

Improving Assessment of the Environment in Impact Assessment

A project under the Framework contract for economic analysis
ENV.G.1/FRA/2004/0081

Final Report

Draft, January 2007



vrije Universiteit *amsterdam*



This study draws upon a range of analysis of Member States approaches and acquires knowledge from different background case studies produced by Ecologic, IEEP and VITO. Contributing experts were Anneke von Raggamby, Maria Berglund, Jonathan Donehower, Doris Knoblauch, Aaron Best, Alexander Neubauer and Anna Leipprand (Ecologic), Peter Hjerp and David Wilkinson (IEEP) and Leo de Nocker (VITO).

The views expressed in these background case studies are entirely those of the authors and do not, in any respect, represent those of the European Commission.

Content

- Executive Summary..... 5**

- 1 Introduction to this Study 10**

 - 1.1 Objective and Scope of this Study 12**
 - 1.2 Structure of the Study..... 14**

- 2 Impact Assessment – An Introduction 15**

 - 2.1 The Concept of Impact Assessment and its Evolution 16**
 - 2.1.1 Different Roots 16
 - 2.1.2 EU Concept..... 17
 - 2.1.3 MS Concepts 18
 - 2.2 Impact Assessment Applied 18**
 - 2.2.1 The EU Impact Assessment System..... 18
 - 2.2.2 Overview of Impact Assessment Systems in the Member States..... 20
 - 2.3 Impact Assessment and the Broader EU Political Context..... 24**
 - 2.3.1 The Lisbon Process and Sustainable Development Strategy 24
 - 2.3.2 Environmental Policy Integration (EPI) 24

- 3 Overview of the Case Studies 26**

- 4 Findings from the Case Studies..... 30**

 - 4.1 Consideration of Environment in Impact Assessment Reports 30**
 - 4.2 Influence of Impact Assessment on Policy and Role of Environmental Impacts 31**
 - 4.3 Lessons learned 33**

- 5 Analysis of Member State Practice 35**

 - 5.1 Factors related to the Impact Assessment context 35**
 - 5.1.1 High Level EPI Requirement & SD Strategies or Environmental Policy Plans 35
 - 5.1.2 Policy Area and Structural Conflicts..... 37
 - 5.1.3 Lessons Learned 39

5.1.4	Factors enhancing the Consideration of Environmental Aspects in Impact Assessment	39
5.2	Factors related to the design of the Impact Assessment procedure.....	40
5.2.1	Focus of the Impact Assessment procedure.....	40
5.2.2	Ownership of procedure.....	42
5.2.3	Existence of Impact Assessment Obligations and Guidelines	43
5.2.4	Completeness of the Assessment	45
5.2.5	Role of Impact Assessment in Decision-making.....	48
5.2.6	Lessons Learned	50
5.2.7	Factors enhancing the Consideration of Environmental Aspects in Impact Assessment	51
5.3	Factors related to the Analysis of the Impacts.....	52
5.3.1	Range and Depth of Analysis	52
5.3.2	Use of tools and methods and cost-benefit estimation	55
5.3.3	Lessons Learned	56
5.3.4	Factors enhancing the Consideration of Environmental Aspects in Impact Assessment	57
6	Synthesis, Discussion and Conclusion.....	58
6.1	Role of Environment in Impact Assessment and Decision-making.....	58
6.2	Factors relating to the Consideration of Environment in Impact Assessment ...	58
6.2.1	Factors Related to the Assessment Context.....	58
6.2.2	Factors Related to the Assessment Procedure	59
6.2.3	Factors Related to the Analysis of Impacts in Assessment	62
6.3	Recommendations	65
6.3.1	Context related recommendations	65
6.3.2	Process related recommendations:	66
6.3.3	Analysis related recommendations:	66
Annex I: Case Studies		
Annex II: Workshop Agenda		
Annex III: Workshop Summary		

Executive Summary

What is Impact Assessment about?

Assessing the impacts of policies is a quickly evolving approach to inform decision-makers on the potential implications of their planned actions. The European Commission as well as a number of Member States have established such systems, most of which serve one or all of the following aims:

- **efficiency** - IA shall ensure objectives are met at least cost, avoid unnecessary bureaucracy, etc.
- **coherence** - IA shall ensure the compatibility of policies from different fields, support and exploit synergies, identify possible conflicts and suggest ways of dealing with them,
- **balance** - IA shall contribute to a balance between different (and potentially conflicting) objectives of sustainable development,
- **transparency** - IA shall make the decision-making process more open, identify underlying assumptions, motivations, interests etc.

Why is Impact Assessment important for environmental policy and SD?

The EU and many Member States consider IA an important tool to implement sustainable development and environmental policy integration. This is because IA promotes an integrated approach by considering and reconciling economic, social and environmental aspects. At the same time, IA studies the rationale for government intervention and its effectiveness and can, therefore, lead to better policies.

However, not all impact assessments accord equal treatment to all dimensions of sustainable development. In particular, they may pay less attention to examining environmental than other impacts. This is due to a number of reasons as for example the fact that other impacts are deemed to be politically more important or that environmental impacts are not recognised from the beginning. So, the question is what makes for a good Impact Assessment that truly integrates the environment.

Why is it timely to ask this?

The European Commission has developed an impact assessment system for the assessment of its own policies.¹ Motives include establishing more efficient and “leaner” decision-making procedures and ensuring coherent implementation of the EU’s Sustainable Development Strategy by requiring that all likely economic, social and environmental impacts of major Commission proposals are considered. The Commission IA system has been applied to around 180 Commission initiatives since 2003.

At the same time, almost all Member States are implementing, or plan to set up, their own Impact Assessment systems. This is a key action under the National Reform Programmes of the Lisbon Process. Many of the Member State frameworks have recently been amended to explicitly cover environmental, social and economic aspects of a policy proposal. So, for the

¹ Communication (COM 2002/276).

most part Member States are moving from having systems that just exist on paper to the challenge of systematic application in practice.

How the study was done

The study is based on the examination of 12 case studies of ex-ante integrated assessments (i.e. analysing environmental, social and economic impacts) of policies or laws that are not primarily environmental but were expected to having severe impacts on the environment. These cases represent

- a broad range of policy areas, e.g. transport, agriculture and climate;
- varying strategic orientations, such as laws, policies or strategies;
- geographical diversity including eastern and southern European examples;
- different IA routines ranging from environmentally to economically rooted IA procedures.

For the case studies, interviews were carried out with people involved in the given assessment and other research projects were considered.

Findings and questions from the study

The study showed that impact assessment practice varies strongly, as does the quality of the impact assessment procedures and reports.

The case studies show that impact assessment can influence final policy decisions and that the consideration of environmental impacts within them, therefore, can affect decision-making. In eight out of twelve case studies the IA was considered to play a role in decision-making by case study authors, while in three the identified environmental impacts seem to have influenced the final policy decision at least to some extent.

A prerequisite for any influence of environmental analysis in the policy decision is that environmental impacts are recognised and analysed appropriately in the IA and in a proportionate way. Though all the impact assessments studied addressed environmental issues, the case studies indicate that the depth of environmental analysis - and the weight attached to it - could be higher. So, although environmental aspects are frequently considered in impact assessments, they could be better analysed and taken into account.

The study gives preliminary indications on which factors lead to good consideration of environmental aspects in IA and the factual and procedural barriers to better analysis of environmental impacts and how they might be overcome. The results are grouped according to insights related to (1) the framework conditions for IA in a given country (context related factors), (2) the design of the impact assessment procedure and how it is being applied (procedure related factors) and (3) how the impacts identified are actually analysed in IA (analysis related factors). These results should provide input to the Workshop "Improving Assessment of the Environment in Impact Assessment". The workshop should discuss how to make the recommendations of the study more concrete and enforceable. In particular, the following issues and questions (*in italics*) were derived from the case study results, in preparation for the workshop:

1. Context related factors

- **Sustainable development strategies and environmental policy integration:** Case studies showed that the existence of sustainable development strategies or requirements for environmental policy integration did not directly affect the consideration of environment in IA. However, objectives and indicators formulated therein may provide a point of reference or benchmark for balancing the expected impacts.
Is this realistic? How could the role of sustainable development strategies and commitments to environmental policy integration lead to better impact assessment?
- **Relation between the given policy area and environmental issues:** Case studies provided evidence that conflicting interests between the given policy area and the environment do not necessarily need to hinder the consideration of environment in IA if approaches reconciling conflicting interests are highlighted. An example of such an approach is environmental technologies.
Can approaches reconciling conflicting approaches be translated into IA practice? What would need to happen in order to do so?

2. Procedure related factors

- **Focus of the impact assessment procedure:** The study showed that those assessment procedures being committed to analysing environmental impacts were more likely to trigger good results in considering environmental aspects than less environmentally focused ones were. However there are conflicting views as to whether impact assessment procedures reflecting multiple objectives (such as better regulation demanding higher standards for the justification of policy intervention and environmental protection requiring more rather than less policy intervention) help or hinder the consideration of the environment.
How can IAs better deal with such conflicting focuses? How can the weight of existing environmental objectives of IA be enhanced?
- **Mechanisms to balance impacts:** Though many impact assessment systems have conflicting objectives they often do not specify how and according to which criteria the impacts identified should be balanced. This may be due to a lack of methodologies or of Impact Assessment values.
How could this gap be addressed? Is it realistic to expect that addressing this gap will lead to a better consideration of environmental aspects in IA?
- **Guidance:** IA guidance does not exist in all countries. Case studies showed that even where no guidance exists, environmental aspects are often considered, and it does not necessarily mean that environmental issues are better addressed if guidance does exist. Often this is because guidance is not being applied. Following the steps of the given IA procedure closely, however, seems to have a positive impact on the result of the impact assessment, though good assessments can also be done without addressing all steps.
How could guidance be improved? To what extent is training, monitoring and enforcing the application of guidance expected to enhance the consideration of environment in IA?
- **Stakeholder consultation:** Stakeholder consultation did play a prominent role in most impact assessments studies, but case studies gave evidence that it was not decisive for a better consideration of environmental impacts.
What could be reasons for this finding? How can the role of stakeholders in IA be improved?
- **Co-operation throughout the IA process:** IA practice showed that good co-operation between departments of the environment and other policy areas is important and can

help to improve the consideration of environment in IA.

How can this kind of co-operation be enhanced? How can one ensure that actors representing environmental issues are consulted and heard from the beginning? What are the boundaries of such co-operation processes?

3. Analysis related factors

- **Use of formal analysis tools and quantification of environmental impacts:** Case studies indicated that the use of formal analysis tools, such as multi-criteria analysis or modelling, is rather low and that the quantification of environmental impacts often proves difficult. This is perceived as a barrier for giving the same weight to environmental as to other impacts. This is of particular relevance if environmental benefits are compared to economic costs, because environmental impacts are often difficult to monetise.
Are finding ways to express environmental costs in monetary values expected to enhance the consideration of environmental aspects in impact assessment? How could this be improved? Where are the barriers for doing so?

Preliminary recommendations

The underlying problem of sidelining environment in IA and in the final policy decision is that the environmental impacts of a policy are often not demonstrated to be as important as other impacts. In addition, those doing the IA are often bound by policy decisions made from a sectoral perspective, the philosophy of their policy area or by decisions taken at a higher level. Without being able to directly change these factors, the following recommendations highlight opportunities to raise the environmental profile in impact assessment with the aim of increasing the weight of environmental impacts in the final policy decision. They refer to the impact assessment context, the impact assessment process and the actual analysis of environmental impacts in impact assessment.

1. Context related recommendations

- High-level commitments such as EPI / SD do not automatically lead to a better consideration of environment in IA but can help by raising the profile of environment in IA.
- Refer to objectives or indicators set out in EPI / SD requirements, strategies or plans – such as reducing the daily land consumption to 30 ha in 2020 - as point of reference or benchmark in order to increase the weight of environmental aspects.
- Highlight synergies between environmental and opposing interests and possibilities to reconcile interests in order to raise the profile of environment in IA.

2. Process related recommendations

- Strengthen the environmental focus of the IA procedure (in rules and Guidelines) and increase awareness of long-term sustainability objectives by making them an integral part of the assessment process.
- Ensure joined-up policy making through early co-operation between environmental Departments and “opposing” Departments.
- Provide IA training in order to enhance the quality of impact assessment.
- Develop a way to monitor IA practice and check that guidance is put into practice.
- Make choice and comparison of options more transparent, for example by using multi-criteria analysis.

- Include stakeholders from an early stage and make sure that their composition is balanced.

3. Analysis related recommendations

- Ensure timeliness of IA by starting it early so that it can be an integral part the decision-making process and.
- Tier IA in order to create a link between different levels in the policy hierarchy (of special relevance in the EU context if impacts are expected at another level than the IA).
- Make sure that the depth of analysis of environmental impacts is similar to other impacts, and that environmental aspects are equally considered throughout all phases of an IA.
- If data are missing, then try to combine qualitative and quantitative information to get the main message across. If necessary, refer to existing studies in a transparent way and disclose boundaries of transferring these data to the given context.

1 Introduction to this Study

Impact assessment (IA) of policies is a quickly evolving approach used to inform decision-makers of the potential impacts of their planned actions. IA serves the following aims:

- **efficiency** - IA shall ensure objectives are met at least cost, avoid unnecessary bureaucracy, etc.
- **coherence** - IA shall ensure the compatibility of policies from different fields, support and exploit synergies, identify possible conflicts and suggest ways of dealing with them,
- **balance** - IA shall contribute to a balance between different (and potentially conflicting) objectives of sustainable development,
- **transparency** - IA shall make the decision-making process more open, identify underlying assumptions, motivations, interests etc.

The European Commission has developed an Impact Assessment system for the assessment of its own policies.² Motives include establishing more efficient and “leaner” decision-making procedures. Another motive is to ensure coherent implementation of the EU’s Sustainable Development Strategy by requiring that all likely economic, social and environmental impacts of major Commission proposals are considered.

The result should be better policies and environmental policy integration.³ However, not all Impact Assessments accord equal treatment to all dimensions of sustainable development.

At the same time, almost all Member States are implementing, or plan to set up, their own Impact Assessment systems. This is a key action under the National Reform Programmes of the Lisbon Process. Many of the Member State frameworks have recently been amended to explicitly cover environmental, social and economic aspects of a policy proposal.⁴ So the broad picture is of Member States moving from having systems existing on paper to systematic application in practice.

² Communication (COM 2002/276).

³ European Commission 2002: Communication from the Commission: Action Plan „Simplifying and Improving the Regulatory Environment“. COM(2002)278 final.

⁴ Jacob, Klaus et al. (2004): "Ex-ante sustainability appraisal of national-level policies: A comparative study of assessment practices in seven countries". Paper presented at the 2004 Berlin Conference “Greening of Policies? Interlinkages and Policy Integration”. The paper looks at the US, Italy, Austria, UK, EU, Netherlands and Canada.

1.1 Objective and Scope of this Study

Against the background of rapidly evolving IA practice in many Member States and the Commission the focus of this study is on the integration of sustainable development dimensions in IA.

- Firstly, are environmental impacts taken into consideration in integrated Impact Assessments of other policy areas (i.e. those that are not primarily environmental policies)?
- Secondly, is there good practice and if so what are the factors that led to that good practice?
- Finally, what are the potential ways to improve consideration of environmental impacts in IA?

To this end, the Consortium has selected 12 case studies for detailed examination using the following criteria and considerations:

- Existence of an integrated IA system requiring the analysis of environmental impacts;
- Integrated ex-ante analysis of policies or laws that are not primarily environmental and therefore also have economic or social effects but were expected to have severe environmental consequences;
- Balance of legislative areas represented by the policy proposals;
- High number and large extent of expected environmental impacts of the policy proposal.

For the case studies the consortium made use of the following procedures:

- Report analysis – the consortium systematically reviewed each case study.
- Supplementary material – as appropriate, the consortium referenced supplementary material such as results of implemented and ongoing research projects⁵ to augment the case study work.

