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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment - Orientation debate = Contributions from Member States

Delegations will find in Annex contributions from CZ, DE, CY, LV, NL, PL, SK, FI and UK to the orientation debate on the above-mentioned proposed Directive (EIA) at the Environment Council of 21 March 2013.

ANNEX

CZECH REPUBLIC

1. Czech Republic belongs to the group of member states which has separated assessment procedures and permitting procedures. This system is fixed in the national legislation in Czech Republic and it is well-established and functional practice with the benefit of early environmental impact assessment, which doesn't slow down the permitting procedure afterwards. By the chosen projects there is a possibility of united EIA procedure and zoning procedure which make the permitting faster. Change of this system would signify the complication of projects permitting both in time and financial level. Czech Republic does not support mandatory joint or coordinated assessment of the project under one competent authority which would be necessary to create for this purpose. It is possible to accept the formulation where the rate of the coordination of the assessment will be left up to each member state with the fact that Czech Republic is already implementing this according the current text of the directive.

2. Czech Republic doesn't think that definition of the scoping of environmental impact assessment by the competent authority should be mandatory, because it would be one step more which would prolonged the duration of the chosen projects assessments in Czech Republic. The scoping of the impact assessment in Czech Republic is sufficiently fixed in the requirements of the EIA Act on the scope of the environmental reports and there is a possibility to extend it on the basis of the requirement of the competent authority or the notifier. Mandatory scoping by the competent authority we consider as unnecessary.

3. Czech Republic considers the implementation of system of accredited experts as very appropriate to ensure the quality of environmental reports. In Czech Republic is established since 1992 the institute of so called *authorized persons* who are authorized for preparing the environmental reports and also for opponent environmental expert opinions based on this reports. The text of the directive should take into account the different national legislation also in this case but we can agree with the implementation of the institute of accredited experts.

GERMANY

Deutscher Kommentar zum Tagesordnungspunkt 5:

Vorschlag für eine Richtlinie des Europäischen Parlaments und des Rates zur Änderung der Richtlinie 2011/92/EU über die Umweltverträglichkeitsprüfung bei bestimmten öffentlichen und privaten Projekten (Erste Lesung)

1. Stimmen die Mitgliedstaaten dem Vorschlag zu, eine gemeinsame oder koordinierte Bewertung eines Projekts durch eine zuständige Behörde immer dann verbindlich vorzuschreiben, wenn eine obligatorische Bewertung der Umweltauswirkungen sich auf unterschiedliche Gesetzgebungsinstrumente der Union stützt?

- Die gemeinsame oder koordinierte Bewertung von Projekten sollte nicht verbindlich vorgeschrieben werden.
- Das EU-Recht sieht zur Bewertung der Umweltfolgen eines Projekts unterschiedliche Prüfverfahren vor; z.B. kann es erforderlich sein, neben der UVP auch eine FFH-Verträglichkeitsprüfung durchzuführen. In diesen Fällen kann es dann sehr sinnvoll sein, solche Prüfungen gemeinsam oder in koordinierter Weise durchzuführen. Das wird in Deutschland auch jetzt schon vielfach so praktiziert. Ein solches Vorgehen trägt zur Vereinfachung der Verfahren, insbesondere zur Vermeidung von Doppelprüfungen bei. Jedoch sollte die Entscheidung, ob und in welchen Fällen in dieser Weise verfahren wird, in Übereinstimmung mit dem Subsidiaritätsprinzip den Mitgliedstaaten überlassen bleiben. Daher hat Deutschland vorgeschlagen, die entsprechende Regelung aus der SUP-Richtlinie zu übernehmen. Diese Bestimmung sieht den Weg gemeinsamer und koordinierter Verfahren nicht verbindlich, sondern als Option vor. Die Mitgliedstaaten benötigen hier – wie auch bei anderen Bestimmungen des Richtlinienvorschlags – keine starren Vorgaben, sondern mehr Flexibilität.
- Im Übrigen sollten die EU-Rechtsakte und Prüfinstrumente, die für eine gemeinsame oder koordinierte Bewertung in Frage kommen, in der Richtlinie ausdrücklich genannt werden.

