital broadcasting: Digital switchover in Europe	17.9.2003	COM(2003)541	17.9.2003	SEC(2003)992	Yes	
DG Info		Communication from the Commission to the Council and European Parliament on "Information and Communication Technologies for Intelligent Vehicles"	15.9.2003	COM(2003)542	15.9.2003	SEC(2003)963	Yes	
DG Jai	DG Employment	Communication on immigration, integration and employment	3.6.2003	COM(2003)336	3.6.2003	SEC(2003)694	Yes	
DG Relex		<p>Proposal for a renewal/revision of Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms.</p> <p>Proposal for a renewal/revision of Council Regulation (EC) No 976/1999 of 29 April 1999 laying down the requirements for the implementation of</p>	28.11.2003	COM(2003)639	28.11.2003	SEC(2003)1170	Yes	

		Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries						
DG Sanco		Proposal for a Framework Directive of the European Parliament and of the Council on unfair commercial practices	18.6.2003	COM(2003)356	18.6.2003	SEC(2003)724	Yes	
DG Tren		Proposal for a Decision replacing Decision 1692/96/EC on the Community guidelines for the development of the transeuropean network in the field of transport (TEN-Guidelines)	01/10/2003	COM(2003)564	01/10/2003	SEC(2003)1060	Yes	
DG Tren		Proposal for a Directive of the European Parliament and the Council concerning measures to safeguard Security of Electricity Supply and infrastructure investment	10.12.2003	COM(2003)740	10.12.2003	SEC(2003)1368/3	No	
DG Tren		Decision of the European Parliament and of the Council laying down a series of	10.12.2003? – on the commission	COM(2003)742	10.12.2003? – date included in	SEC(2003)1369/3	No	

		guidelines for Trans-European energy networks and repealing decisions 96/391/EC and 1229/2003/EC	list this is the date but can't find this on Oiel or OJ sites to check		Commission list but not on document we have			
DG Environment	DG Enterprise	Communication on the Integration of Environmental Aspects into European Standardisation	25.2.2004	COM(2004)130	25.2.2004	SEC(2004)206	Yes	

APPENDIX II

ASSESSMENT CHECKLIST FOR EXTENDED IMPACT ASSESSMENTS 2003

1. DETAILS OF COMMISSION INITIATIVE

Title and reference of proposal and extended impact assessment
--

Date proposal published

Date extended impact assessment published

Lead DG

Other DGs involved

2. NATURE OF COMMISSION INITIATIVE

Descriptive or Prescriptive?

eg. Green Paper or concrete proposal

[circle]

[comment]

If ***prescriptive***, is the proposal mainly:

- procedural/organisational?

Yes

No

- substantive?

Yes

No

eg Policy focused on consultation or inspection, or outcomes eg specific targets

Does it propose:

- a high degree of flexibility for MS implementation?

Yes

No

ie. Framework measure with some flexibility, or prescriptive EU measure

3. STRUCTURE OF THE IMPACT ASSESSMENT

Length

(pp)

Are the headings in Commission IA Guidelines followed fully?
--

Yes

No

Use of consultants/studies?

Yes

No

Stakeholder consultation:

Has any taken place?

Yes No

Is it described?

Extensively

Briefly

No

MS involved?

Extensively

Briefly

No

Are comments summarised?

Extensively

Briefly

No

Are comments addressed?

Extensively

Briefly

No

4 CONTENT OF IMPACT ASSESSMENT

4.1 Analysis of the problem:

- Explanation provided of problem (causes)	Yes		No
- Evidence provided?	Extensively	Briefly	No
- Trade-offs explained	Extensively	Briefly	No
- Discussion of			
- Subsidiarity?	Yes		No
- Proportionality?	Yes		No

4.2 Objectives to be attained:

- Qualitative objectives?		Yes	No	
- Quantitative objectives?		Yes	No	
- Do objectives relate to	Outputs	Results (outcomes)	Impacts?	
- Timetable for securing objectives?		Yes	No	
- Explicit reference to priorities in EU SDS ie:				
- Combating climate change		Yes	No	N/A
- Ensuring sustainable transport		Yes	No	N/A
- Addressing threats to human health	Yes	No	N/A	
- Managing natural resources more responsibly		Yes	No	N/A