⁵ Examples include: “Sustainable Development in the European Commission’s Integrated Impact Assessments for 2003,” Final Report, Institute for European Environmental Policy April 2004, Lee, Norman, and Kirkpatrick, Colin, “A pilot study of the Quality of European Commission Extended Impact Assessments”. Working Paper Series, Paper No. 8. Impact Assessment Research Center, University of Manchester, October 2004), Techniques for Evaluation of Sustainability Assessment Tools (Sustainability A-Test), Sustainability Impacts of Trade Policies (SIA-Method), IQ-Tools, MATISSE.

- Interviews – the consortium interviewed parties involved with the selected case studies to understand the assessment process, identify key assumptions, objectives, competing interests and data gaps, and other important features.

1.2 Structure of the Study

The study is based on the analysis of thirteen cases reflecting IA practice of the Commission, various Member States and third countries. The first part of the study consists of an introduction to the concept and roots of IA (Chapter 2). This is followed by overviews on the application of IA in the Commission and the Member States and the relationship of IA to the broader political context. The second part is devoted to the results of the case studies (summarised in Chapter 3). Chapter 4 presents the results of our analysis on how the environment is considered in the Impact Assessment for each case study, and the influence it has on policy and the role of environmental analysis in decision-making. Chapter 5 explores potential explanations and factors contributing to the results. The final part of the study (Chapter 6) synthesises the findings of previous chapters and provides recommendations for ways to improve the consideration of environment in IA.

The text does not explicitly refer to best or worst practice, but instead highlights factors enhancing the consideration of environmental aspects in IA. Furthermore, the text does not aim to give a full picture of all case studies, but rather presents those illustrating the relevant points. For the complete versions of the case studies please refer to Annex II.

2 Impact Assessment – An Introduction

Impact Assessment (IA) is designed to systematically examine intended as well as unintended effects arising from government action. This seems straightforward, but IAs exist in many forms ranging from a focus on business impacts or environmental effects or administrative burdens to an holistic focus, covering all impacts in proportion to their importance.

Also, the point of time in the policy cycle when the IAs are carried out varies. Impacts can either be assessed ex-ante to allow for informed policy decisions or ex-post in order to evaluate the results of an implemented policy with a view towards revision.

- **Ex-ante** IAs examine the *potential* impacts of an action. The results are summarised in an IA report and should be an integral part of decision-making. In this sense, IAs are “an effective tool for modern, evidence-based policy making, providing a structured framework for handling policy problems”.⁶
- In contrast to this, **ex-post** IAs (sometimes referred to as 'evaluations') examine the impacts of government actions after they have already been implemented (and may also consider the *potential* impacts of revisions).

For ex-ante analysis, there is a general consensus⁷ that at its core there is a simple set of common-sense questions: what is the problem; what are the objectives; what policy options are available; what are the economic, social and environmental impacts and costs and benefits of the different policy options. Answering these questions in a detailed and systematic way should lead to the 'best' policy option being chosen.

A coherent classification and approach of IAs does not exist in the literature. In addition to the point of time in the policy cycle further criteria for a systematic distinction are:

- **Subject:** IAs analyse either the impacts *of* policies, plans/programmes, or projects.
- **Impacts:** IAs evaluate impacts *on* business, environment, the administration, gender etc.

Impact Assessments can also be distinguished according to their level of application. The basic questions and principles of Impact Assessment procedures are adapted to the level of application. The most frequently applied in the EU or the MSs, and that explicitly account for the environment are:

- **Level of projects:** Environmental Impact Assessment (EIA)
- **Level of plans, programmes and policies:** Strategic Environmental Assessment (SEA)
- **Level of government policies:** often termed Regulatory Impact Assessments (RIA) in the Member States

⁶ Cf. Mandelkern Group on Better Regulation (2001): Final Report, 13 November 2001, p. ii.

⁷ For example, as proposed by the OECD as best practice.

- **Level of Commission policies:** Impact Assessment (IA) for policies in general along with Trade Sustainability Impact Assessments (Trade SIAs)

The general principles of these analyses are often the same, and they differ only according to the needs of decision-makers. For example, some RIAs may be undertaken as a response to – or fulfil the requirements of - the SEA Directive. Similarly, ex-ante and ex-post studies fulfil very different needs (and this study focuses on the former).

2.1 The Concept of Impact Assessment and its Evolution

The evolution of Impact Assessment (IA) requires consideration of varying approaches that have been applied in the EU and the Member States (MS).

2.1.1 Different Roots

There is no systematic approach to IAs. Therefore, the following does not aim to give a complete overview on the various IA systems in existence but aims to reflect the different roots of the IA systems in place in most countries. Nevertheless, one can identify three pillars that seem to generally build the background for the development of current IA practice. The first pillar is the business-impact perspective, which aims to study the rationale for government intervention and its effectiveness, focussing on administrative burdens and the economic impacts of decisions. Second, there are Environmental Impact Assessment and Strategic Environmental Assessment procedures representing the environmental perspective. ‘Sustainability Appraisal’ builds an important third pillar of Impact Assessment, which originates from environmental policy and thus gives some importance to environmental impacts whilst taking an integrated view considering and reconciling economic, social and environmental aspects.

The **business-impact perspective** stems from the 1970s when, as regulatory reform and deregulation emerged, first attempts were made to understand the nature of regulation and its limits as a policy instrument. Regulatory Impact Assessments (RIAs) - emerging as ‘better regulation’ have become a crucial goal of governments.⁸ Historically they have focused on the costs to business, whether these costs are acceptable and the practicalities of implementation. Their potential weakness has been a lack of consideration for policy coherence and environmental, social or even other economic impacts.

Member States’ activities which can be subsumed under the **environmental perspective** have cumulated in the adoption of the European Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives harmonising the varying approaches at MS level. The EIA aims at assessing the effects of projects on the environment and was introduced in 1985 and was amended in 1997.⁹ The purpose of the SEA-Directive is to ensure that environmental consequences of certain plans and programmes are identified and assessed during their preparation and before their adoption. The Council formally adopted the SEA Directive on 5 June 2001.¹⁰

⁸ Rodrigo Delia (2005): Regulatory Impact Analysis in OECD Countries. Challenges for developing countries. OECD, p.2.

⁹ Cf. EIA Directive (85/337/EEC) and Amended EIA Directive (97/11/EC).

¹⁰ Cf. SEA-Proposal (COM (96) 511 Final) and SEA Directive 2001/42/EC.

Sustainability appraisal includes approaches that are used to integrate or inter-relate the environmental, social, and economic pillars of sustainability (degree of integration) into decision-making (stage of policy cycle) on proposed initiatives at all levels from policy to projects (subject of assessment) and particularly within or against a framework of sustainability principles, indicators, and strategies (benchmark). Sustainability Appraisal has emerged from Environmental Impact Assessments (EIA) by aiming to assess physical impacts of actions at the project level, such as roads or industrial sites as well as from Strategic Environmental Assessments (SEA), by taking place at the political decision-making level for plans and programmes in areas such as land use, transport, waste, energy, and water management.

Against the background of rapidly changing IA practice throughout Europe (see Chapter 2.2.2) many Impact Assessment systems – independently of their original roots – are being revised to reflect all three pillars of sustainable development. Since the origins of many Impact Assessment systems lie either within the idea of better regulation or sustainable development, there is danger of tension between the two separate objectives. The potentially conflicting objectives often reflect political commitments and translating them into practice on the ground may create difficulties. Therefore, unclear political objectives may cause confusion unless clear guidance exists on how to weigh the conflicting objectives. Nevertheless, the decision on which objective prevails will often depend on the author of the IA report.

2.1.2 EU Concept

Apart from providing impulses for MS developments through the SEA and EIA Directives¹¹ the EU itself has developed various sectoral IA approaches and only in 2003 introduced its own IA.

The **Commission's Impact Assessment system** is a rather new instrument.¹² This development was crucial, as EIA applies to *projects*, SEA applies to *plans and programmes*, and both have to be applied at MS and not EU level. In contrast, the Commission's IA system refers to *policies* and has to be applied by the Commission itself. The system explicitly integrates economic, social and environmental aspects – it replaced a number of single issue fiches (business, environment, gender etc), that were felt to have no influence on decisions because they were undertaken separately.

Separate from the Commission's IA, the EU has the **Trade Sustainability Impact Assessment** (Trade SIA) in place that is specifically targeted to assess the impacts of WTO negotiations. The Trade SIA system first began in 1999 to inform a new round of WTO negotiations and predates the EU IA system introduced in 2002.

¹¹ The Environmental Impact Assessment Directive (97/11/EC) and the Strategic Environmental Assessment Directive (2001/42/E)

¹² Cf. Anneke von Raggamby and John Turnpenny (2006): Setting the scene – integrated impact assessment and Commission practice, in: Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 26.

2.1.3 MS Concepts

IA practice in the Member States has been partially shaped by the EIA Directive which refers to the effects of *projects* on the *environment* and is an *ex-ante* IA and the SEA Directive referring to the effects of certain *plans and programmes* on the *environment* and is an *ex-ante* IA. Additionally, some other directives require the conducting of an IA for implementation.

At the policy level, Member States have developed regulatory impact assessments, as well as business impact assessments and environmental impact assessments. Practice varies considerably but there is often a general characterisation of Northern/Southern practices with countries such as the UK, Netherlands and Denmark being seen as having more systematic assessments in place. The Better Regulation discussion is making such policy assessments more widespread.

More recently, MS approaches to IAs assessing laws or policies have developed towards more integrated assessments either by integrating environmental concerns or merging different procedures (e.g. reforming IA processes), in large part due to the emerging sustainability discourse. In Denmark, the Netherlands, Finland, Sweden, the UK and Ireland for example, environmental aspects have been integrated into conventional RIA procedures. Other countries have developed separate environmental appraisal procedures.¹³

2.2 Impact Assessment Applied

2.2.1 The EU Impact Assessment System

Since 2002, the EU has had its own IA system, stemming partly from the European Sustainable Development Strategy (EU SDS) adopted by the Göteborg European Council in June 2001. The Commission's Impact Assessment system is thus quite new, as it refers to *policies*, not projects, plans or programmes and is targeted at the EU, not MS level. Within the EU's Sustainable Development Strategy, the EU "has introduced an Impact Assessment procedure, which (1) applies to all major EU political initiatives and (2) integrates the various impact assessments, which have developed separately over time covering environmental, economic as well as social aspects".¹⁴ It was seen as a merger of Regulatory Impact Assessment (RIA) and Sustainability Impact Assessment (SIA).

The aim is to identify likely positive and negative effects of proposed policy actions. In doing so, more informed political judgements should result, thereby leading to the best instrument and right level of ambition.¹⁵

¹³ Jacob, Klaus et al. (2004): "Ex-ante sustainability appraisal of national-level policies: A comparative study of assessment practices in seven countries". Paper presented at the 2004 Berlin Conference "Greening of Policies? Interlinkages and Policy Integration". The paper looks at the US, Italy, Austria, UK, EU, Netherlands and Canada.

¹⁴ Anneke von Raggamby (2006): Impact Assessment, <http://ivm5.ivm.vu.nl/sat/chapdb.php?id=8>, 29.09.2006.

¹⁵ Cf. Mandelkern Group on Better Regulation (2001): Final Report, 13 November 2001, p. 19.

Although the IA system stems directly from the EU SDS, there were several other influences. As mentioned above, the Commission's IA system originates from various discussions and processes. In order to improve the lawmaking process, the IA system was influenced by the Cardiff Process (1998), the Lisbon Process (2000), the Gothenburg Council (2001), the Laeken European Council (2001), The White Paper of Governance (2001), and the Mandelkern report (2001). The IA system arose within a political context seeking methods to achieve sustainable development.

The Commission's Communication (COM(2002) 276 final) defined the IA system, which was introduced gradually beginning in 2003. The system addresses economic, environmental and social dimensions and is developed as a crucial tool in the decision and lawmaking process of the EU. Existing separate single-sector IAs were thus replaced by an integrated system.

Since 2004, the Commission's IA system has been a two-stage process, consisting of a roadmap and an impact assessment. The earlier "preliminary assessments" were replaced by "roadmaps" to improve the transparency of the process and thus to facilitate the inclusion of other services and the public in the process. The earlier term "extended impact assessment" is replaced by simply "impact assessment" in order to better reflect the principle of proportionate analysis and the fact that certain impact assessments may also remain relatively limited in the second stage.¹⁶

The roadmaps filter the proposals that will be subject to impact assessments. They should be established early in the decision making process, between February and November when the Annual Policy Strategies are finalised for the following year. These statements should include the identification of the problem, objectives and desired outcomes, the availability of data, the need for further data and how to gather them, the regulatory and non-regulatory social, economic, and environmental impact, time and consultation plan, and finally they conclude with a statement for or against first an Inter-Service Steering Group and second further analysis.¹⁷

Based on the roadmap, the Commission decides whether an Impact Assessment is necessary for a proposal or not. The responsible DGs are supposed to carry out these assessments, involve other affected DGs and inform the Secretariat General. This process should provide first, a consultation process with interested parties and relevant experts and second, an in-depth analysis of the potential positive and negative effects.

The Impact Assessments replace previously existing assessments like regulatory impact assessments, business impact assessments, or environmental impact assessments. The results of the Impact Assessments are to be presented in a report, which sets out the justification of the chosen policy option.

So far, around 180 Impact Assessments have been done. All are published along with Guidelines and other information at http://ec.europa.eu/governance/impact/index_en.htm. These range in depth, with the biggest examples often being in the environmental field. A good example is the Thematic Strategy on Air Pollution, which was accompanied by an Impact

¹⁶ Cf. European Commission (2004): Commission Staff Working Paper, Impact Assessment: Next Steps. In support of competitiveness and sustainable development, SEC(2004) 1377, 21 October 2004, p. 10.

¹⁷ Cf. European Commission (2002): Communication from the Commission on Impact Assessment, COM(2002) 276 final, p. 6, European Commission (2005): Impact Assessment Guidelines, COM(2005) 791, p. 7 (document includes March 2006 updates) and Anneke von Raggamby (2006): Impact Assessment, <http://ivm5.ivm.vu.nl/sat/chapdb.php?id=8>, 29.09.2006.

Assessment that used state-of-the-art modelling of economy-environment interlinkages, built upon 3 years of analysis costing several million Euros, was peer-reviewed and extensively quantified and monetised policy effects.

2.2.2 Overview of Impact Assessment Systems in the Member States

The state of information on IA systems in MS is patchy and sometimes contradictory. As mentioned earlier, the IA systems in the MS vary, sometimes significantly. Referring to Table 1, MS have between none (e.g. France) and ten (e.g. Denmark, Poland or UK) measures in the area of better regulation and Impact Assessment. Furthermore, the information available in the Commission's Staff Working Paper (SEC(2005)167) (see Table 1) is not always equivalent with the information we gathered during our own research as presented in Table 2.

These results may be due to the fact that MS practice is very much a 'moving' practice as IA processes are still evolving, or being revised. However, it should also be recognised that it takes a few years before the introduction of an IA system triggers results. Furthermore, the current practical application of IA systems differs sometimes significantly from theoretical models.¹⁸

If the 'Obligatory IAs' in Table 1 are compared with the RIA procedures in Table 2, there are contradictory data for Belgium, Czech Republic, Estonia, Ireland, Italy, Latvia, Lithuania, Luxembourg, Spain, and Sweden, i.e. in ten of 25 countries analysed. Analysing the consideration of environmental aspects in IAs, 11 countries do consider environmental aspects, while three countries plan their consideration or only partly consider them. Three MS do not consider environmental aspects and for the remaining countries there is no data available. These findings show, that only half of the analysed countries do consider environmental aspects in their national IA systems (cf. Table 2).

These contradictions are due to the fact that Impact Assessment practice in the MS varies strongly and the categorisation of procedures and measures is a matter of interpretation. Thus, the different findings show that the processes are very complex and that it is therefore difficult to categorise them in a comparable manner. In addition, the contradictions may simply be due to the dynamics of government action, namely that Impact Assessment practice in the MS has been subject to rapid change in the past few years. More research is necessary on this subject.