2. Sind die Mitgliedstaaten der Auffassung, dass das "Scoping" der Umweltverträglichkeits-prüfung durch die zuständige Behörde in allen Fällen vorgeschrieben werden sollte, wie in Artikel 5 des Vorschlags vorgesehen?

- Ein generell geltendes, verpflichtendes Scoping wird von Deutschland abgelehnt.
- Natürlich ist das Scoping ein außerordentlich nützliches Instrument, mit dem frühzeitig für eine ausreichende Qualität des Umweltberichts gesorgt werden kann. Jedoch gibt es auch Fälle, in denen nicht zu erwarten ist, dass ein solches Verfahren zu einer Qualitätsverbesserung beiträgt: etwa, wenn ein erfahrener Vorhabenträger ein Projekt an einem Standort plant, den er bereits kennt oder an dem keine besonderen standortspezifischen Probleme auftauchen. Für solche Fälle wäre eine generelle Verpflichtung mit unnötigem bürokratischem Aufwand verbunden.
- Deshalb schlägt Deutschland vor, ein verpflichtendes Scoping nur dort vorzusehen, wo die Behörde es als erforderlich ansieht oder der Vorhabenträger es beantragt.

3. Sind die Mitgliedstaaten davon überzeugt, dass die Ausarbeitung einer Regelung für die Akkreditierung von Personen, die zur Erstellung eines Umweltberichts befugt sind, erforderlich ist, um die Qualität solcher Berichte zu gewährleisten?

- Aus Sicht Deutschlands wäre es eine überzogene Maßnahme, wenn sämtliche Mitgliedstaaten künftig verpflichtet würden, ein Akkreditierungssystem für UVP-Sachverständige aufzubauen.
- Es gibt Mitgliedstaaten, die mit einem solchen Akkreditierungssystem gute Erfahrungen gemacht haben. Wo das so ist, sollten die betreffenden Mitgliedstaaten auch weiter so verfahren können. Wir in Deutschland sichern die Qualität des Umweltberichts traditionell jedoch auf andere und ebenfalls sehr wirkungsvolle Weise.
- Zum Teil haben die Vorhabenträger eigene Experten, die Unterlagen mit hoher Qualität erstellen können. In der Praxis ist es aber auch weit verbreitet, dass fachlich kompetente und spezialisierte Planungsbüros mit der Erarbeitung des Umweltberichts beauftragt werden. Und schließlich verfügen auch die zuständigen Behörden, die den Umweltbericht prüfen und die Umweltauswirkungen der Projekte bewerten, über qualifiziertes Personal und den erforderlichen umweltfachlichen Sachverstand.
- Vor diesem Hintergrund wäre der Aufbau eines Akkreditierungssystems für UVP-Sachverständige für Deutschland ein unnötiger Aufwand, dem kein entsprechender Nutzen gegenüber stehen würde. Wir brauchen deshalb auch hier mehr Flexibilität in der Richtlinie.

GERMANY

(Courtesy translation)

German comments on agenda item 5 (courtesy translation):

Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (First reading)

1. Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?

- The joint or coordinated assessment of projects should not be made mandatory.
- EU law provides for different assessment procedures to verify the environmental impacts of a project; in some cases it can, for instance, be necessary to conduct an impact assessment under the Habitats Directive in addition to an EIA. In these cases it can be very useful to conduct assessments jointly or in a coordinated manner. In Germany this is already common practice in many instances. Such an approach helps to a simplify procedures and in particular to avoiding a duplication of assessments. However, in conformity with the principle of subsidiarity, the decision as to whether and in which cases this approach is to be taken should remain with the individual member states. Therefore Germany proposed the adoption of the corresponding provision from the SEA Directive. According to this provision joint and coordinated procedures are not mandatory, but it foresees them as an option. As is the case in other provisions of the draft directive, member states need more flexible provisions rather than strict requirements in this case.
- Moreover, any legal instruments and assessment provisions of the EU relevant for a joint and coordinated assessment should be specifically mentioned in the directive.

2. Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal?

- Germany rejects a generally applicable mandatory scoping.
- It is true that scoping is an extremely useful tool which can ensure a sufficient quality of the environmental report at an early stage. However, there may also be cases in which this approach is unlikely to enhance quality, as is for instance the case when a project developer plans to carry out a project on a site he is already familiar with or which has no special site-specific problems. In these cases a general mandatory procedure would lead to unnecessary bureaucracy /red tape.
- Therefore Germany proposes introducing mandatory scoping only in those cases where government agencies consider it necessary or when a project developer applies for it.

3. Do Member States think that the proposal for a system of accredited experts entitled to draw up an environmental report is necessary to ensure the quality such reports?

- From the German point of view it would be an excessive demand to require all member states to establish an accreditation system for EIA experts.
- There are member states which have had a positive experience with these accreditation systems. In these cases member states should be allowed to continue with their tested procedures. However, in Germany we ensure the quality of environmental reports by different means which are also very effective.
- For instance, project developers may have their own experts capable of producing high quality documents. It is also a widely followed practice to outsource the drafting of environmental reports to special planning offices with expert knowledge in specific fields. And finally, the agencies responsible for the evaluation of the environmental reports and the assessment of environmental impacts of projects also have qualified staff with the environmental expertise required.
- Against this backdrop it would be unnecessary work to set up an accreditation system for SEA experts in Germany as it would not be underpinned by any additional benefit. This is another example in the draft directive where we need more flexibility.

CYPRUS

Regarding the first question concerning the proposal by the European Commission to coordinate procedures under one competent authority (one-stop shop), Cyprus has already expressed its concerns regarding the practical application of this provision. It is important to have a clear reference that it only refers to procedures for coordinating environmental directives and regarding any other obligation under other legislation. Cyprus has raised its concerns about the practical application of this provision since at the national level, the Authority responsible for the final license is different from the environmental Authority, which is responsible for implementing the provisions of the Directive on the assessment of environmental impacts.

In relation to the second question concerning the procedure of scoping, we do not disagree with the mandatory scoping, but it is essential that a provision is added requiring the applicant to submit specific written information so as to make the process of scoping feasible within the specific timeframe. Otherwise, we do not agree with the mandatory process of scoping.

With regard to the third question on the proposed system of accredited specialists (verified experts), Cyprus believes that this provision should not be mandatory for a member state and that it would be better to remain in the competency of the member-state. If, eventually, this is included in the revised Directive, it is necessary that the European Commission prepares guidelines for its implementation, to help Member States that have not yet implemented such a system yet.

LATVIA

1. *Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?*

   Although Latvia in general supports the principle of a joint or coordinated assessment regarding environmental permits and different assessments, we do not support proposal from the European Commission to introduce into Directive 2011/92/EU an obligation to designate one competent authority for the coordination of all cases where effects on the environment have to be assessed until final development consent is given.

   Taking into account that Directive 2011/92/EU has been applied already for 25 years, each country has already established its own system and competent authorities responsible for environmental impact assessment (EIA) issues. The principle of „One stop shop" would completely change the existing system, joining existing authorities and changing their duties beyond the scope of environmental area.

   We consider that the scope of Directive 2011/92/EU has to be limited to the environmental impact assessment procedure and should not be extended to the full procedure for consent.

2. *Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal*

   Latvia has no objections against a mandatory scoping of the EIA in all cases when EIA has to be applied. However it should be done on the basis of the information provided by the developer. We agree that in the phase of the scoping of the EIA, competent experts may be involved, if necessary. We consider that the costs associated with the preparation of scoping of EIA must be covered by the developer.

3 *Do Member States think that the proposal for a system of accredited persons entitled to draw up an environmental report is necessary to ensure the quality of such reports?*

   Latvia considers that the introduction of a system of accreditation for persons who may prepare or evaluate environmental impact assessments is not the best way to ensure improvements in the quality of EIA reports. Such a system would require disproportionate amount of administrative resources and create an additional burden on the institutions and experts. Earned improvements in the quality of environmental impact assessment reports would not compensate the created burden.
   Already today in many Member States including Latvia competent experts are involved during the development of the EIA report and its evaluation. We do not believe that the introduction of an accreditation system will make a significant improvement of the quality of environmental impact assessment reports, but it would certainly result in administrative burden for authorities and experts.

