

Revising 2011/92/EU *The EIA Directive*

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IEMA

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The premier membership body
for environmental professionals

Environmental professionals at the heart of change

EIA in Europe

Original EIA Directive = 85/337/EEC

Aim: To improve consideration of environment in decision on development consent

This was amended three times:

1997, 2003 & 2009

December 2011

Codified EIA Directive = 2011/92/EU

Codified in preparation for EC's proposals for a new EIA Directive to be published in draft Summer 2012



A new EIA Directive?

Timetable to a new EIA Directive

Sept **2012**: EC's proposal for new EIA Directive

2012-2014:

- Proposal discussed by EU Parliament and European Council.
- Amendments proposed.
- Negotiation between EC, EU Parliament & Member States.

~**2014**: New EIA Directive passed.

2016: Likely timescale for implementation in UK.

Starting Point = Review 85/337/EEC

- EU Directives reviewed every 5 years.
- 2009 EIA review concluded the Directive required updating a view shared by the *Committee of the Regions*.
- Issues identified:
 - Screening inconsistency between MS
 - Concerns over overlap other EU assessments
 - Concerns over Biodiversity & Climate Change
- SEA Directive review concluded - too early to judge ~no changes proposed...

Public Consultation:

- All occurred in 2010
 - Public consultation:
 - Online questionnaire – Aug/Sept (EC 1365 (635), IEMA 1815)
 - 2-day invitation only conference, Leuven, Belgium: late November 2010.
- http://ec.europa.eu/environment/eia/conference_video.htm
- There will be no further public consultation on EC's proposals – if UK practice has concerns need to lobby: DCLG, Scot Govt, MEPs, etc!

Consultation Findings: Survey

- August – Sept 2010
- EC online questionnaire
 - EC responses =1365 (biased result as >45% = v.similar responses from a single MS),
- IEMA online questionnaire
 - Replicated EU questionnaire and added additional questions (eg EMP)
 - IEMA 1815 (>200 responses had non-UK EU EIA experience)
- IEMA data analysed and issued to:
 - UK: DCLG, Scottish Government, WAG
 - European Commission – DG Environment
- DG Environment used IEMA survey alongside its own in EIA Directive options appraisal & IA.

IEMA Member views (1)

- 93.8% offering a view support measures being taken to *improve EIA process* under Directive.
- Range of views on what should be done:
 - 61% agree Directive should set *common minimum thresholds for Annex 2 projects*
 - 55% want to see the *screening criteria in Annex 3 replaced* with a more detailed checklist.
 - 82.3% want to see a mechanism introduced to *ensure quality of environmental information*.
 - 76.1% support broader reform of way EIA interacts with other EU Directives and policies.

IEMA Member views (2)

- Selecting a single option for modification:

Percent	Supported Option	
3.5%	No change	
17.1%	The Annexes of the Directive should be updated and clarified	Modification Measures: 54.3%
10.7%	Both the annexes and the provisions of the Directives should be amended	
26.5%	Both the annexes and the provisions of the Directives should be amended along with the introduction of further provisions for the coordination of other environmental assessments required under other EC law	
7.8%	Replace Directive with Regulation	
22.2%	Repeal Directive and replace with a single Environmental Assessment Directive or Regulation covering all existing assessments under the EIA other Directives	
10.4%	Merge the EIA and SEA Directives	
1.8%	None of the above	

Leuven Conference – Nov' 2010

Celebrating of 25 yrs EIA Directive:

Conference closed out the public consultation on EIA Directive review.

Attendees:

- DG Environment & other Commission staff.
- *Member States – UK: DCLG, ScotGovt, WAG*
- *ECJ Judge*
- *Small number consultants, NGOs & business groups*
- ***IEMA & IAIA***

Conference set *Future Direction*

Overriding Rule:

Environmental protection offered by current EIA Directive will not be reduced.

Explore options to:

- Generate ***Efficiency*** between EIA and other EC assessments (e.g. HRA, SEA, WFD, etc).
- ***Harmonise*** EIA approach taken by Member States - particularly screening thresholds.
- Increase ***Quality*** of EIA undertaken over current Directive's procedural role.

Wider factors

- IMPEL: Interp' & Application between MS
- **Global Recession & Euro Crisis**
 - Some MS revised / revising legislation back to basics of EIA Directive (Netherlands, Greece, etc)
 - Harmonising for efficiencies
 - More proportionate assessments
- Topic enhancement :
 - Climate Change (2009)
 - Biodiversity / ecosystem services (2009)
 - Soils (Feb' 2012)
 - Health (Espoo)

What's in it? *The Rumour Mill*

- **EC messages**

- Will aim to take onboard ECJ rulings.
- Will include something on monitoring.
- Will enhance Biod & CC, specifically include CCA.
- Will revise screening and Annex 3 replaced.

- **Other Sources:**

- Nothing decided and EC still open to MS input.
- Very low key review, minor changes only.
- Serious consideration for mandatory scoping.
- Focus on >EIA quality over procedures not priority.
- Considering how further Aarhus & links to Social IA

What's next for IEMA?

- **2012 IA policy focus = EIA Directive Review**
- Activities:
 - Regular contact with EC, DCLG & Scot Govt to understand timescales and likely direction.
 - Membership updates – environmentalist.
 - *Develop tests: assess implications for UK practice*
 - Sept: Webinar on EC proposals
 - Oct: DG ENV invited as keynote Qmark Forum
 - Autumn / winter: member workshops to discuss EC proposals
 - Lobby DCLG, MEPs ~ dependent on proposals

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- DCLG indicated the potential to replace current multiple EIA regulations with a single EIA regulation (England), like SEA.



Questions

- EIA Directive?
- IEMA Activity?
- Anything else?

Discussion

What you feel UK practice wants to see from:

- **Improved screening** (Changing Annex 2? 3?)
- **Mandatory Scoping** (align other EU Asts)
- **Introducing Monitoring**
- **ES coverage of:**
 - **consultation**
 - **Iterative design**
 - **draft EMP**
- **Other?**

Focus on what Directive can achieve.