¹⁸ IEEP (2005): Workshop on Best Practice in Analysing and Developing Environmental Policies, 15 November 2005, Background Paper, p. 15f.; Jacob, Klaus et al. (2004): "Ex-ante sustainability appraisal of national-level policies: A comparative study of assessment practices in seven countries". Paper presented at the 2004 Berlin Conference "Greening of Policies? Interlinkages and Policy Integration", p. 11.

Table 1 – Overview of measures in the area of better regulation and Impact Assessment

	Better regulation programme	Specific IA policy	Obligatory IA	Alternative instruments considered	Guidelines on IA	Coordinating body for IA	Consultation part of IA	Formal consultation procedures	Direct stakeholder consultation	Tests of impact on small enterprises	Exemptions for SMEs	Total Y+(Y)
Belgium	(Y) ⁴⁶	N.A.	(Y) ⁴⁶	N.A.	(Y) ⁴⁷	(Y) ⁴⁶	N	(Y) ⁴⁶	(Y) ⁴⁸	(Y) ⁴⁶	N	7
Czech Republic	Y	N.A.	N	Y	N.A.	N.A.	N.A.	N.A.	N.A.	(Y) ⁴⁹	N	3
Denmark	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	10
Germany	Y	N.A.	N.A.	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	5
Estonia	N	N	Y	Y	Y	N.A.	N.A.	N	N	N.A.	Y	4
Greece	(Y)	(Y)	N	N	N	N	Y	N	N	N	N.A.	3
Spain	Y	(Y)	Y	Y	(Y)	(Y)	N	N	N	N	N.A.	6
France	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0
Ireland	Y	N	N	(Y)	(Y)	N	(Y)	(Y)	N	N	N	5
Italy	(Y)	Y	N	(Y)	Y	(Y)	(Y)	N	Y	(Y)	N	8
Cyprus	N	N	N	N	N	N	N	N	N	N	N.A.	0
Latvia	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	9
Lithuania	N.A.	Y	Y	Y	Y	N.A.	N.A.	N.A.	N	N.A.	N.A.	4
Luxembourg	Y	N.A.	Y	Y	N.A.	Y	Y	Y	N	N	Y	7
Hungary	Y	(Y)	Y	N	N	Y	(Y)	(Y)	N	N	N	6
Malta	Y	N.A.	N.A.	N	N.A.	(Y)	N	N	Y	N	Y	4
Netherlands	Y	Y	N.A.	Y	Y	Y	N	N	Y	(Y)	Y	8
Austria	Y	Y	Y	Y	Y	N	Y	Y	Y	N.A.	N	8
Poland	Y	Y	Y	Y	Y	Y	Y	Y	(Y)	N	Y	10
Portugal	N	N	N	N	N	N	N	N	N	N	N	0
Slovenia	Y	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	1
Slovakia	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	(Y)	N.A.	N	1
Finland	Y	Y	Y	Y	Y	(Y)	Y	Y	Y	N.A.	N.A.	9
Sweden	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N ⁵⁰	9
United Kingdom	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N ⁵⁰	10
Norway	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N ⁵⁰	9
Total Y+(Y)	20	14	14	16	16	15	14	13	12	7	5	

Legend

Y	Measures exist	(Y)	Measures planned/ Available partially	N	No measures exist	N.A.	Information not available
----------	----------------	------------	---------------------------------------	----------	-------------------	-------------	---------------------------

Source: Commission of the European Communities (2005) 'Commission Staff Working Paper. Report on the implementation of the European Charter for Small Enterprises in the Member States of

the European Union', SEC (2005) 167, p. 36. [In Finland tests of impacts on SME but no exemptions for SMEs exist¹⁹.]

Table 2 – Overview of measures in the area of better regulation and Impact Assessment

	Regulatory IA Procedure ²⁰	Environment ²¹	Comments ²²
Austria	Yes	No	In Austria, law projects are subjected to assessments evaluating the potential administrative costs and the effects on the labour market. There is no general requirement to subject all law projects to an environmental assessment.
Belgium (Federal Level)	Yes	No	
Cyprus	No		
Czech Republic	(Yes)	(Yes)	Interviews suggest that IAs only apply to policies and plans, not to laws. Contradiction with Table 1.
Denmark	Yes	Yes	
Estonia	(Yes)	(Yes)	No separate regulatory Impact Assessment yet. However, Estonian legislation requires in the explanatory part of draft acts an explanation of which effects (this means environmental, social, including costs to public or other sector etc) the implementation of the legislation will cause (information obtained by interviews).
Finland	Yes	Yes	All studies ²³ as well as interviews indicate that there is a RIA procedure in Finland.
France	No		
Germany	Yes	No	
Greece	No		
Hungary	Yes	Yes	Interviews and studies give strong hints that there are RIA procedures in Hungary including environmental effects. ²⁴

¹⁹ Personal information from Mr. Mikael Hilden, Finnish Environment Institute.

²⁰ This column only shows whether a formal requirement for IA of laws/policies exists and not whether it is effectively applied.

²¹ This column shows whether the Regulatory IA Procedure indicated in the first column considers environmental effects of the laws/policies.

²² This column indicates eventual contradictions between different sources of information concerning the existence of an IA procedure.

²³ See first and foremost:
http://www.iaia.org/Non_Members/Conference/SEA%20Prague/SEA%20at%20the%20Policy%20Level.pdf

²⁴ See for example:
http://www.bradford.ac.uk/irq/documents/archive/RIA_Methodology_Hungarian_Ministry_of_Justice.pdf and <http://www.betterregulation.ie/index.asp?docID=66> .

Ireland	Yes ²⁵	Yes	Contradiction with Table 1 (but this can be explained by the fact that practice of RIA is very recent).
Italy	Yes	No	Information by the Italian Ministry of Environment and can also be deduced from some studies ²⁶ Contradiction with Table 1.
Latvia			No information was available
Lithuania			No information was available
Luxembourg			No information was available
Malta	No		
Netherlands	Yes	Yes	
Poland	Yes	No	
Portugal	No		
Slovakia	(Yes)	(Yes)	There is an environmental Impact Assessment on policies, plans and programmes. Moreover, every new act has to include a clause of impacts on environment before the Slovak parliament is adopting it. Information obtained by interviews.
Slovenia	No		We know at the moment that proposed legislation is not generally subjected to an Impact Assessment considering environmental effects, but we are still trying to establish whether there is a general RIA that considers other factors only.
Spain	No		Information obtained by interviews. Contradiction with Table 1.
Sweden	Yes	Yes	
United Kingdom	Yes	Yes	
Australia	Yes	Yes	
Canada	Yes	Yes	
U.S.	Yes	Yes	

Source: Own research, based on literature and law reviews, and on interviews with government representatives.

²⁵ Government decision in June 2005 that RIA should be introduced, there are already guidelines for RIA that are subject to adaptation according to the government's experiences with this new instrument (http://www.betterregulation.ie/attached_files/Pdfs/RIAGuidelines.pdf).

²⁶ For example: Jacob, Klaus, et al., Ex-ante sustainability appraisal of national-level policies: A comparative study of assessment practice in seven countries, S. 6.

2.3 Impact Assessment and the Broader EU Political Context

2.3.1 The Lisbon Process and Sustainable Development Strategy

The Sustainable Development Strategy (SDS) was launched with the Göteborg Conclusions in 2001. The Lisbon-Strategy, stemming from the meeting of the European Council in Lisbon (March 2000), has been closely intertwined with the SDS since. Although progress and results in first five years of the Lisbon-Process were slow, the strategy was revised in 2005 as the Lisbon Strategy for Growth and Jobs. During the last year, progress and reforms have improved significantly.

Although there is no binding EU requirement, it is recommended that MSs conduct IAs on policies in the context of the Lisbon process. The application of Better Regulation rules is a shared goal within the EU and the diffusion of Better Regulation instruments, such as Impact Assessment, is therefore a clearly stated priority of the Strategy for Jobs and Growth and the National Reform Programmes (NRPs) that the Member States adopted in 2005, with the aim of translating the Lisbon objectives into national policy. An increasing number of countries are implementing, or plan to implement, their own Impact Assessment (IA) systems, mirroring what is already taking place in the Commission and in a growing number of Member States.

2.3.2 Environmental Policy Integration (EPI)

Environmental Policy Integration (EPI) is a key instrument for sustainable development. The European Environment Agency (EEA) published a report in July 2005, where Germany, Great Britain, Sweden, and the Netherlands are identified as leading nations for EPI.²⁷

The principle of EPI is based on the assumption that environmental problems cannot be solved by environmental policies alone.²⁸ In addition, there is a need to address the pressures deriving from activities in other sectors, such as agriculture, transport, energy and tourism. Policy activities in these areas often set incentives causing undesired (and unintended) environmental effects. The basic idea of EPI therefore is to integrate these effects into policy decisions with the aim of avoiding environmentally harmful incentives.

²⁷ Finland has an EPI approach through its sustainable development commission and also an explicit demand in its SEA legislation that all policies shall be examined to a sufficient degree from an environmental point of view.

²⁸ The European so-called Cardiff Process for implementing Article 6 of the EC-Treaty has been regarded as a role model for a long time. Although the process has since stagnated, the concept is still of high political relevance. The practice of EPI differs depending on the structural level. At the EU level for example, the inclusion of a provision in the 1997 Amsterdam Treaty calling for the integration of environmental concerns into the definition and implementation of sectoral community policies in many ways marked a "relaunch" of EPI in the EU and in 1998 was followed by a high level political initiative, the Cardiff environmental integration process. Furthermore, EPI has been presented as a central aspect of the 2001 EU Sustainable Development Strategy (EU SDS).

Thus, IA and EPI are inter-linked. On the one hand, IA processes may be crucial for EPI, while on the other hand, the practice of EPI has the potential to enhance environmental considerations in IAs. Synergies of EPI and IA are to be expected because both are to systematically address regulatory aspects otherwise easily being sidelined in policy-making. In contrast to EPI, IA however, works in both directions: environmental impacts have to be considered in other policies and economic and social aspects have to be considered in environmental policies.

3 Overview of the Case Studies

We conducted twelve case studies. In addition to four EU Commission cases, they covered the following Member States: Czech Republic, Denmark, Finland, The Netherlands, Spain, UK and one non-EU country, the USA. Thus, the cases studied represent

- a broad range of policy areas, i.a. transport, agriculture and climate;
- varying strategic orientations, such as laws, policies or strategies;
- geographical diversity including eastern and southern European examples;
- different IA routines ranging from environmentally to economically rooted IA procedures.

The following sections give a concise overview on the cases we studied. All cases represented ex-ante assessments and nearly all of them referred to policies, only the Finnish case referred to a programme. Environmental impacts are an integral part of the IA procedures in most countries, though their consideration in Impact Assessment practice varied.

We analysed tourism policy, namely the Sector Operational Program (SOP) for the Tourism and Spa Industry in the **Czech Republic** where IAs considering environmental aspects are required by a national law dating from 1992. The SOP made the broad strategies of the Czech tourism policy more concrete in 1999. The revised tourism policy took the results of the Impact Assessment into account and was adopted in 2002. Thus, environmental aspects and objectives as well as sustainability-led principles were added to the strategic goals of the tourism policy because of the IA process. In the process of the SEA the team doing the assessment and the Ministry worked closely together so that a consensus was possible. The Czech system is an ex-ante system, referring to policies and plans and only evaluates environmental impacts.

In **Denmark** we analysed two legal proposals, one concerning passenger levies on air travel, the financial promotion of new particle filters and use of excess heat.²⁹ The other legal proposal is the Danish Financial Statements Act, which introduces i.a. environmental accounting duties for enterprises.³⁰ The Danish system is an example of integrated assessment, considering environmental as well as social and economic impacts. The Impact Assessment is part of the legislative process, and its results are submitted along with the law proposal to Parliament. Both laws were proposed in 2005, and as IAs have to be conducted for all Danish laws, both proposals were analysed ex-ante. In the first case, negative impacts on the environment were projected, as flight passengers are predicted to increase as flights become less expensive. Nevertheless, the Parliament tolerated these impacts and adopted the law as proposed. In the second case, positive effects on the environment were projected, as the law was proposed due to environmental considerations. In this sense, the IA procedure has not had a direct effect on the proposal, but Parliamentarians are supposed to have made their decisions with “full information”, and it can be assumed that this procedure

²⁹ The original legal proposal contained those three legal sub-proposals. In the following this law proposal will be referred to as „Reform of air Duties“.

³⁰ This latter case study could only be done in a superficial way due to the lack of information.

raises the environmental awareness of the policy makers even though the extent of this awareness-raising cannot be measured.

The National Climate Change Strategy in **Finland** was subject to an IA. In Finland all policies are required to be subjected to an IA. In 2003, the Finnish government decided to revise the National Climate Change Strategy to take the EU emission trading Directive and the Kyoto mechanisms into account. Thus, the process had a strong environmental focus. In this sense, the IA report deepened the consideration of environmental considerations already made. Furthermore, the report included a survey of attitudes towards climate change among stakeholders and customers. This can be seen as an interesting variant if measures require support to be successful. Like the Czech system, the Finnish approach is an ex-ante system with a strong environmental focus. Social and economic impacts are to be addressed as appropriate. In the National Climate Change Strategy a separate detailed economic assessment was carried out.

In **The Netherlands** - another country with a long tradition of IAs - the transport policy, published in 2004, was chosen as a case study. There is a mandatory procedure in The Netherlands to subject draft legislation to an Impact Assessment, more precisely to an economic and an environmental check. Policies, however, follow a more informal assessment practice. The Dutch Transport Policy Note was assessed by the National Environmental Assessment Agency and the Dutch Bureau of Economic Policy Analysis. The former carried out the environmental impact assessment (but also looked at socio-economic matters such as growth of traffic, traffic security, etc.); the latter was an economic impact assessment. Both IA procedures in The Netherlands are ex-ante and refer to policies or laws. The reports focused on environmental impacts, but considered economic impacts as well. The IA report was discussed in Parliament, informing policy makers.

Spain has carried out a series of Impact Assessments addressing the socio-economic and environmental impact of the enhanced use of biofuels. Spain does not have a mandatory IA process, but the implementation of the EU-biofuels Directive required an IA. Thus, this IA referred to the policy and was carried out ex-ante. Apart from the EU requirement, several IAs have been conducted, but were only finalised after the Renewable Energy Plan 2005-2010 was published. So, the studies will have an effect on the details of the energy policy that is put into practice and will to a lesser extent alter the basic guidelines of the energy policy assessed in them.

In the context of establishing cross-compliance conditions in agriculture, two RIAs, which are obligatory in **UK**, were conducted for two laws (adopted in 2005). The IAs referred to policies, were carried out ex-ante and focused on economic as well as environmental aspects. Crucial findings show that environmental benefits are not considered as much as economic costs, and it is sometimes difficult to identify and quantify detailed environmental impacts. The EU has directed problems and objectives of the legislation, which is why the reports only influenced the policy options. Environmental considerations could not be included at a satisfactory level, as the impacts were not easy to quantify.

The **USA** is not a MS, but nevertheless an interesting case study. Both RIA and EIA are mandatory in the USA, so both have been applied to the legislation on Corporate Average Fuel Economy and CAFE Reform for MY 2008-2011 Light Trucks (CAFE). The RIA and EIA processes took place in 2005 and 2006. The IAs were carried out ex-ante and refer to policies. Though taking place in parallel the two separate analyses were considered in an integrated way in decision-making. Overall, they considered various impacts, among them economic and environmental impacts, although the former were predominant. Similar to the case in the UK, the results were not very satisfactory, as societal or environmental costs and benefits are hard to transform into measurable values.