THE NETHERLANDS

The Netherlands welcomes the opportunity offered by the Irish Presidency to send in written comments on the proposed EIA directive, ahead of the orientation debate at the Environment Council of the 21st of March. Please find below our comments.

The Netherlands supports the Commission's initiative to modernize the environmental impact assessment directive, in line with the principles of smart regulation and resolving practical issues. However, the Netherlands has reservations about the level of detail and the obligatory nature of certain proposed adjustments.

The Netherlands is in favour of coordinating or integrating assessment procedures where possible or desirable. In practice this occurs already, mostly in close consultation with competent authorities and the developer. However, the Netherlands does not support the obligation to coordinate or integrate for all cases. This puts too much regulatory burden on the competent authority. In addition, designating one coordinating authority is not in line with the existing national relations in responsibilities. The Netherlands is of the opinion that flexibility and options for custom-made procedures are important aspects for smart regulation; coordination is not desirable in all cases.

The proposal includes a mandatory opinion of the competent authorities. The Netherlands does not see the need for such an obligation. Dutch practice in the past has shown that this is not always necessary. Examples include cases where the developer itself is perfectly capable of determining the scope of the environmental impact report. Other examples are cases where the developer and the competent authority both are within the same governing body. Like the previous point, a general obligation therefore does not fit within the vision of the Netherlands on smart regulation.

As regards accreditation, the Netherlands considers that independence is especially crucial for a quality system and that accreditation of experts is not the best guarantee for good quality. The Netherlands has had a system of quality control for years. This system is not based on accredited persons in preparing an EIA, but of independent ex post control by a competent Committee. In addition The Netherlands would like to emphasize that the competent authority is responsible for the final decision on whether and how to proceed with a project. The environmental impact assessment is supportive to this decision. The competent authority should judge whether they themselves have the necessary independent expertise, or whether external expertise is needed. Compulsory external quality control does not demonstrate trust in the decision-making competent authority. Within the Dutch governmental structure we believe the competent authority deserves this trust. In addition, the Netherlands is of the opinion that it is not desirable to regulate a specific system of quality control. It is desirable to give Member States space to implement quality control in a way that best fits their national legislation and experiences.

Finally, the Netherlands takes the view that in the proposal for the environmental impact assessment no time limits for decision-making should be included. The underlying objective to protect the developer is understandable, but time-limits are a primary responsibility of the Member States. This part of the proposal is not compatible with the principle of subsidiarity because it does not relate to the objective of the directive. In addition, it is undesirable that the directive intervenes in national permitting procedures, as this can significantly interfere in the national legal system.

POLAND

1. *Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?*

   Poland believes that a joint or coordinated environmental assessment procedures under one competent authority will be beneficial for investors, as well as rationality of environment protection proceedings.
   Modification of the draft of amendment to the Directive is, however, necessary so that the competent authority enabling easier procedures was the authority finalising the environmental impact assessment, not the authority issuing development consent. Furthermore, it would be expedient not to impose on the Member States the necessity to finalise environmental impact assessments (in accordance with EIA Directive) only after other types of assessment have been made (for example, assessment in accordance with the Directive on industrial emissions). It would be valid to enable the Member States to use a mixed system – combining partial assessments and coordination of the remaining ones.

2. *Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal?*

   Given the proposed wording of Article 5(2) legitimation to determine by an authority a detailed list of information should not be an obligatory but an optional. Poland does not support the solution foreseeing that the competent authority which sets the scope and level of detail of the information the developer has to submit in the environmental impact report, is the same authority which indicates:
   - the decisions and opinions to be obtained;
   - the authorities and the public likely to be concerned;
   - the individual stages of the procedure and their duration
   - reasonable alternatives relevant to the proposed project and its specific characteristics;
   - the methods of assessment to be used.