4.3 Description of available policy options:

- Do nothing ('Business as Usual') scenario included?	Yes	No
- Number of options proposed		
- Do these include		
- very different approaches (ie radical, cf. incremental)?	Yes	No
- similar measures, but varying stringency?	Yes	No
- alternative policy instruments?	Yes	No
- measures which are the responsibility of other DGs?	Yes	No
- Is the analysis of these options balanced? (include comments if necessary)	Yes	No

4.4 Short-listing of options

Justification for short-listing of options on basis of

- Efficiency?	Yes	No
- Effectiveness?	Yes	No
- Indirect impacts?	Yes	No
- Sustainable development principles?	(See Annex 1)	

4.5 Impact identification

Level of attention given to:

Economic:	High	Medium	Low
Social:	High	Medium	Low
Type:			
Environmental:	High	Medium	Low
Type:			

Coverage of both positive and negative impacts:

	Pos ⁺	Neg ⁻	Both
Economic:	Yes/No	Yes/No	Yes/No
Social:	Yes/No	Yes/No	Yes/No
Environmental:	Yes/No	Yes/No	Yes/No

Type of information:

Economic:	Qualitative	Quantitative	Monetary
Social:	Qualitative	Quantitative	Monetary
Environmental:	Qualitative	Quantitative	Monetary

Consideration of:

- Indirect impacts	Yes	No	
- International impacts	Yes	No	
- Distributional issues <i>i.e. affected Member States, regions, groups)</i>	Yes	No	
- Displacement	Yes	No	
- Time horizon <i>[Circle as many as relevant]</i>	Short	Medium	Long
- Implementation issues	Yes	No	

4.6 Presenting Results

- Are the baseline scenario, and impact of options clearly distinguished?	Yes	No
- Are assumptions made transparent?	Yes	No
- Are results provided for all options?	Yes	No
- Are results clearly presented?	Yes	No
- Are models/tools used [If so, please specify]	Yes	No
- Are mitigation measures suggested?	Yes	No

4.7 Ex-post monitoring/evaluation

- Data needs identified?	Yes	No
- Indicators proposed?	Yes	No
- Details to how the policy will be monitored?	Yes	No
- Details of how the policy will be evaluated?	Yes	No

4.8 Other comments/issues for case study

Key Sustainable Development criteria

Precautionary principle	Yes	No	N/A
Irreversibility	Yes	No	N/A
Regeneration	Yes	No	N/A
Substitutability	Yes	No	N/A
Critical Loads	Yes	No	N/A
Holistic approach	Yes	No	N/A
Polluter Pays	Yes	No	N/A
Future generations	Yes	No	N/A
Good governance:	Yes	No	N/A
- Subsidiarity	Yes	No	N/A
- Proportionality	Yes	No	N/A
- Public Participation	Yes	No	N/A

APPENDIX III: CASE STUDIES (presented separately)

Subject	Lead DG	Inter-service group?	Principal emphasis (economic /social/ environment)	Global dimension?	High level of generality of initiative	Other
1. Reform of sugar regime	Agriculture	X	Economic/social	X		Defra's existing work on this
2. Sustainability of European Tourism COM	Enterprise	X	All	X	X	
3. REACH	Environment /Enterprise		Economic/ Environment			Use of quantification; stakeholder consultation
4. Kyoto – JI/CDM	Environment		Environment	X		
5. Recovery of fish stocks – Cantabrian Sea and Western Iberian waters	Fish		All	X		Very brief – good example of a bad IA.
6. Batteries and Accumulators	Environment		Environment			Good example of an IA – Guidelines followed closely
7. TEN-T guidelines	Tren		Economic/ Environment			Use of models
8. Intelligent vehicles	Infso		All			Interesting discussion of social factors