Finally, we analysed four IAs that were conducted by the European Commission. One of these cases is the **EU Strategy for Biofuels**. This strategy was developed between 2003 and 2006 and consists of the 2003 Biofuels Directive,³¹ Article 16 of the Energy Tax Directive,³² the Biomass Action Plan,³³ released in December 2005, and finally the Biofuels Strategy itself.³⁴ Production and use of biofuels are related to the policy areas of energy, transport, agriculture, and climate protection, and thus are strongly linked to a number of environmental issues. Environmental impacts have been well considered in the IA, although they were not compared with other impacts. The analysis was carried out ex-ante and informed policy makers currently working on the formulation of the strategy. The decision makers chose one of three recommended policy options, but it remains unclear the extent to which environmental or other criteria were relevant for this decision.

The second EU case was the IA of the **EU Rural Development Strategy**, which was released in July 2005. The community strategic guidelines identify the areas important for the realisation of community priorities, in particular in relation to the Gothenburg sustainability goals and to the renewed Lisbon strategy for growth and jobs.³⁵ The guidelines recognise that strong economic performance must go hand in hand with the sustainable use of natural resources. The IA report does not analyse environmental impacts in depth, rather it discusses advantages and disadvantages of the different policy options for the environment. In this sense, the IA was weak, especially because the depth of analysis in general as well as the use of instruments was unsatisfactory. Although the selection of policy options was not based on any sophisticated criteria approach, environmental aspects were considered in the selection process.

We also analysed Impact Assessment of the **Trans-European transport network**. The IA report, released in October 2003, analysed environmental and social impacts only marginally. Although environmental impacts were analysed in the impact statement and although the transport sector plays a crucial role with respect to the environment, e.g. the potential of reducing GHG emissions, they did not play a big role in the decision-making process. The concerns were addressed, but the Impact Assessment stressed the need to deal with environmental concerns on a project level. The decision to choose the recommended scenario was made largely on socio-economic grounds; however, it is worth noting that this model is more beneficial towards the environment than the other policy option.

The **EU Trade Sustainability Impact Assessment (SIA)** is a good example of a case in which environmental issues are explicitly considered in the context of sustainability. The Trade SIA system, which first began in 1999 to inform a new round of WTO negotiations, predates the EU IA system introduced in 2002. Trade SIAs were a new concept at that time, and the methodology continues to be refined. A key finding of this case study is the crucial gap between the IA itself and its role in the decision-making process. Although the IA

³¹ Directive 2003/30/EC of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport (OJ L 123, 17.5.2003).

³² Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for taxation of energy products and electricity (OJ L 283, 31.10.2003).

³³ Communication from the Commission: Biomass action plan. COM(2005)628 final, Brussels, 7.12.2005.

³⁴ Communication from the Commission: An EU Strategy for Biofuels. COM(2006)34 final, Brussels, 8.2.2006.

³⁵ IA report on Community strategic guidelines for Rural Development (SEC(2005)914), p. 4.

analysed environmental (and other) impacts quite satisfactorily, no evidence has been found that the EU-ACP Trade SIA has had impacts on the policy process.³⁶

³⁶ European Commission. 2006. *Africa, Caribbean, Pacific: Regional negotiations of Economic Partnership Agreements*.
http://ec.europa.eu/comm/trade/issues/bilateral/regions/acp/regneg_en.htm

4 Findings from the Case Studies

The following sections present the results of the case studies.

4.1 Consideration of Environment in Impact Assessment Reports

All Impact Assessment reports reviewed in this study addressed environmental aspects in one way or the other.

The consideration of environmental concerns in Impact Assessment (IA) reports varies strongly between the various case studies. From a formal point of view, the IAs that most persuasively addressed the environment were the EU cases “**Biofuels**” and “**ACP**”, **Finland**, **The Netherlands** and the **Czech Republic**. The only unsatisfactory case was the **Danish Finance** case because of the cursoriness of its environmental evaluation in the IA report. The remaining IA reports studied were more or less satisfactory. Despite these comparatively good results a closer look reveals that the overall consideration of environmental aspects in the IA was often low and secondary to economic effects.

Looking at the consideration of environmental aspects in relation to the specific steps outlined in the guidelines of the respective Impact Assessment procedures, the **EU “Biofuels”** and **The Netherlands** case studies successfully considered environmental aspects in all steps of their IA procedure. The **Finnish** example also shows good consideration of environmental aspects in the steps required by its procedure, as does the **EU-ACP** case. The **Czech Republic**, while providing an overall good consideration of environmental aspects, only considers the environment in three out of the five required steps.

For the purpose of this study, we have defined the following steps for an ideal Impact Assessment: problem definition, identification of policy objectives, identification of options, impact analysis, criteria to select options, procedural steps to select options, monitoring and stakeholder involvement. The following gives an overview of the consideration of environmental aspects in the various steps of the ideal IA report:

- The consideration of environment in **problem definition** was good or satisfactory in most cases, with the exception of the Czech Republic, the Danish Finance case and the UK.
- The consideration of environment in **identification of policy objectives** was good or satisfactory in most cases except in the US and Czech Republic.
- Of those countries having identified options at all, consideration of environment in **identification of options** was good in almost all cases. Only in the Czech Republic the identification of options was unsatisfactory.
- Consideration of environment in **impact analysis** was good or satisfactory in all cases except in the UK, Danish Finance and EU rural development cases.
- Consideration of environment in criteria to **select options** was good or satisfactory in only four out of the twelve cases (UK, US, Finland, and Spain). The remaining cases either did not include a mechanism to select options or considered environmental aspects to an unsatisfactory degree (EU Rural, EU TEN and EU-ACP).

- Environment in **monitoring** was only good in Czech Republic / EU biofuels, all others did either not include this or did so to an unsatisfactory degree.
- Environment in **stakeholder involvement** was either good or satisfactory in all but four cases (EU-rural and UK).

4.2 Influence of Impact Assessment on Policy and Role of Environmental Impacts

The influence of the Impact Assessment report on actual policy is not easy to prove and statements in this regard have to be handled with care. The results presented in this report are based on the judgement of the case study authors as well as on interviews with the authors of the respective IA reports.

In general the influence of IAs on the final policy choice is hard to determine. Perhaps the most authoritative study on the influence of impact assessments comes from the UK,³⁷ and suggests that in more than half the cases they lead to significant – and sometimes dramatic – changes in the policy proposal. This evidence seems to be supported by feedback from the Commission and other such analyses.

The scope of this study did not allow us to ultimately determine when the Impact Assessments affected the policy proposals. However, we determined that most IAs did play some role in the decision making process. The number of cases where environmental concerns at least in some way influenced the final policy choice was harder to determine. However, in eight out of twelve the IA were considered to play a role in decision-making by case study authors, while in three the identified environmental impacts seem to have influenced the final policy decision at least to some extent.

For example, in the **Czech Republic**, environmental aspects were only included in the final policy due to the results of the prior Impact Assessment. The assessment therefore played a decisive role for the consideration of environmental aspects in the final policy. In **Finland** the IA did not have as much of a predominant influence on the final policy choice as in the Czech Republic but its findings were summarised in the final climate strategy and the assessment was considered to have influenced at least some issues in the strategy. In the **EU Biofuels** case the influence of the environmental findings of the IA on the policy choice was less obvious than in Finland and the criteria that were most relevant for the final decision remained ambiguous. It is likely, however, that the decision was made on the basis of positive socio-economic impacts rather than for environmental reasons. Although environmental impacts were not considered in the final policy decision in **The Netherlands**, environmental impacts shaped the debate foregoing the policy decision. In the **US**, the policy proposal was revised – though not in response to the environmental impacts identified – but rather as a result of the draft RIA.

³⁷

http://www.nao.org.uk/publications/nao_reports/04-05/0405341.pdf

CASE STUDY EXAMPLES

Czech Republic – Strong influence on the policy

The analysis of environmental impacts did influence the policy choice. The key outcomes of the Strategic Environmental Assessment of the Tourism Policy were as follows:

- Revisions were made to the list of tourism issues;
- A strategic target referring to environmental protection was added; and
- A monitoring and evaluation scheme was incorporated to allow checks to be made on lower-level actions.

Practice-related outcomes were reported as follows:

- Promotion of greater inter-Departmental and Ministerial co-operation and understanding of environmental issues in the sector;
- A change of attitudes toward the environment in general in the Ministry and related departments involved in tourism, resulting in the incorporation of sustainability issues.

The SEA procedure was the only reason that environmental aspects have been considered in the Policy/SOP.

Finland – influence on some issues of the strategy

The consideration of environmental impacts has been an integral part of the National Climate Strategy. The IA focused predominantly on environmental impacts and was not part of an assessment of social and economic impacts. According to one of the authors of the IA report, the assessment influenced some issues in the strategy, in addition to the main findings that were summarised in the strategy.

EU Biofuels – influence on policy expected

The Impact Assessment on the Strategy for Biofuels was carried out ex-ante and informed policy makers working on the formulation of the strategy. The Strategy recommends one of the three policy options analysed by the Impact Assessment, namely the second option “regulated market-based approach”.

The analysis of environmental impacts was certainly considered as part of the decision-making process, since they feature prominently in the Impact Assessment. However, it is not indicated which criteria – environmental or other - were most relevant for this decision, and it is likely that the socio-economic impacts, for example, on fuel supply, agricultural markets, and employment also played an important role.

The Biofuels Strategy contains a section on “capturing environmental benefits”. The measures announced under this heading clearly address issues identified as potentially problematic by the Impact Assessment. The Commission will

- examine how biofuel use can contribute to reduce CO2 emissions for car fleets; explore and possibly propose measures to ensure optimal greenhouse gas benefits. The Strategy thus reacts to the finding of the Impact Assessment that

the extent of reduction differs between different feedstock and between policy scenarios.

- work to ensure the sustainability of biofuel feedstock cultivation in the EU and third countries. Concerns raised in the Impact Assessment that feedstock cultivation may have negative environmental consequences in the EU and developing countries are thus addressed. However, measures to be taken are not fleshed out in any detail, and reference is made to the cross compliance rules under the Common Agricultural Policy (CAP).

With regard to developing countries, the Commission will

- examine how the EU can assist the development of national biofuel platforms and regional biofuel action plans that are environmentally and economically sustainable.

Environmental concerns raised by the Impact Assessment on the EU Strategy on Biofuels are also influencing the further development of EU biofuels policy. The public consultation process carried out with regard to the review of the Biofuels Directive asked stakeholders for their opinion on the design of a certification system to ensure that cultivation methods meet minimum environmental standards.

Netherlands – influence in the debate

Environmental impacts seem not to have played a major role in the final policy decision. However, the relatively favourable environmental impacts of the kilometre charging proposal have been used in the debate to support the importance of this proposal.

USA – Environment considered but no influence on the policy

The analysis conducted in the RIA was part of the decision-making process and the policy proposal was revised as a result of the draft RIA. However, environmental aspects did not play a role in the changes because no severe negative impacts were identified and the economic value of the environmental impacts was considered to be much smaller than the other effects. The pollution costs were valued lower than the saved refuelling time and the lifetime savings in fuel expenditures. Therefore, the final policy choice was not influenced by the analysis of environmental impacts.

4.3 Lessons learned

- Impact Assessment practice varies considerably as does their quality.
- Good consideration of environment in Impact Assessment of other policy areas is rare.
- Impact Assessments can and do influence the policy decision. Obviously, the more thorough they are, the more likely they are to influence policy.
- Impact Assessments can lead to environmental policy integration. There was some evidence of this in the case studies, though it was not always the case.

- The consideration of environment in problem definition, identification of policy objectives, and identification of options seems not to cause problems in practice.
- The consideration of environment in impact analysis, in criteria to select options and in monitoring proves to be difficult.
- The involvement of stakeholders and the consideration of environment therein was satisfactory in nearly all cases.

5 Analysis of Member State Practice

The following sections examine potential reasons for the results presented above. Explaining results based on the consideration of the environment in Impact Assessments need to be handled with care because the subject of the law or policy may not have significant environmental impacts. Determining whether there is justification for environmental aspects to be given less or no attention, compared with other aspects in the various cases, is beyond the scope of this study.

5.1 Factors related to the Impact Assessment context

The following sections present factors expected to explain the case study findings above that are related to the Impact Assessment context. They include:

- the existence of high level EPI requirements, SD Strategies or Environmental Policy Plans,
- the policy area and structural conflicts expected to emerge from tensions between the policy area and environmental policy issues.

5.1.1 High Level EPI Requirement & SD Strategies or Environmental Policy Plans

The existence of high-level requirements for environmental policy integration and sustainable development strategies or environmental policy plans is expected to enhance the consideration of the environment in Impact Assessment. This may either be due to the fact that such requirements, strategies or plans raise the political profile of environmental aspects in general and thus also in IA, or that IA can benefit from the existing routine by taking account of environmental aspects. Furthermore, the objectives or indicators formulated in such requirements, strategies or plans may provide a point of reference or benchmark when balancing the various expected impacts.

Of the twelve cases, the **US** and **Spain** are the only countries that do not have a legal or political requirement to integrate environmental policy concerns into other policies. The same applies to the requirement of aligning policy proposals with the national sustainable development strategy or a national environmental policy plan. Although the US has no official high-level requirement for policy integration, the consideration of environmental concerns in the regulatory process is ensured by assessing the environmental impacts of proposed policies in the form of an Environmental Impact Statement, which is being integrated into the Regulatory Impact Assessment procedure. Although the objective to incorporate environmental concerns into the regulatory process is non-binding, Environmental Impact Statements are an integral part of decision-making practice in the US. In addition to the US, IA (often in the form of environmental or strategic environmental assessments) is used as a way to integrate environmental considerations into all policy sectors as in **Finland** or the **Netherlands**. The remaining countries either have EPI requirements, sustainable development or environmental policy plans in place. In these cases IA is often an integral part of the requirements or strategies as a means to achieve sustainable development or environmental policy integration.

Since case studies did not give evidence that the quality of examining environmental aspects varies according to the existence of EPI requirements, sustainable development strategies, or environmental policy plans, there does not seem to be a strong correlation between these two aspects. Therefore, there is no indication that the mere existence of such requirements or strategies increases the consideration of environmental concerns in IA. They do however, give weight to IA and could provide an important starting point for enhancing the role of environmental issues in IA.

CASE STUDY EXAMPLES

The US: No EPI Requirement, Sustainable Development Strategy or Environmental Policy Plan but IA instead

In the US there is no high-level requirement to integrate environmental issues into other policies at government level and no national sustainable development strategy or environmental policy plan. In June, President Clinton established “The President’s Council on Sustainable Development” (PCSD) to advise him on sustainable development and develop “bold, new approaches to achieve our economic, environmental, and equity goals.” In the 1990s the Council has been asked to create a sustainable development program that is grounded in the Bruntland commission definition.³⁸ The Council stopped working before it was able to issue a sustainable development strategy.

Although the US has neither an environmental policy integration requirement nor a sustainable development strategy, the National Environmental Policy Act (NEPA) establishes a non-binding national objective to incorporate environmental concerns into the regulatory process. In section 102 it “requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach”.³⁹ Environmental Impact Statements (EIS) are used to reach this goal. All federal agencies are required to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions significantly affecting the environment.

EU-Rural Development: EPI Requirement, Sustainable Development Strategy exist and require IA

There is a high level requirement to integrate environmental objectives in agricultural policy. This was already stated in the Cardiff Strategy, but is continuously stressed (e.g. through CAP). Furthermore, there is an indirect requirement to align policy proposals with the European Sustainable Development Strategy (EU SDS), which was adopted by the Gothenburg European Council in 2001. The EU IA system stems from this strategy, as it is the means to ensure that policy proposals are not assessed against the goals of Sustainable Development.

³⁸ <http://www.agiweb.org/legis105/pcsd.html>

³⁹ <http://www.epa.gov/compliance/basics/nepa.html>, NEPA Website

5.1.2 Policy Area and Structural Conflicts

Examining the policy area will either show synergies or tensions emerging from conflicting interests between the policy area and environmental policy issues. Synergies will be expected to facilitate while conflicting interests are expected to aggravate the consideration of environmental issues in IA practice.