   Indicating those details should vary according to the capabilities of the authority and should be an optional element.

3. *Do Member States think that the proposal for a system of accredited experts entitled to draw up an environmental report is necessary to ensure the quality such reports?*

Poland do not consider introducing the system of accredited experts in order to ensure the required quality of environmental impact reports as necessary. The high quality of environmental impact reports depends on many factors - mostly they are influenced by the requirements set by the authorities competent for report verification. Sharing knowledge and best practices in the field of environmental impact assessment is equally important. Free market competition can be another way of report verification (developers of low quality reports are eliminated from the market due to the uselessness of the documents prepared by them or the need of their correction). Accreditation of assessment experts may become an additional tool in the process of choosing the developer of the report by the investor. However, the accreditation should not be an obligatory system but an optional one. Member States should be autonomous in choosing whether to implement the accreditation system in their state or not, and whether it is obligatory to work with accredited experts or not.

SLOVAK REPUBLIC

1. *Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?*

   The Slovak Republic appreciates the European Commission's endeavors to strengthen the tool of environmental impact assessment in the context of several proceedings and to include current environmental challenges like biodiversity and climate change into the process of environmental impact assessment. However, we belong to the group of Member States with separated procedures for assessment and permit. Therefore we demand that the new wording of the Directive makes provision for such national systems. In our opinion, it is necessary to leave to the Member States a certain margin of flexibility in line with the principle of subsidiarity and thus leave it to their decision how they wish to implement the directive and how they will run the process, provided that they comply with the "spirit" of the directive and its core principles. In terms of the one-stop-shop we can support concurrent execution of some assessments (e.g. NATURA 2000), but we cannot support such proposal which demands concluding the environmental impact assessment procedure and issuing the permit within 3+3 months.

2. *Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal?*

   The Slovak Republic does not support the idea of a mandatory scoping, since our experience at the national level does not prove it would be needed. We are of the opinion that the scoping should be issued either upon the request of the competent authority, or upon the request of the developer. Moreover, the demands laid upon the competent authority in the relevant article appear as inappropriate.

3. *Are Member States satisfied that the development of a system of accreditation of persons entitled to draw up an environmental report is the best way to ensure the quality of such reports?*

   The Slovak Republic does not have serious objections towards the European Commission's proposal for a system of accredited experts, since we currently have a similar system in place. The national legislation assigns accredited experts a role of a quality control tool, however, it does not explicitly stipulates the requirement for the environmental report to be prepared by such experts.

   The Slovak Republic will actively participate in the meetings at the level of working parties with a view to optimize the proposal and we believe in reaching mutual agreement. The Slovak Republic would welcome shifting the deadline for transposition up to 36 months due to significant changes in comparison with current wording.

FINLAND

1. *Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?*

   Finland considers that the proposed obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments, is too restrictive. It may be actually meaningful and effective from environmental protection point of view to fulfil assessment obligations at very different stages of the planning lifecycle even though the competent authority may differ. What is more important than the number of competent authorities are the possibilities of coordinating the contents of assessments and, for example, to take advantage of assessments once carried out to fulfil the assessment obligations arising from other Directives without having to carry out the same assessment again.

   In general, coordination can be considered to be supportable. Coordinated or joint assessments should be regulated on a sufficiently general level to allow Member States to select the best and most effective means depending on the existing system. The aim must be to achieve as clear and legally predictable situation as possible in all Member States. The current proposal is inconsistent and does not address, among other things, whether the joint and coordinated assessment would potentially also extend to the permitting procedures, which would bring into play completely different and extremely complex questions.

2. *Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal?*

   Finland's view is that the proposal is acceptable. In the Finnish system, the EIA procedure already includes a scoping of the assessment in all EIA projects, and practical experiences have been good. However, the competent authority should be able to decide its view on scoping only after the developer has submitted the needed information about the project. This should be regulated in the Directive. The developer has the best knowledge of its own project, responsibility for the environmental impacts of its activity, and is also best placed to identify alternatives for the project. This kind of a procedure would most likely be the most cost-effective means of organising scoping from the perspective of both the administration and the developer.

