Environment : effects of public and private projects (amend. Directive 85/337/EEC)

1994/0078(SYN) - 23/06/2003 - Follow-up document

This document consists of the report from the Commission on the application and effectiveness of the EIA Directive (Directive (Directive 85/337/EEC as amended by Directive 97/11/EC). It deals in particular with how successful the Member States in implementing the EIA Directive. The European Commission, has prepared the following 5 Years Report fulfilling the obligation found in Article 2 of Directive 97/11/EC and Article 11 paragraph 1 and 2 of Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive), which requires that "five years after the notification of the Directive, the Commission shall send the European Parliament and the Council a report on its application and effectiveness. The report shall be based on exchange of information on experience gained in applying this Directive. The report contains two parts, i.e., a summary of findings and actions to be taken and annexed the 5 Years review with detailed information on issues regarding the application of the EIA Directive prepared on the basis of answers by information provided by the Member States. The Commission's report examines key areas of the operation of the EIA Directive including screening (the determination whether an EIA is required for a specific project), scoping (, i.e., the identification of the issues to be covered by the environmental impact statement), review (the examination of environmental impact statements and other information submitted by developers to ensure it complies with the minimum information requirements of the Directive), and decision making. The report also examines the arrangements made by Member States for dealing with key EIA issues such as the consideration of alternatives, public participation and quality control. Based on the information reviewed here there is no real evidence to suggest that further amendments to the EIA Directive are required at this stage. The information provided in this report has revealed several shortcomings and weaknesses. In the Commission's view in some Member States there are examples of very good practice, e.g. in relation to encouraging public participation or providing for clear quality control procedures. In others (and sometime in the very same Member States that have elements of good practice), there are still weaknesses. These findings need to be carefully assessed alongside other factors in order for the Commission to decide whether the EIA Directive should be further amended at this stage. It appears that the main problem lies with the application and implementation of the Directive and not, for the most part, with the transposition of the legal requirements of the Directive. Based upon the material gathered for this review and an assessment of the strengths and weaknesses and effectiveness of the EIA Directive, the Commission makes the following recommendations that help in better implementing the EIA Directive: - Member States should check their national and regional EIA legislation and subsequently remedy shortcomings (e. g. with regard to thresholds, quality control, salami-slicing, cumulation etc). The Commission urges Member States to use the coming amendment of the EIA Directive in the context of the Aarhustransposition to do so. - A precise form of annual recording and monitoring is indispensable to provide reliable annual information on the number and type of EIA projects and the outcome of key decisions. Member States should introduce such systems where they do not already exist. This will assist them, in the Commission's view, in evaluating the number of EIAs carried out, and the types of projects involved, and in assessing the performance and quality of work done. In turn, this will help them to improve their systems. - In relation to screening, those Member States that employ a system with fixed mandatory thresholds should make certain it ensures that all projects that might have significant effects are subject to an appropriate screening process. In this exercise, the Commission expects that they will particularly consider projects planned in or near sensitive areas, and the possible cumulation of projects. - The Commission urges Member States to make more widespread use of its existing guidance on screening, scoping, review and cumulative impacts. There should also be more training at national levels in the use of these quality control documents. - The quality of the EIA process, and especially the EIS, are the key for an effective EIA. The Commission urges those Member States that have yet to do so to introduce formal provisions for the review of the environmental information supplied by the developer to

ensure strict compliance with the terms of the EIA Directive. Such measures could comprise the establishment of expert pools, guidelines on the co-ordination of experts, clear instructions about responsibilities, the use of independent external expert review etc. Another tool of quality control could be the introduction of an efficient post decision monitoring system. - The Commission believes that particular training needs to be introduced in certain Member States for authorities at local and regional level in order to improve their understanding of the EIA Directive and its application within the respective national system. Mechanisms for efficient administrative management should help to enhance capacity building. - In the transboundary context Member States should make more use of guidance provided by the UNECE on bi- and multilateral agreements and the practicalities of transboundary EIA. The Commission considers that this will help ensure that adequate provisions are in place, for instance for direct contact between the relevant competent authorities and other agencies for consultation on transboundary effects. As for the Commission, it will consider the need for further research into the use of thresholds and the various systems applied in screening in order to get more clarity and comparable data which would enable robust conclusions to be drawn on how to achieve improvement and greater consistency of approach in the screening process. The Commission also envisages preparing interpretative and practical oriented guidance with the involvement of experts from the Member States as well as other stakeholders like NGOs, local and regional authorities and industry. The Commission will also consider with the Member States what might be done to improve the training of officials responsible for EIA in order to improve the situation. The Commission will continue to take enforcement action in cases ofincomplete or inadequate transposition, and/or poor application of the Directive. In due time, more consistent application may require further amendments to the Directive. Based on the results of the actions outlined above, the Commission will consider what further amendments should be introduced. For example, this might be the most efficient way of providing for proper quality control and consistent data collection and might also be necessary to improve the way thresholds and cumulative effects are handled.