The cases we looked at covered a range of policy areas including agriculture, transportation, tourism, finance and taxation, energy, trade and climate. Case studies, however, showed that the conflict potential of the given policy area and environmental protection is more telling than the policy area itself. The twelve cases we looked at demonstrated varying constellations of conflict with environmental issues. In some cases strong conflicts outweighed synergies, in others conflicts and synergies existed alongside, while in other cases synergies prevailed.

The **Danish Reform of Air Duties** case is an example where a high conflict potential exists. The comparatively good quality of the Impact Assessment appears to be due to the good co-operation between departments in Denmark. The **US IA** is a case where conflicts exist alongside synergies. Although the synergies were recognised in the IA, environmentally harmful impacts were not identified, thus the synergies did not influence the policy decision. Like the US case, the **Czech Republic** case exhibits conflicts as well as synergies, although in this case the synergies were perceived to clearly outweigh the conflicts.

The case studies show that a policy area opposed to environmental protection and a high conflict potential does not necessarily have negative consequences for the consideration of environment in IA as long as tensions are recognised and opportunities to highlight synergies are used.

CASE STUDY EXAMPLES

High Conflict Potential: Denmark – Reform of Air Duties

All three components of the Danish reform of Air Duties are characterised by a high conflict potential.

- Reduction and abolition of air duties: It is the primary objective of the Danish government to enhance the economic capacity of the regional airports. Therefore, plane trips will be rendered cheaper with the short-term abolition of passenger fees. This policy is intended to foster air travel at the expense of other ways of travelling. This conflicts with climate policy objectives.
- Reduction of registration fees for new diesel cars: Registration fees are first and foremost a source of revenues for the Taxation Ministry. On the other hand, high fees might discourage citizens from purchasing new cars with new filters. Hence, there is a potential conflict between finance policy and the promotion of environmentally less harmful products.
- Reduction of CO₂-tax and energy tax on the use of excess thermal energy: Generally, there is a sophisticated tax system on energy production in Denmark. This tax generally provides a source of revenue for the public budget but it also fosters environmental aims as it makes energy production and waste of energy more costly. For the energetic use of excess thermal energy, however, the tax

was lowered in order to foster efficient energy production. The conflict lies again in the different aims of Finance Policy and Environmental Policy.

For all three matters, the co-operation between Danish ministries is said to be professional, especially between the Ministry of Taxation and the Ministry of Environment.

High conflict potential but oil market development creates synergies: USA - Corporate Average Fuel Economy and CAFE Reform

The CAFE regulation for automobile fuel economy arose not as a response to environmental issues and concerns, but as a response to the Arab oil embargo in 1973 and the resulting economic turmoil. Congress instructed that CAFE standards should set fuel economy at the “maximum feasible level” considering technological feasibility, economic practicability, effect of other standards on fuel economy, and the need of the nation to conserve energy.⁴⁰ These factors consider the strategic importance of greater fuel economy for cars and light trucks, and do not expressly instruct consideration of specific environmental impacts.

However, the regulation of fuel economy in light trucks directly relates to the environment by affecting the emission of green house gases (GHG) and other pollutants through the burning of fossil fuels. Higher fuel economy in light trucks limits the emissions of GHG whether intended or not. This obvious synergy between transport and environmental policy, however, has not always been incorporated into the US transportation policy.

When the Department of Transportation was established in 1966, the Department’s mission was mainly to serve the United States by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets vital national interests and enhances the quality of life of the American people. However, in the late 1980s it was recognised that the national transport system also needs to maintain the environment. The most recent developments on the oil market shed new light on the relationship between environmental and transportation issues in the US. Fuel was comparatively cheap in the past and cars in the US often are characterised by a high fuel use. Increasing oil prices pose an incentive to the automotive sector in the US to save fuel, which at the same time contributes to limit environmentally harmful emissions.

Both developments, however, were not causal for the contents of the CAFE regulation.

Synergies Prevail: Czech Republic – Tourism Policy

An intact and attractive environment is an asset for local tourism. Environmentally healthy areas are normally ideal places for recreation. At the same time, unrestrained tourism constitutes a danger for the environment. Enhanced tourism causes more traffic, construction activities, waste, etc. This may diminish the attractiveness of certain regions, especially where a surplus of construction activities has a negative effect on the landscape of a certain region.

Therefore, tourism policy generally aims to foster tourism where tourism does not harm the environment and in a way that does not cause negative environmental

⁴⁰ *Corporate Average Fuel Economy and CAFE Reform for MY 2008-2011 Light Trucks*, page IV-1

effects. The objective is to ensure the long-term stability of the environmental balance in the different tourism regions. Important factors are environmental soundness of tourism, protection of resources, sparing of infrastructure, and harmony with the landscape and reduction of waste.

The consideration of all these aspects results in the concept of sustainable tourism. Sustainable tourism in the Czech Republic is not dominated by environmental considerations. Instead, the primary objective of sustainable tourism remains the attraction of tourists into the Czech Republic. Yet, as the EIA Act in the Czech Republic requires, tourism policy has to take into consideration environmental aspects and sets environmental targets.

5.1.3 Lessons Learned

- EPI is recognised as being important and environmental policy plans or sustainable development strategies exist in most countries but neither seems to have significant effects on the consideration of environmental concerns in the Impact Assessment. Many countries use integrated IAs as the practical means of environmental policy integration.
- The conflict potential strongly varies across cases. Cases that demonstrate a high conflict potential do not necessarily lead to unsatisfactory results with regards to the consideration of environmental aspects in the IA. Even in cases where high structural conflicts exist, the consideration of environmental aspects in the IA may be satisfactory.
- EPI requirements, environmental policy plans or sustainable development strategies are expected to strengthen the consideration of environmental aspects in IAs, but seem to play a less prominent role in IA practice than expected. This is in contrast to the conflict potential criterion where high potential conflicts were expected to have a negative influence on the consideration of environmental concerns in IA results. This, however, did not show in practice.

5.1.4 Factors enhancing the Consideration of Environmental Aspects in Impact Assessment

- Use objectives or indicators formulated in EPI / SD requirements, strategies or plans in as point of reference or benchmark when balancing expected environmental, social and economic impacts.
- Highlight approaches reconciling conflicting interests.
- Promote good co-operation among different agencies to help resolve conflicts and may help to overcome conflicting interests between the given policy area and the environment.

5.2 Factors related to the design of the Impact Assessment procedure

This section analyses the results of the case studies in view of the design of the Impact Assessment procedures as set out in the different countries. The aspects related to the design of the Impact Assessment procedure studied addressed the following issues:

- focus of the Impact Assessment procedure
- ownership of procedure
- existence of Impact Assessment obligations and guidelines
- completeness of the assessment
- role of Impact Assessment in decision-making

5.2.1 Focus of the Impact Assessment procedure

The background and focus of the respective Impact Assessment procedure is likely to influence the extent to which environmental considerations are taken into account. An economically focused IA system for example is likely to take less account of environmental impacts than an integrated or environmentally focused procedure.

The background and focus of the different procedures we looked at in the case studies varies. Generally, the IA systems can be divided into three categories: integrated impact assessments; integrated impact assessments with a business focus; and assessments with an environmental focus.

Of the twelve cases, nine cases had an integrated system of which two were economically focused. Three IAs focused on environmental aspects. All integrated impact assessments - regardless of their focus - ranged from unsatisfactory to good results with regard to the consideration of environmental impacts in the assessment but the focus did not show any influence on the final policy decision.

The EU and the UK for example have chosen an integrated approach to assessments. While in the **UK** the original focus of its RIA system was to reduce costs to business and other selected sectors, the system was recently changed into a more integrated system to address economic, social and environmental impacts on an equal footing. The **EU** system however was integrated from the start, although economic and administrative aspects have always been important and have been emphasised further in response to the review of the Lisbon process.

The **US** Regulatory Impact Assessment system is an example for an economically focused system. In addition, it aims to reduce administrative burdens. Environmental impacts are not analysed in depth. This is usually done by an Environmental Impact Statement (EIS) conducted in parallel to the RIA, and its results are then integrated into the RIA.

Examples of environmentally focussed Impact Assessment systems are the **Czech Republic** and **Finland**. In both cases the IAs were triggered by EU requirements. In Finland the assessment was done in response to the Strategic Environmental Assessment Directive. In the Czech case a national law as well as the EU requirement to assess environmental impacts of Structural Fund projects triggered the Impact Assessment.

The environmentally focused procedures naturally had the best consideration of environmental aspects and were likely to influence the final policy decision with regard to the consideration of environmental aspects therein. It is harder to determine the influence on environmental issues of integrated assessments, though the evidence seems to suggest that they also have an effect, if environmental impacts were analysed equally to the other impacts.

CASE STUDY EXAMPLES

UK – From economic focus to integration

RIAs are required for all forms of government intervention that impose or reduce costs on businesses, charities, and the public and voluntary sectors. In April 2004, the RIA system moved towards a more integrated approach by incorporating a sustainability appraisal tool called integrated policy appraisal, developed by DEFRA. RIAs should now consider economic, environmental and social costs and benefits, alongside business and administrative costs. However, a report by the National Audit Office (NAO) published in May 2006 found that most RIAs it analysed did not handle sustainable development concerns well. 'Few identified all social and environmental impacts they might have been expected to cover. Social and environmental impacts were often not analysed in sufficient depth'. The NAO questioned whether RIAs were the appropriate vehicle for considering sustainable development concerns – but in the absence of a viable alternative, it made a number of suggestions for incremental improvements.⁴¹

USA - RIAs with a business focus

Executive Order 12866 issued by President Clinton in 1996 requires "an economic analysis of proposed or existing regulations that should inform decision makers of the consequences of alternative actions." According to the guidelines set out in Executive Order 12866, the RIA should take into account the net benefits to society, including potential economic, environmental, public health and safety, and other advantages. Although the US RIA does not explicitly require that the Impact Assessment analyse environmental concerns in depth, in practice such a requirement exists since the EIS is done in parallel with the RIA and the results of both assessments should be integrated if relevant.

Czech Republic – Environmentally focused IA

There is a specific law in the Czech Republic called the Assessment of Environmental Impacts that makes Impact Assessments of "concepts", including policies for certain sectors (i.e. tourism) mandatory. The Impact Assessment was carried out in the year 2001/2002. The requirements of EU Directive 1260/99 laying down general provisions on the Structural Funds had to be taken into account as well. This Directive stipulates an environmental ex-ante appraisal of schemes co-

⁴¹ *Regulatory Impact Assessments and Sustainable Development*, National Audit Office, May 2006 www.nao.org.uk/publications/nao_reports/05-06/ria_sustainable.pdf

financed by European funds. No legal requirement for the integrated assessment of economic, social and environmental aspects exists.

5.2.2 Ownership of procedure

The ownership of the procedure influences the political commitment of a given country towards its Impact Assessment system. If the system is 'owned' at high-level (e.g. by the Prime Minister's office) assessments are expected to be of higher political relevance than if it is owned by the Ministry of Environment. Whether a high political commitment facilitating the consideration of environmental issues exists clearly depends on the assertiveness towards the environment at this level.

Our cases showed three different ownership constellations: High-level ownership in co-operation with the sectoral departments, ownership by the Ministry of Environment, and ownership by other departments. Out of the twelve cases, seven procedures were owned at high level; two by the Ministry of Environment; and three by the Ministry issuing the respective policy or legislation.

The **UK**, **EU** and **Denmark** belong to those countries having an Impact Assessment procedure owned at high level. The actual IAs are carried out by the department issuing legislation or policies that are usually accountable to the high-level body owning the procedure. In the **Czech Republic** and **Spain** the procedures or the responsibility for the Impact Assessment were held by the Ministry of Environment. In the Finnish, the EU-ACP as well as in the Dutch case other Departments were responsible for the procedure or for carrying out the Impact Assessment. Although in all three cases responsibility was with other Departments the actual division of work varied. In **Finland**, the Ministry, which owns a policy, has discretion over the SEA, etc. of this very policy. In the **EU-ACP** case the IA procedure is owned by DG Trade, which also carried out the IA studied. In the **Netherlands**, the Ministry developing the legislation was responsible for carrying out the assessment. The assessment itself, however, was done by the National Environmental Assessment Agency and the Dutch Bureau of Economic Policy Analysis. The former carried out the environmental Impact Assessment (but also looked at socio-economic matters such as growth of traffic, traffic security, etc.), the latter the economic Impact Assessment.

With regard to the consideration of environmental impacts there seems to be no strong relationship between the ownership and the result of the Impact Assessment. The two cases having been considered by the case study authors to influence the policy decision and the consideration of environmental aspects therein were owned by the Ministry of Environment and by the Ministry of Trade and Industry.

CASE STUDY EXAMPLES

Denmark – Ownership at high level

A general Regulatory Impact Assessment (RIA) procedure has been in place in Denmark for over ten years. The basis for this IA procedure is a circulation of the Danish Prime Minister's Office laying down the details of the procedure. The Impact Assessment is undertaken by the Ministry responsible for a proposed law. All

relevant ministries have the opportunity to give their view. Furthermore, in the drafting process of new legislation the text is often drafted together with other relevant ministries or agencies. For the environmental assessment, the co-ordinating Ministry decides whether the Ministry of the Environment has to be consulted or whether it takes care of the assessment itself.⁴² In the case of the law project described in this report, the Ministry for Environment was not consulted.

Czech Republic – Ministry of Environment is Responsible Body

The Ministry for Environment had initially stated that an Impact Assessment had to be completed for the Tourism Policy and SOP. The Ministry for Regional Development actively took part in the Impact Assessment process.

EU-ACP – DG Trade owns the IA

The Impact Assessment procedure used was developed in consultation with the European Commission. In March 2006, the European Commission published the *Handbook for Trade Sustainability Impact Assessment*, which describes the methodology of Trade SIAs conducted for the Commission, and highlights the key issues and principles involved.⁴³ This is the procedure used in the EU-ACP Trade SIA.

Netherlands – Ministry of Transport owns the IA

In case of IAs of policies the department responsible for the policy decides whether to carry out any kind of Impact Assessment. After the decision is taken some departments do the IA on their own, some departments contract consultants, or studies are carried out by scientific organisations like the Dutch National Assessment Agency, the Bureau of Economic Policy Analyses or other bureau with a standard and reputation in IAs. The Ministry of Transport commissioned the Impact Assessment that we analysed. There is no authority “co-ordinating” the Impact Assessments.

5.2.3 Existence of Impact Assessment Obligations and Guidelines

It is more likely that IAs are done well and will consider environmental aspects if the procedure is set out in the form of guidelines, and if environmental aspects are explicitly required to be addressed in the Impact Assessment reports. Mandatory assessment systems are expected to have guidelines rather than ad-hoc voluntary assessments. In cases where no guidance exists, structuring the assessment is up to its author and environmental considerations may be sidelined in consequence.

⁴² The Ministry for the Environment does not have a record enumerating all cases where it has been consulted, so no number can be given if it is regularly consulted or not.

⁴³ European Commission. 2006. *Handbook for Trade Sustainability Impact Assessment*. http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127974.pdf

Of the nine countries we looked at only one did not have a mandatory Impact Assessment system for the ex-ante analysis of laws and policies. Irrespective of whether IAs are mandatory or not, guidelines do not exist in all countries. Three of the IAs studied did not follow a prescribed procedure and therefore no requirement to consider environmental concerns exists in these countries. Only one of the countries providing IA guidelines did not require an in-depth analysis of environmental issues.

The only country not having a mandatory Impact Assessment system is **Spain**. The IAs we studied for the purpose of this report was done in response to the requirements of the EU Biofuels Directive. Another reason is that Spain is a major producer of biofuels and wants to test its potential for the national market. Since there is no requirement in Spain to assess impacts of policies, there was no official guidance on how to do the IA. In practice the IA was conducted according to UN ISO standards laying down formal and procedural requirements for Life Cycle Assessments.