3. *Do Member States think that the proposal for a system of accredited experts entitled to draw up an environmental report is necessary to ensure the quality of such reports?*

Finland does not think that developing a system of accredited experts is the most expedient way to ensure the quality of EIAs. Accreditation of those drawing up an environmental report would probably not change the current situation in the Member States where the assessments are already drawn up by formally competent experts almost without an exception. Making accreditation mandatory would probably increase the costs of the developer without actually ensuring that the quality of assessments improves in practice.

Improving the quality of environmental impact assessments and developing quality control are supportable aims in principle. Quality can also be effectively ensured by the competent authority, especially if said authority specialises in EIA projects, as is the case in Finland. A provision whereby quality control can be done by the competent authority should be added to the Directive. Quality is also improved by the public processing of EIAs, where both the public and other authorities can contribute to assessing quality and the adequacy of the assessment.

The Directive should call attention to quality control but give Member States enough flexibility to draw up more detailed regulations on the mechanisms themselves.

UNITED KINGDOM

1. *Do Member States agree with the proposal to introduce an obligation for a joint or coordinated assessment of a project under one competent authority in all cases, where the obligation to assess its effects on the environment arises from various Union legislative instruments?*

The UK is strongly opposed to the mandatory introduction of either a joint or coordinated assessment process. The main effect of both procedures would be to prevent a competent authority (such as a local planning authority) granting development consent (e.g. planning permission) until all other assessments have been completed and permits have been granted.

This could increase up-front costs to the developer and significantly increase the risk of investment without return. For example, a developer might currently choose to apply for an operating permit under the Integrated Pollution Prevention and Control Directive only after their application for development consent has been granted and the principle of the development is established.

The UK position therefore seeks to maintain the existing flexible approach, whereby Member States can decide how they manage development consent and other permitting procedures which involve assessments under EU legislation.

Background

Article 2(3) would apply to projects which are subject to environmental impact assessment and to other assessments arising from other EU legislation. For example, this could be an 'Appropriate Assessment' under the Habitats Directive or an assessment under the Industrial Emissions Directive. Member States are given the option of establishing either a 'co-ordinated' or a 'joint' procedure for dealing with such applications.

Under the coordinated procedure, a designated competent authority would be responsible for co-ordinating the various assessments required by other Union legislation, but would leave it to each appropriate competent authority to issue the relevant permit following completion of individual assessments. The designated competent authority would then complete the environmental impact assessment before granting development consent.

Under the joint procedure, the designated competent authority would be responsible for issuing one environmental impact assessment, which integrated the other assessments.

With both procedures, development consent could only be granted once all the other assessments have been completed and the relevant permits have been obtained.

The UK agrees that there will be circumstances where a coordinated approach is effective and will help to streamline and speed up the development consent procedure. It is, for example, similar to the approach taken for major infrastructure in England. However, in other cases it would result in a developer having to invest large sums of money on, for example, a permit to operate an installation, only to subsequently have the planning application refused. The UK's position is therefore to strongly object to the Commission's proposal for the mandatory introduction of a coordinated or joint procedure. It should be optional (as it is at present), and left to Member States to decide.

2. *Do Member States consider that the scoping of the environmental impact assessment by the competent authority should be mandatory in all cases as foreseen in Article 5 of the proposal?*

The UK strongly opposes mandatory scoping. While there can be benefits in a developer working with a competent authority and the relevant environmental bodies to agree the scope of an environmental assessment, it is not necessary in every case. Furthermore, the introduction of a mandatory procedure would significantly increase the workload of competent authorities and the environment bodies, whilst restricting opportunities for informal engagement which may be more effective in seeking to improve EIA quality.

The proposal also links scoping with screening and allows 3 months (extendable to 6 months) for the decision. A developer might wish to withdraw their proposal if the screening identified that an EIA was required. The proposal could require them to wait for months for a decision.

Overall, mandatory scoping would increase the financial burden on competent authorities, statutory environmental bodies and developers and delay the development consent process.