In addition to Spain, which did not provide official guidance since it has no mandatory IA system in place, the **Czech** and the **Dutch** cases also did not provide guidance. The Dutch case, however, is not representative of the Dutch IA practice since the IA system is only applied to policies and not laws. For laws, a more elaborate system that also covers environmental aspects applies. The policy assessment we looked at addressed this gap by “borrowing” elements of the IA procedure for laws. A similar mechanism was observed in the **US**, where guidance does not require an in-depth analysis of environmental issues. In practice, however, consideration of environmental concerns is ensured by an Environmental Impact Statement to be conducted in parallel with the RIA. The **EU** is an example for a mandatory system providing detailed guidance, which also includes environmental aspects. Most of the remaining countries also have guidance in place that includes environmental issues.

There seems to be no significant relationship between the existence of guidance and the consideration of environmental aspects in the IA or in the final policy decision because even in cases where no guidance exists or guidance does not require an in-depth analysis of environmental aspects, good results regarding the consideration of environmental aspects were achieved. In cases where the requirement to analyse environmental issues is neglected the reason may be that guidance is often not being followed closely when conducting the IA. Whereas in cases where environmental aspects are being considered well, despite guidance not explicitly requiring their analysis, assessments were found to recur to other – as in the US case - or make use of elements of other procedures– as in the Dutch case.

CASE STUDY EXAMPLES

Spain – Voluntary IA in Response to EU Requirement

A general mandatory Impact Assessment procedure for laws/policies in general does not exist in Spain. Nevertheless, Spain has carried out a series of Impact Assessments that address the socio-economic and environmental impact of the enhanced use of biofuels.

One reason for carrying out the assessments was the implementation of the EU biofuels Directive. The directive requires Member States to consider the overall climate and environmental balance of the various types of biofuels and other renewable fuels. Member States may give priority to the promotion of those fuels showing a very good cost-effective environmental balance while also taking into

account competitiveness and security of supply. In addition to the EU requirement, the report of “Life Cycle environmental benefits of biodiesel production and use in Spain” mentioned that the assessment was carried out in order to support the Spanish Ministry of the Environment in its biofuels promotion policies with the aim to identify best practice options for the use of biofuels.

Netherlands – Borrowed Guidelines

In the Netherlands draft *legislation* is subject to an Impact Assessment on a mandatory basis. While these checks are applied to draft legislation, new broad and future-oriented *policies* are assessed on a voluntary basis.

Policies are assessed in a more informal fashion. An IA for policies does not follow the same guidelines as the mandatory IA of proposed legislation. In the procedure for laws several tests have to be made (i.e. the Environmental Test (E-test), Business Effects Test and Enforceability and Feasibility Test). In the end, there is the Legislation Test by the Ministry of Justice. Together with the Helpdesk on Draft Legislation they check if the information on intended and unintended effects is sufficient.

Since there is no formally established procedure for assessing impacts of policies, some policy assessments follow (elements of) the procedure and methodology of the E-test or Business Effects Test or follow (elements of) the EIA-procedure of the Environmental Act (based on the EU directives for EIA or SEA).

EU – Mandatory IA based on Guidance

Since 2003 there has been an obligatory IA system within the EU. But although IA reports are desirable for all policy proposals, a formal IA is only required for items on the Commission’s Work Programme (WP). This includes all regulatory proposals, White Papers, expenditure programmes and negotiating guidelines for international agreements (with an economic, social or environmental impact). In addition, the Commission may, on a case-by case basis, decide to carry out an Impact Assessment of a proposal that does not appear on the WP.⁴⁴ Key analytical steps on how to do an IA are set out in a Commission Communication.⁴⁵

5.2.4 Completeness of the Assessment

The mere existence of guidance, as studied in the previous section, does not tell much about its actual requirements and how it is applied in practice. The provision of guidance can be judged according to two different criteria; the first question is whether all steps have been addressed and the second concerns the quality of addressing each single step. Thus, if all steps are being addressed in an assessment and the analysis is of good quality, it can be expected to result in a good consideration of environmental aspects.

⁴⁴ Impact Assessment Guidelines, (SEC(2005)791), updated March 2006, p. 6.

⁴⁵ Impact Assessment Guidelines, (SEC(2005)791), updated March 2006.

The cases studied reviewed the different sections that an ideal Impact Assessment report should include.⁴⁶ All but one procedure do not embrace this structure fully, but select only some of the steps either explicitly or implicitly. Out of the cases studied, only the **EU** procedure addressed all steps of the ideal IA. In practice, however, the actual application of these steps in the IA reports varies strongly. Some EU IA reports do stick to the steps closely but fill them poorly in terms of content. Others neglect the procedure but are of good quality nevertheless. The **UK** is another example for detailed guidance not being applied fully. Although Cabinet Office guidance sets out a formal RIA procedure, neither of the two RIAs studied for the purpose of this report included the level of detail set out in the Cabinet Office Guidance.

Specifically, the case studies showed the following results:

- **Problem definition & identification of policy objectives:** Most countries defined the policy problem and identified policy objectives in their IA procedure or in Impact Assessment practice.
- **Identification of options & criteria to select options, procedural steps to select options:** Options were identified in most countries except in the **Czech Republic** and **Denmark**. The procedure on how to select options, however, often remained ambiguous. In **The Netherlands** and **the EU biofuels case** options were identified but the case study did not specify how the final option was chosen. The **UK** and the **US** case studies both are examples for the identification of options and the use of criteria to select the final options. The role of environmental criteria therein, however, in both cases was weak.
- **Impact analysis:** Impact analysis was foreseen and completed in nearly all countries studied.
- **Monitoring:** Monitoring was not explicitly required in the **US, Denmark, The Netherlands** and **Spain**. Most of the remaining countries addressed monitoring.
- **Stakeholder involvement:** Stakeholder involvement was not explicitly mentioned in the **Danish** and the **Dutch** cases we studied. Most of the remaining countries we studied, however, consulted the public.

There is no clear indication on how the completeness of the Impact Assessment procedure relates to the consideration of environmental aspects in IA since the main problem seems to be its application. Following the steps of the given IA procedure closely however seems to have a positive impact on the result of the Impact Assessment.

As to the single steps of the IA procedure the findings on option identification and public consultation are the most interesting.

Identification of options: Many countries identify options but the way that the final policy choice is made either remains ambiguous or environmental aspects do not play a role in the final policy selection. If environmental aspects play a more prominent role in option selection, it is expected that the environment will be better considered in the final policy choice.

Public consultation: It has been assumed that extensive consultation facilitates the consideration of environment. However, the case study results show that even in cases

⁴⁶ Problem definition, identification of policy objectives, identification of options, impact analysis, criteria to select options, procedural steps to select options, monitoring and stakeholder involvement.

where environmental groups strongly participated in the Impact Assessment, they did not have much influence on the issues considered in the IA or the final policy choice.

CASE STUDY EXAMPLES

EU - IA System and Incomplete Assessment

The EU IA system is divided into a two-stage process. In the first step a so-called roadmap filters the proposals that will be subject to Impact Assessments. The latter is then carried out by the responsible DG, taking the views of other affected DGs into account and informing the Secretary General.

Key analytical steps in Impact Assessments are:

1. Identifying the problem.
2. Defining the objectives.
3. Developing main policy options.
4. Analysing their impacts.
5. Comparing the options.
6. Outlining policy monitoring and evaluation.

Stakeholder consultation and the collection of expertise can run throughout the whole process.

The Impact Assessment of the Proposal for a Council Decision on Community strategic guidelines for Rural Development builds on and updates the Impact Assessment report accompanying the proposal for a Council Regulation on support for rural development by the European Agricultural Fund for Rural Development.⁴⁷ Although the reports dedicate a Chapter to each step required in the Commission guidance, an impact analysis as such does not exist in either report. The assessment of options rather compares the advantages and disadvantages of each option in general terms.

UK - Detailed Guidance not Applied

Cabinet Office guidance sets out the following detailed requirements for full RIAs. They should:

- Compare the benefits and costs for each option considered in the partial RIA;
- Consider and record separately the other costs and benefits (i.e. not just those to the public sector, firms, charities and the voluntary sector, but also to consumers/individuals, and to the economy at large), taking account of the economic, social and environmental effects;
- Record these costs separately from the costs to business, charities and the voluntary sector.

⁴⁷ IA report on Community strategic guidelines for Rural Development (SEC(2005)914), p. 2.

It is apparent that neither of the two RIAs in question – particularly the 2005 RIA – included the level of detail on costs and benefits set out in the Cabinet Office Guidance.

EU Biofuels – Definition of Options

The methodology chosen for the Impact Assessment is based on the definition of different scenarios and options. Three approaches to the further development of biofuel policy are identified, which group together different possible combinations of measures: a “Business as usual”, a “Regulated market-based approach” and a “Deregulated market-based approach”. Environmental impacts are considered for all three options. Of the three options analysed by the Impact Assessment, the Strategy for Biofuels recommends the second (regulated market-based approach, favouring balanced approach in trade negotiations). No further explanation is given as to which aspects (environmental or others) were most relevant for this decision.

UK – Selection of Option Regardless of Environmental Impacts

Environmental impacts are referred to in respect of all options. The 2004 RIA states that options were identified taking account of the five principles of the UK’s Better Regulation task Force – that regulations should be proportionate, accountable, consistent, transparent and targeted. However, it also states that ‘In each case the focus of the options is to achieve a ‘light touch’ or ‘do minimum’ approach to regulation in accordance with the Council Regulation, and often represent no more than responsible good farming practice.’ Thus the final choice of measures was dictated by the desire to minimise costs to farm businesses. For example, it was accepted that a requirement for a soil management plan (SMP) for each farm, based on a standard self-assessment form, would deliver most environmental benefit, but would incur high administrative and farm business costs. So SMPs were rejected in favour of a simpler Soil Protection Review.

EU-ACP – Low Impact of Extensive Public Consultation

The Trade SIA made an explicit effort to involve stakeholders, though there are many systemic barriers to their effective involvement. The Trade SIA lists all stakeholders involved and stakeholder events held, which assists in transparency.

5.2.5 Role of Impact Assessment in Decision-making

The result of Impact Assessments (and the consideration of environmental concerns therein) can only influence a policy decision if it was part of the decision-making process and done in time so that its results can be taken into account for the final policy decision.

Our case studies showed that in one case the analysis was no while in eleven cases it was – at least theoretically - part of the decision-making process. Those Impact Assessments that were timely with respect to the policy-making process and considered environmental aspects in decision-making also influenced the final policy choice.

In the **Spanish** case the problem was simply due to timing. The final Impact Assessment was only finalised following the publication of the policy it assessed.

In most cases – as in the **Danish** and **EU-ACP** cases - the extent to which the Impact Assessment was actually part of the decision-making process remained unclear. However, since the IA reports are usually done to inform the decision-maker, they are done in advance of the decision. Therefore, in some cases it was possible to say that the policy process took into account the results of the IA. In other cases we could only state that the decision was made, at least theoretically, in full knowledge of the IA results and that more intensive research would be needed to analyse the role the Impact Assessment played in the final policy decision

In three cases, however, the analysis of environmental issues seems to have influenced the final policy decision at least to some extent. The most prominent is the **Czech** case where the Impact Assessment results led to integrating environmental concerns into the final policy decision. Main reason for this success seems to be the constant exchange between the Ministry of Regional Development and the consultant conducting the IA. In the **Finnish** and **EU Biofuels** cases, where case studies also gave evidence that the assessment has contributed to the consideration of environment in decision-making, the influence of environmental issues were much smaller.

CASE STUDY EXAMPLES

Spain –Timing

The studies on biofuels described in this report were commissioned by the Spanish Ministry for the Environment specifically to support the Ministry in formulating and pursuing its Renewable Energy Policy. The study on gasoline and biodiesel was carried out in the framework of the Action plan for transport (2005-2010) in order to assess the possible benefits that derive from the substitution of gasoline and diesel.

The assessment studies, however, were finalised only after the Renewable Energy Plan 2005-2010 was published. So the studies are rather likely to have an effect on the details of the Energy Policy put into practice and will to a lesser extent alter the basic guidelines of Energy Policy.

Denmark – Theoretically informed voting

In Denmark both Impact Assessment reports were attached to the law proposal for the information of Members of Parliament. So, the Parliament has – at least theoretically - voted in full knowledge of the likely effects of the law.

EU-ACP – No Evidence for Role in Decision-Making

No evidence has been found regarding whether or not the EU-ACP Trade SIA was considered by trade negotiators or affected their decision-making. EU Trade SIAs have been criticised by the NGO community for their lack of influence on the policy-making process. However, the Commission says that they are timely and are taken into account.

Czech Republic – Impact Assessment and Decision-making intertwined

In the Czech Republic, the Impact Assessment was carried out before the tourism policy and the SOP were formally adopted by the Czech Government. The SEA procedure was the only reason that environmental aspects have been considered in the Policy/SOP. There was a constant exchange between the Ministry of Regional Development and the consultant conducting the IA (REC) discussing what conclusions might be drawn for the political process from the different results of the Impact Assessment (different stages, see above).

5.2.6 Lessons Learned

Focus of the Impact Assessment procedure

- All procedures do consider environmental aspects to some degree, although the degree of integration varies. Three categories exist: truly integrated Impact Assessments (of varying integration degrees in practice however), integrated Impact Assessments with business focus and Impact Assessments with environmental focus.
- In some countries RIAs do not apply for strategic policy documents but other procedures with a different focus are applied instead (e.g. SEAs).
- In integrated assessments, no direct correlation can be made between the degree of integration and the consideration of environmental aspects in neither the Impact Assessment, nor the influence on the final policy decision and the consideration of environmental aspects therein. Non-integrated assessment, that is those focusing on environmental issues, showed good results. Overall, both types of analysis have an important role and will lead to environmental policy integration if environmental issues are analysed equally.

Ownership of procedure

- Ownership ranges from high-level bodies, to the Ministry of Environment or other Departments.
- Ownership by Ministries expected to oppose environmental issues (such as the Ministry of Taxation and Finance), does not necessarily mean that environmental aspects are sidelined. At the same time, ownership by Ministry of Environment – usually considered to have a subordinate position compared to the economic Ministry - is not necessarily associated with a weak position of environmental aspects in the Impact Assessment.
- If integrated systems are owned at high level this does not necessarily imply that environmental concerns are considered.

Existence of Impact Assessment Obligations and Guidelines

- The majority of countries have a mandatory IA system although guidelines do not exist in all countries. Even if IAs are not mandatory then EU requirements or national interests may trigger IA reports.
- Where guidelines do not exist, there is no formal requirement to analyse environmental concerns. If guidelines exist most of them include environmental aspects. Regardless of whether procedures require consideration of environmental impacts, in practice they

often are considered. Even in these cases the consideration of environmental aspects may be satisfactory.

- If no guidance exists, elements or whole procedures can be “borrowed” to complement gaps.
- No relation between the procedure and the consideration of environment in IA or final policy decision seems to exist. This may be due to the fact that guidance is often not being followed closely when conducting the IA.

Completeness of the Assessment

- If detailed and complete guidance exists it does not necessarily have to be applied. Following the steps of the given IA procedure closely, however, seems to have a positive impact on the result of the Impact Assessment. However, good assessments can also be done without addressing all steps.
- Not all IAs address all steps equally, some tend to be more problematic than others. Describing the policy problem, the identification of policy objectives as well as impact analysis does not cause severe problems. Monitoring and stakeholder involvement is frequently addressed but is not practised in many countries.
- Either no criteria to select options exist or they tend to neglect environmental impacts.
- Public consultation alone does not automatically enhance the consideration of environmental concerns.

Role of Impact Assessment in Decision-making

- If the IA is not part of decision-making this is either due to timing or because it does not provide useful information for decision-makers. If the IA is part of decision-making the extent to which it actually is considered in decision-making varies.
- If environmental concerns are part of decision-making then it is very likely that they also influence the policy decision.

5.2.7 Factors enhancing the Consideration of Environmental Aspects in Impact Assessment

- Impact Assessments are commonly found to influence policy decisions. Identifying the influence of environmental factors within this process is difficult, but it seems highly likely that including environmental impacts in assessments will influence policy-makers in the same way as for other impacts. The question is therefore how better to ensure the analysis of environmental impacts within Impact Assessment systems.
- Good co-operation is important (ownership).
- If no guidelines exist, IA elements from other procedures may be borrowed.
- Officials undertaking assessments need to be encouraged to follow guidelines closely (if they exist), although this should not be an aim in itself and is no guarantee of good results. Monitoring and enforcing guidelines could help with this.

- IAs should be part of the policy-making process, that is they should be done in advance or be intertwined with the decision-making process, e.g. by ensuring a constant exchange between policy-maker and the IA author.

5.3 Factors related to the Analysis of the Impacts

This section analyses the results of the case studies in view of the analysis of impacts in assessments. The aspects related to the analysis of impacts studied address the following issues:

- range and depth of analysis
- use of tools and methods and cost-benefit estimation

5.3.1 Range and Depth of Analysis

In this section of the case studies we wanted to learn to which extent environmental aspects were considered compared to other impacts. Results were expected to deliver insights on the consideration of environmental aspects in the Impact Assessment (see Section 4); to explain how integration works in practice compared to theoretical requirements (see Section 5.2.4); and to give insights into why environmental aspects were considered well or not. We expected that IAs considering a broad range of environmental issues in-depth were more likely to be heard in decision-making than those only analysing environmental issues superficially.

Of the cases we looked at, in five cases the range of analysis was unsatisfactory, in one it was satisfactory and in six it was good or very good. The case studies also showed that range and depth of analysing environmental impacts does not necessarily coincide. In three cases the depth of analysis was unsatisfactory while it was satisfactory or good in the remaining cases.

The **Czech Republic** assessment belonged to the good cases showing a broad coverage of only environmental aspects, which were analysed in-depth, though the analysis was done qualitatively. The same applies for **Finnish** case, although it is important to highlight that coverage and depth of analysis corresponded to the broadness of the subject. An example for addressing environmental aspects equally to economic and social aspects, both quantitatively and qualitatively is the **Danish Air Duties** assessment. In the **EU biofuels** case quantitative analysis did not play as prominent role as in the Danish Air Duties case, however, the extent and depth of analysis was comparable to that of economic and social issues. In the **Netherlands**, environmental aspects were considered as equally to other aspects. Although the report analyses environmental effects quantitatively, it does not compare the quantified economic and environmental effects directly.

The only satisfactory case was the **EU-ACP assessment**. Though environmental aspects were addressed at a fairly detailed level, they were not quantified and were only assessed by indicating a negative or positive impact. In the qualitative assessment, however, environmental aspects appear to be given an equal level of treatment.

The following rather unsatisfactory examples derived from the case studies may provide helpful indications as to explaining this result:

- In the **UK** the monetisation of costs for certain types of farms was considered to be more important than monetising environmental benefits.
- In the **EU TEN-guidelines** assessment environmental aspects were addressed but a more complete analysis was delegated to the project level.
- In the **US** environmental impacts were analysed but not considered important because environmentally harmful impacts were not expected.
- The **EU Rural Development** assessment did not provide a proper impact analysis.

Not surprisingly, the best results were seen in most of the cases where the range and depth of analysis of environmental impacts corresponded to the remaining impacts.

CASE STUDY EXAMPLES

Denmark-Air duties – Broad coverage of environmental aspects quantitatively and qualitatively

The Impact Assessment of the law considered economic, social, environmental, as well as legal effects of the law. The most important environmental aspects were assessed but quantitative data were not always given. With regard to the abolition of passenger fees for example, the effects on the environment were only roughly measured without quantifying them further. With regard to the reduction of registration fees for new diesel cars, however, the report dealt specifically with the reduction of particle emissions. This reduction was quantified as up to 80%. With regard to the reduction of CO₂-tax and the energy tax when using excess thermal energy, the environmental benefits emanating from the use of this energy were assessed especially with regard to CO₂ emissions. As the assessment report clearly states there were no other environmental effects than those covered, therefore, it can be assumed that all environmental aspects have been assessed alongside socio-economic consequences.

EU-Biofuels- Quantitative and qualitative data

The assessment considers impacts on the environment, on fuel supply and fuel prices, on agricultural markets, on employment, on competitiveness, innovation and other industries, and on costs for the EU. For developing countries, impacts are analysed with regard to the economy, the environment, and social issues. The assessment thus covers the three pillars of sustainable development – the economy, ecology and social aspects. The methodology chosen for the Impact Assessment is based on the definition of different scenarios and options. Three approaches to the further development of biofuel policy are identified, which group together different possible combinations of measures. In summary, an effort is clearly made by the Impact Assessment to cover all environmental impacts that might arise from policy developments promoting biofuels. However, the depth of the analysis varies between different impact categories. The third category – emissions from fuel combustion – is not analysed in much detail at all. The (mostly positive) impacts with regard to climate change are illustrated by quantitative data, while the (potentially negative) impacts from feedstock cultivation are only discussed qualitatively, due to a lack of data. The

environment is one of six issues for which impacts are analysed. Extent and depth of analysis is comparable to that of the other issues.

Netherlands – Separate reports for economic and environmental impacts

The Impact Assessment included four reports, three on environmental impacts, and one on the economic impacts, thereby evaluating both socio-economic and environmental impacts. The most important environmental effects caused by traffic (emissions into air and noise) are analysed and concrete figures about the likely increase or decrease of emissions are given. The environmental aspects were considered comparable to the aspects concerning the amount of traffic, accessibility of roads and traffic security. While the report analyses environmental effects quantitatively, it does not compare quantified economic and environmental effects directly.

EU-ACP – Quantitative versus qualitative

The study examined a broad range of economic, social, environmental and governmental/institutional aspects. Environmental impacts received fairly detailed qualitative assessments with neither physical quantification nor monetisation. The assessments described the key environmental variables and used a case study or scenario approach to evaluate the impact of trade agreements on these variables. In contrast with economic aspects, which received quantitative analysis through econometric models, environmental variables were not quantitatively examined. The SIA provides only an indication of the direction of the impact (positive, negative or neutral) and some indication of its magnitude (insignificant, minor, significant, etc.). In some cases, proposals for how negative impacts could be mitigated were proposed. Though Trade SIAs like the EU-ACP SIA address each of the three pillars of sustainability—economic, social and environmental—the environment is often given lesser consideration, especially when compared to the economic aspects of sustainable development. This could be due to the dual commitment of the Trade SIA process to both trade liberalisation and sustainable development. In Phase II of the EU-ACP Trade SIA, there were extensive policy recommendations aimed at improving the sustainability of fisheries in the Pacific countries. By comparison, there were relatively few environment-specific recommendations in the West Africa agriculture and Caribbean tourism Phase II sector studies. This difference points to an evaluation process that can identify priorities among the various economic, social and environmental issues. Environmental aspects appear to be given an equal level of treatment in the qualitative assessment. Economic aspects receive greater quantitative assessment.

UK – Monetisation of costs for farms more important than environmental

Environmental impacts were referred to but not discussed in any detail. Costs to farmers received detailed attention whereas environmental benefits simply were referred to in a general way. Otherwise, environmental benefits were neither described in detail, nor quantified. The only attempt to monetise environmental benefits was in relation to the requirement for 2m uncultivated field margins adjacent to sensitive habitats. Far greater attention was paid to the monetization of costs for particular types of farm.

5.3.2 Use of tools and methods and cost-benefit estimation

In Impact Assessment studies it is often assumed that environmental aspects compared to economic effects are sidelined because they are not being quantified. This implies that the use of tools and methods⁴⁸ is likely to raise the attention given to environmental compared to other aspects in an Impact Assessment. Quantification of environmental impacts (e.g. in form of increased or decreased CO2 emissions), however, often is not of much help to raise their profile since it proves too difficult to compare them to economic or social indicators that can be expressed in monetary values. Therefore, the use of cost-benefit estimation reflecting environmental impacts is likely to be an important factor for enhancing their consideration.

From the countries we looked at, the use of tools and methods and cost-benefit estimation is not routine. In ten countries no tools or methods were specified and in eight countries no cost-benefit estimation was carried out. In the cases considered to show good results in terms of considering environmental impacts, only one case used a cost-benefit estimation.

The case studies showed the following practices as regards the use of formal tools and methods.

- Although the **EU Biofuels** assessment did not specify the tools or methods used, environmental benefits and costs have been presented in a detailed way. However, the usefulness of the in-depth analysis was limited because benefits and costs were not directly compared.
- The **EU-Ten Guidelines** assessment is an example where at least one formal tool (mapping) was applied though costs and benefits were not identified.
- In the **UK** a broad analysis of costs and benefits was conducted. However, costs were analysed in depth while the benefits were sidelined. The analysis of costs did not include environmental ones since no environmental costs were expected.
- In the **US** a detailed cost-benefit analysis was done which included values for environmental effects. However, they remained nebulous since they were based on other agencies' valuations. In addition environmental aspects did not play a prominent role in the cost-benefit analysis because no severe environmental impacts were expected.

According to these results, case studies did not give evidence for a correlation between the use of formal tools or methods and the consideration of environment in IA. In some cases where a cost-benefit analysis was conducted, it did not result in a better consideration of environmental issues in the IA either because environmental issues are difficult to monetise, or simply because severe environmental costs were not expected.

⁴⁸ Such as physical analysis tools (e.g. ecological footprint), modelling, participatory tools, scenario analysis, multi-criteria analysis etc.

CASE STUDY EXAMPLES

EU-Biofuels – Presenting costs and benefits

Environmental benefits and costs are presented but cannot be directly compared. While the benefits for climate change are expressed in quantitative terms, neither the potentially beneficial impacts nor the negative impacts of feedstock cultivation are quantified. The Impact Assessment does not itself use a specific tool for the assessment of environmental impacts. However, reference is made to studies based on life-cycle analysis. With regard to the environmental impacts of feedstock cultivation the IA notes the lack of studies using a farming system approach which would take into account possible changes in cropping patterns, input use at farm level and the effects of these changes on the overall ability of farms to provide environmental services.

UK – No environmental costs expected

Environmental costs did not arise, so they were not addressed. In the 2004 RIA, the summary of benefits (of all types) merits 1 page, while the summary of costs for different types of farm (quantified) merits 8 pages. However, the 2004 RIA highlights uncertainties over these costs ‘the costs of meeting the requirements will vary substantially due to the variability between farm types, the availability of spare farm labour at different times of the year, and the flexibility shown by farmers in responding to new circumstances.... Thus average figures do not provide a useful guide to typical costs....’

US – Borrowing data

A cumulative cost-benefit analyses was done, but the formulas used were based on other agency valuation.

5.3.3 Lessons Learned

- The number of cases where environmental aspects have not been analysed as thoroughly as other impacts is about the same as the cases where the analysis of environmental impacts is comparable to that of other impacts.
- Reasons for sidelining environmental aspects vary: other aspects are considered to be politically more important, no environmentally harmful impacts are expected, environmental impacts are expected at other than EU levels (not possible to assess at EU level), impacts are not analysed at all or dual commitment to sustainable development and trade liberalisation exist.
- Practice in cases where environmental aspects have been considered varies considerably. Whether impacts are analysed quantitatively was shown to often depend on data availability, while depth of analysis and coverage of environment seems to vary according to the broadness of the subject.

- Often environmental impacts are not monetised or quantified so that environmental benefits cannot outweigh economic disadvantages leading to an environmentally favourable policy or vice versa.
- Quantification does not necessarily mean that environmental considerations are addressed equally to other considerations.
- Apart from cost-benefit estimation, the use of formal tools and methods is low.
- Environmental impacts tend to be analysed to a lesser extent than economic impacts in cost-benefit analyses.
- Benefits tend to be analysed to a lesser extent than costs. That would prove problematic if a measure were not to be adopted despite having environmental benefits that were not recognised beforehand due to a lack of monetisation.
- Use of formal tools and methods / cost-benefit analysis does not necessarily enhance consideration of environmental aspects in Impact Assessment and influence on the final policy decision because often no environmentally harmful impacts are expected.
- Where no data exist, assessments may draw on earlier studies or calculations that have been done in a different context. This is a common practice where quantification proves difficult. However, such studies may not always be appropriate to the specifics of the new policy proposal.

5.3.4 Factors enhancing the Consideration of Environmental Aspects in Impact Assessment

- Depth of analysis should reflect broadness of the issue equally for all impacts.
- Environmental aspects should be equally addressed by tools and methods compared to other impacts.
- Reference studies where no data are available in a transparent way.

6 Synthesis, Discussion and Conclusion

The following sections draw conclusions on the findings of the case studies and synthesises the lessons learned from the respective subsections of this report. The first part summarises the result on the role of environment in Impact Assessment and decision making. The second part discusses factors considered to have influence on the consideration of environmental concerns in IA and the consideration of environmental aspects of IAs in the final policy decision. The final section presents best practices and recommendations.

6.1 Role of Environment in Impact Assessment and Decision-making

Impact Assessment practice strongly varies as does the quality of the Impact Assessment procedures and reports. Though environmental aspects are frequently considered in Impact Assessment their analysis is rarely satisfying.

The influence of Impact Assessments on the final policy decision is difficult to prove. Case studies, however, indicate that the role of environmental analysis in decision-making is rather low, and could be higher. The case studies provide evidence that the Impact Assessment can influence final policy decisions and the consideration of environmental impacts within them can also therefore influence policy decisions (as the Czech Tourism case shows). The Impact Assessment of the Czech Tourism Policy added sustainability-led criteria to its policy targets. Since it was beyond the scope of this study to prove a direct causal relationship, the findings on the influence of Impact Assessment on the final policy choice need to be considered with care.

6.2 Factors relating to the Consideration of Environment in Impact Assessment

The following subsections discuss the factors relating to the consideration of environment in Impact Assessment correspond to the analysis of Member State practice in Chapter 5.

6.2.1 Factors Related to the Assessment Context

Though a high **conflict potential** would be expected to hinder the consideration of environmental consideration in IA, often the opposite is the case since conflicting interests are often mitigated by good co-operation practices throughout the IA process and by highlighting synergies to reconcile conflicting interests. Good co-operation practices, however, require a political decision that will often be influenced by external circumstances. These can either help to highlight synergies as in the case of oil market developments or international environmental commitments such as the Kyoto Protocol but also sideline environmental considerations as in the case of conflict with economic growth.

EPI requirements, environmental policy plans or sustainable development strategies could play a much stronger role than they do in many Impact Assessments. This is because high-level EPI requirements can provide an important impetus to consider environmental

aspects in IA, and objectives and indicators of sustainable development strategies could provide benchmarks for balancing the different impacts identified in the assessments.

CASE STUDY EXAMPLES

EU-TEN Guidelines: One of the general goals of the TEN-T policy is to create a sustainable transport system. Environmental impacts must be considered in order to have such a system. One of the determining factors for the inclusion of an environmental assessment is the Kyoto Protocol. Transportation and greenhouse gas (GHG) emissions are closely linked. Since the EU is committed to the Kyoto Protocol, the Impact Assessment was careful to include potential impacts of increasing transport networks on the environment. Furthermore, the policy proposal focused on rebalancing transport modals, in part so it would relieve congestion on roads, but also so GHG emissions could be reduced.

The Netherlands: There is indeed evidence that analysis of environmental issues promotes better integration of environmental concerns into other policy areas; the Netherlands have a long tradition of taking into account environmental matters.

6.2.2 Factors Related to the Assessment Procedure

Before going through the procedure related factors it should be mentioned that the **timeliness** of an IA is a prerequisite for its ability to have an impact in policy making and on the proposed policy option. Research on EU IA practice has shown that this is not always the case. Whether the final proposed policy option was chosen as a result of the IA or pre-dated the appraisal process varies in IA practice.⁴⁹

Apart from the timeliness of IA the case studies give evidence that the **focus of the Impact Assessment procedure** has significant influence on the consideration of environment in IA.

An environmental focus of IA or a high degree of integration, however, is no guarantee for good consideration of environmental impacts in IA. This may be due to the fact that just grafting environment formally onto IA procedures does not suffice with a view to integrating environment into IA and further efforts are necessary in order to truly integrate environmental concerns into IA.