Background

Article 5 deals with the scope of an environmental impact. The existing position is that if a developer wishes, they can request an 'opinion' from the competent authority on the information to be supplied in their Environmental Statement (a 'scoping opinion'). In such cases the competent authority must consult the developer and relevant statutory environmental bodies before giving the opinion.

The proposal is to amend the Article so that the competent authority must consult the developer and statutory environmental bodies in each case to determine the scope and level of detail of the assessment. The opinion must determine:

- The decisions and opinions to be obtained
- The authorities and public likely to be concerned
- The individual stages of the procedure and their duration
- Reasonable alternatives

- The environmental features likely to be significantly affected
- The information to be submitted
- The information and knowledge available and obtained and the methods of assessment to be used.

This would mean that competent authorities and the environmental authorities would have to scope every EIA project, significantly increasing their workload. Similarly, those developers which currently do not ask for a scoping opinion - for example because they are fully aware of the nature of the environmental effects associated with their project -would have to delay their work while they wait for the competent authority to complete its work.

However, related to this, Article 4(6) which deals principally with screening introduces the requirement that where it has been determined that EIA is required, the scoping opinion must be included in the screening decision. The proposal gives the competent authority three months (extendable to 6 months) to complete its screening/scoping assessment. However, the Article requires the screening/scoping to take place after the request for development consent. The existing procedure in the UK is that screening is a quick process (local authorities, for example, have up to 15 days) which is undertaken at an early stage in the life of a project.

The UK position is therefore to strongly oppose both mandatory scoping and for scoping to be linked to the screening stage. Experience indicates that where scoping takes place too early, if insufficient information is available, or if too much focus is given to following a prescribed procedure, scoping can add unnecessary additional financial and/or administrative costs or otherwise delay the consenting procedure, whilst also failing to improve the quality of EIAs. When undertaken poorly, scoping can also lead to lengthier Environmental Statements which lack focus. Introducing a mandatory process would also limit flexibility for more experienced developers to utilise non-statutory pre-application discussions between the developer, the planning authority and the key agencies as a less formal opportunity to discuss the scope and content of the Environmental Statement.

3. *Do Member States think that the proposal for a system of accredited persons entitled to draw up an environmental report is necessary to ensure the quality of such reports?*

The quality of environmental assessments is important. However, it will not be guaranteed through the introduction of an accreditation scheme. The existing provisions, including the involvement of the relevant statutory environmental authorities and public consultation, provide sufficient input to ensure that an environmental assessment is comprehensive and robust, and to assist the competent authority to understand the likely environmental effects of a proposal.
The introduction of a system of accredited persons would require the UK to develop and introduce a completely new system, which would significantly increase the complexity and cost of assessments. Where two sets of experts are used, this could lead to significant costs and delays if there were disagreement between them.

There are also a range of practical problems. Given the wide range of issues that can be considered in an EIA, any accreditation scheme would need to cover a wide range of technical disciplines. Whilst it would be for Member States to develop their own systems, there would be complexities for experts who operate in more than one country. Any system would, for example, need to deal with situations where an expert is struck off in one Member State, but could work in others.

Background

The requirement to use accredited experts is introduced in Article 5(3). The stated intention is to guarantee the completeness and quality of the Environmental Report. Member States would be required to ensure that either the developer uses accredited and technically competent experts to produce the Environmental Report, or the competent authority uses them to verify the Environmental Report. The competent authority could also use a committee of national experts to verify the report. Where both the competent authority and the developer choose to use accredited experts, the same experts could not be used by both parties. The detailed arrangements for the use and selection of accredited and technically competent experts (e.g. the required qualifications and licensing) would be left to Member States.
The UK does not agree with the compulsory introduction of an accreditation scheme and the use of accredited experts. It is likely to add significantly to the cost of EIA, whether to the public or private sector. Where two sets of experts are used, this could lead to significant costs and delays where there was disagreement between them. It would also require the UK to develop a new system for accreditation. This would give rise to practical difficulties for large developers and consenting authorities who rely heavily on in-house expertise.

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