In addition, dual commitments of IA procedures to sustainable development and at the same time to other policy issues, such as trade liberalisation or better regulation, hinders effective integration and leads to tensions. Often such dual commitments create tensions either because economic development is considered to be more important than environmental

⁴⁹ Cf. Anneke von Raggamby and John Turnpenney (2006): Setting the scene – integrated impact assessment and Commission practice, in: Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the Sustainability A-Test project, p. 28.

protection, or because regulatory reform demands higher standards for the justification of a policy intervention while addressing the common sustainability challenges may require more rather than less policy intervention.⁵⁰ Furthermore, dual commitments often are the result of high-level political decisions not being the responsibility of the author of the Impact Assessment report. Therefore, it will depend on the assessment author to translate those high-level commitments into practice. This is difficult with regard to the long-term issues associated with sustainable development, which differ from issues of better regulation or competitiveness that are usually associated with short-term impacts. Long-term concerns often lack clarity with respect to what the overall policy goals are, thus much ambiguity exist with respect to what sustainability objectives actually mean for an assessment. With such ambiguity, the long-term framework used for sustainable development assessments can be selected quite arbitrarily.⁵¹

Case study results did not provide evidence that the **Ownership** of the IA procedure has significant influence on IA results. Good results were achieved regardless whether the procedure was owned at high-level or Ministry level. Having said that, this does not mean that the ownership is unimportant. Good results of our case studies often coincided with good co-operation routines between the institution carrying out the IA and environmental interests which proved to be more important than the level at which the IA procedure is being owned.

Long established procedures and **routine in implementing integrated IAs** also proved not to be a guarantee for good consideration of environment in IA. "Borrowed" procedures, using elements of other procedures, voluntary assessments or IAs triggered by EU requirements were shown to come to equally satisfying results. IA tradition and expertise, however, can help to trigger good IA results as other case study examples show.

IA guidance does not exist in all countries. Case studies showed that even where no guidelines exist environmental aspects often are considered and that if guidance exists this does not necessarily mean that it is applied. Following the steps of the given IA procedure closely however seems to have a positive impact on the result of the Impact Assessment though also good assessments can be done without addressing all steps. With regard to the **completeness of IAs** case studies showed that the findings on option identification and public consultation were the most interesting.

It is striking that case studies do not give evidence for a strong relation between the consideration of the environment in **criteria to select options** and the consideration of environmental issues in the IA or the final policy choice. This is a somewhat surprising result since a strong consideration of environmental concerns in the criteria to select policy options should automatically lead to a better consideration of environment in the final policy choice.

Though IA can potentially provide policy-makers with information on the various policy options and thus create a base for considered political judgement it often is difficult to trace back the reasons for the final policy choice. It has been recognised that even if IA reports are

⁵⁰ Jacob, Klaus et al. (2004): "Ex-ante sustainability appraisal of national-level policies: A comparative study of assessment practices in seven countries". Paper presented at the 2004 Berlin Conference "Greening of Policies? Interlinkages and Policy Integration", p. 15.

⁵¹ Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 79-80.

transparent (IA reports are usually obtainable in the internet), the process beforehand is less clear.⁵²

The way that the final policy is chosen remains unclear may be due to several reasons: either no options are defined, the policy choice was clear from the beginning, or there are no criteria defined / methods used helping to recommend an option (see discussion on tools below) or guidance is not being applied. More fundamentally, the purpose of Impact Assessment is to provide information for decision-makers, so that they can be fully informed about their choices. Its role is not to make the decisions for them. Research indicates that the identification of options is regularly neglected in Impact Assessment practice.

- Each integrated assessment should start by framing the problem and allowing different perspectives on the problem, and possible solutions, to enter the assessment. However, this may not necessarily match the reality of policy making. Usually a more or less defined policy proposal is already on the table and little room exists to doubt the necessity of the proposal, or even the existence of the problem being solved with the proposal. Therefore, the supporting Impact Assessment will not start by framing the problem and investigating possible solutions. Instead, it starts with the choice of policy options and impact analysis.⁵³ After this is done, the question is whether net impacts are positive, and there are examples of proposed policies that have been dropped because impacts were found not to be positive overall.
- Under most RIA systems in the EU, Impact Assessment does not begin until after a preferred option has been identified. Only in the Netherlands, UK and Italy does the RIA begin before a choice is made. Identifying options is only one part of the process. Once identified, only some Member States refine this by considering multiple options, attempting to express them in quantitative terms and being explicit as to why they were selected. One reason for the limited consideration of possible options in RIA systems generally is that government departments may tend to define particular public policy issues according to their own specific 'world view' and their traditional policy instrument of choice (e.g. regulation, service provision, or taxation). Moreover, some instruments (e.g. the use of taxes or other economic instruments) may be the responsibility of other government departments. This suggests that inter-departmental consultations on RIAs should take place at as early a stage as possible, to widen the discussion of available options.⁵⁴

Though being an instrument for potentially increasing the consideration of less well represented interests, case studies showed that **stakeholder involvement** seems not to be a direct driver for influencing the consideration of environment in IA and also the consideration of environment in the policy. Stakeholders were consulted to a satisfactory degree in nearly all IAs. Nevertheless, some case study authors highlighted the importance of stakeholder involvement as beneficiary.

⁵² Renda, Andrea 2006: Impact Assessment in the EU. The State of the Art and the Art of the State. Centre for European Policy Studies, p. 64.

⁵³ Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 78.

⁵⁴ Farmer, Andrew et al. 2005: Workshop on Best Practice in Analysing and Developing Environmental Policies. Background Paper. IEEP.

CASE STUDY EXAMPLES

Czech Republic – Assessment Early on in Decision-making

The effective integration of sustainability issues at an early stage of the development of the SOP helped to ensure that the subsequent policy formation procedures followed sustainable objectives. Therefore, a major lesson learned is that an Impact Assessment should be conducted at an early stage of policy development and should be able to have an influence on the development.

UK – Grafting Environment onto Existing Procedures

The formal incorporation of environmental and other non-economic considerations into RIA systems originally designed to assess business and administrative costs only, may not be sufficient in itself to shift long-term habits.

Finland – Long Standing Expertise in Impact Assessment

The main factor that contributed to the good quality of the report is the environmental assessment expertise of the team from the Finnish Environment Institute combined with a familiarity/involvement with the strategy as it had been very topical for several years (gone through several drafts etc.). Moreover, there was an explicit interest in a good assessment articulated by all concerned Ministries, such as Ministry of Trade and Industry, Ministry of Transport and Communication, Ministry of Finance, Ministry of Agriculture and Forestry and Ministry of the Environment. The work was also facilitated by the fact that the previous strategy had also been subject to a thorough assessment.

UK – Enforcement of Impact Assessment Guidance Necessary

High-level commitment and detailed central guidance will not be effective unless it is monitored and enforced. Neither of the two RIAs fully complied with Cabinet Office guidance, but both were signed off by the Minister, regardless. High-level commitment is not demonstrated by one ministerial statement, or by written guidance issued from the prime minister's office. It needs to be shown continually through effective monitoring and enforcement of IA procedures. Even when it is done, analysis of environmental impacts needs to be accompanied by political support to be influential.

6.2.3 Factors Related to the Analysis of Impacts in Assessment

Impacts were analysed in all cases we studied for the purpose of this report and the consideration of environment in impact analysis was generally satisfactory. A closer look at impact analysis, however, reveals that the depth of analysing environmental impacts as well as the use of formal tools and methods for analysis proved difficult. It is often argued that as a consequence, environmental impacts tend to be sidelined as compared to other impacts. Other reasons for sidelining environmental effects in impact analysis itself are that either other aspects are considered politically more important or that IA authors state that no environmentally harmful impacts are to be expected. However, most often it is the lack of

quantification of environmental impacts held responsible for neglecting the analysis of environmental impacts.

Research shows that in current IA practice gaps exist in quantifying environmental and social impacts. While economic impacts can easily be quantified (for example in the form of monetary values), environmental and, especially, social impacts are often of qualitative character or difficult to quantify either because data are difficult to obtain or because methodological gaps exist. Nevertheless, environmental and social impacts may be as, or more severe, than economic impacts.⁵⁵

When discussing the reasons for this lack of quantification, however, it has to be kept in mind that the degree of quantification cannot be considered independently of the policy subject. As the UK case study highlights, for some types of policy measure, it is technically almost impossible to assess ultimate environmental impacts in quantitative terms. In addition, quantification depends on the type of measure (strategic or action oriented) and the level of action (degree of decentralisation).

In the case of strategic policy documents or strongly decentralised policies it may therefore be justified that environmental impacts are not being quantified, as long as the degree of quantification corresponds to the degree of quantification of other impacts. However, if IAs are economically focused then quantification of environmental impacts gains importance and the lack of quantification becomes more problematic.

Despite the mentioned difficulties with regards to quantification of environmental impacts, quantitative analysis does not necessarily mean that environmental aspects are considered in decision-making and conversely, qualitative analysis does not necessarily mean that environmental aspects are sidelined in decision-making.

If environmental impacts are not quantified, then often a lack of data or methods and political reasons (see below) are perceived as barriers for quantifying environmental impacts.

Often areas other than environment (e.g. Free Trade) are perceived to be politically stronger – and options are often presented in these areas without recourse to models or other tools. On the other hand, there is a tendency to only accept quantified information and Impact Assessment practice shows that formal tools and methods are more often applied to environmental impacts than to other areas. More analysis and tools at the environment IA level, although potentially useful, will not necessarily make the environment politically more salient or lead to a more sustainable policy making process.⁵⁶

Case studies showed that environmental impacts were most often quantified in the context of cost-benefit analysis (CBA), though the instrument itself was not applied regularly in the cases we studied. In CBA, benefits tend to be analysed to a lesser extent than costs. This is problematic when a cost equals benefits or ‘optimizing benefits’ approach is being applied. This means that regulatory interventions are planned only when they prove inherently

⁵⁵ Cf. Anneke von Raggamby and John Turnpenny (2006): Setting the scene – integrated impact assessment and Commission practice, in: Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 28.

⁵⁶ Cf. Anneke von Raggamby and John Turnpenny (2006): Setting the scene – integrated impact assessment and Commission practice, in: Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 28.

efficient, i.e. up to a level where the marginal benefit of the intervention equals the marginal cost.⁵⁷

Apart from CBA, the **use of tools** was low throughout all cases we studied and did not show to necessarily enhance consideration of environmental issues in IA. However, if other impacts are analysed based on tools and methods and environment is not then this may lead to environmental impacts being sidelined. The use of tools is determined by various factors such as time, data, and budgetary constraints, the qualifications of the IA author and also on the range of tools available and being easily accessible. Research on Commission IA practice shows that there is a tendency to identify the impacts of a policy proposal and then to scan through the tools known to the Desk Officer and finally selecting the tool considered to best address the impacts identified. This implies, of course, that tool choice strongly depends on the tools known to the Desk Officers and their ability to apply the tools. Specific characteristics of a policy area often make tool choice difficult and require sector specific models. Studies are only commissioned in case the application of certain models or tools is required. Again, the number and extent of studies commissioned depends on the time and budget available for assessment. Therefore, Desk Officers often draw on already-existing knowledge instead.⁵⁸

CASE STUDY EXAMPLES

UK – Analysis Depends on Subject

Factual and procedural barriers to better analysis of environmental impacts in other policy areas depends on what aspect of the environment is targeted, and the extent of decentralization in the implementation of the policy. In the case of cross-compliance measures – even if all farmers behave in exactly the same way – the ultimate impact on the biophysical environment is determined by the highly variable geography, microclimate and biodiversity of individual farms – and would be impossible to assess with any accuracy. In addition, when farmers themselves have a number of options in relation to how they will respond to cross-compliance requirements (i.e. a high level of decentralization), the uncertainty is compounded. On the other hand, and by contrast, the impact of other types of environmental measures can be more easily assessed. For example, the impact on CO₂ emissions of changes in the technical specifications of cars can be assessed relatively easily, since we know how car engines will respond to specific technical changes, and the decision-making chain is relatively short (there are few European motor manufacturers).

US – Limitations of Valuating Environmental Impacts

The Impact Assessment on the reformed CAFÉ standards was successful in showing an economic analysis of the effects of regulatory reforms. The RIA, however, failed to reflect environmental concerns in their valuations. This was due to the fact that cost

⁵⁷ Renda, Andrea 2006: Impact Assessment in the EU. The State of the Art and the Art of the State. Centre for European Policy Studies, p. 86.

⁵⁸ Cf. Anneke von Raggamby and John Turnpeny (2006): Setting the scene – integrated impact assessment and Commission practice, in: Wouter de Ridder (ed.): Tool use in integrated assessments, Integration and synthesis report for the *Sustainability A-Test* project, p. 28.

benefit analysis is only as effective as the input values. The RIA would benefit from greater transparency in the values applied to societal costs, such as the environment, because it to explain the limited value given to environmental concerns. The increased costs and benefits to the consumer did not include the increased societal costs and benefits. Without a clear methodology for valuing the true societal costs, an economic analysis will fail to incorporate the full economic impact of regulations. The accurate quantification of environmental impacts for Impact Assessments must both overcome political pressure to ignore or limit environmental concerns and scientific uncertainty as to the true short and long term environmental effects. The CAFE RIA suffered from a lack of transparency in borrowing from other agency formulas without a full discussion of the other agencies reasons, methods and science for determining their values.

UK – Cost-Benefit Relation in IA

Costs on businesses are always easier to quantify and monetise than (often) intangible, long-term environmental benefits. Also, when those affected are well represented (as are farmers), then the IA will be dominated by costs and not benefits. However, in this case, the benefits were considered to outweigh the costs mainly because they were supported by the need to comply with EU legislation. The risk of funding from the CAP being withheld was regarded as a major potential cost of inaction.

6.3 Recommendations

The underlying problem of sidelining the environment in IA and in the final policy decision is that the environmental impacts of a policy are often not demonstrated to be as important as other impacts. In addition, those doing the IA are often bound by policy decisions made from a sectoral perspective and the philosophy of their policy area, or by decisions taken at a higher level. The following recommendations highlight opportunities to raise the environmental profile in Impact Assessment with the aim of increasing the weight of environmental impacts in the final policy decision. They refer to the Impact Assessment context, the Impact Assessment process and the actual analysis of environmental impacts in Impact Assessment.

6.3.1 Context related recommendations

- High-level commitments such as EPI / SD do not automatically lead to a better consideration of environment in IA but can help by raising the profile of environment in IA.
- Refer to objectives or indicators set out in EPI / SD requirements, strategies or plans – such as reducing the daily land consumption to 30 ha in 2020 - as point of reference or benchmark in order to increase the weight of environmental aspects.
- Highlight synergies between environmental and opposing interests and possibilities to reconcile interests in order to raise the profile of environment in IA.

6.3.2 Process related recommendations:

- Strengthen the environmental focus of the IA procedure (in rules and Guidelines) and increase awareness of long-term sustainability objectives by making them an integral part of the assessment process.
- Ensure joined-up policy making through early co-operation between environmental Departments and “opposing” Departments.
- Provide IA training in order to enhance the quality of impact assessment
- Develop a way to monitor IA practice and check that guidance is put into practice.
- Make choice and comparison of options more transparent, for example by using multi-criteria analysis.
- Include stakeholders from an early stage and make sure that their composition is balanced.

6.3.3 Analysis related recommendations:

- Ensure timeliness of IA by starting it early so that it can be an integral part the decision-making process and.
- Tier IA in order to create a link between different levels in the policy hierarchy (of special relevance in the EU context if impacts are expected at another level than the IA).
- Make sure that the depth of analysis of environmental impacts is similar to other impacts, and that environmental aspects are equally considered throughout all phases of an IA.
- If data are missing, then try to combine qualitative and quantitative information to get the main message across. If necessary, refer to existing studies in a transparent way and disclose boundaries of transferring these data to the given context.