

**IMPACT ASSESSMENT
RESEARCH CENTRE (IARC)**

UNIVERSITY OF MANCHESTER

IARC Working Paper Series

No 23/2009

**Proportionate Impact Assessment: Discretion, Formalism, and
the Undefined Responsibilities of European Decision-Makers**

Clive George
University of Manchester, UK

Proportionate Impact Assessment: Discretion, Formalism, and the Undefined Responsibilities of European Decision-Makers

Clive George
University of Manchester, UK

Introduction

Every impact assessment should provide sufficient information for a reliable decision to be made on the approval of a proposal, without placing excessive demands on human and financial resources or causing unnecessary delays. As indicated in the European Commission's guidelines for Impact Assessment (IA), the breadth and depth of an assessment should be proportionate for the magnitude and significance of the impacts the proposal is likely to have. If a quick and simple analysis is enough to show that the chosen option is the most cost-effective and that any adverse impacts will be insignificant, nothing more will be needed. A complex policy with complex impacts will need more thorough assessment. This paper examines the third of the questions posed by the workshop organisers, concerning the extent to which the need for and scope of an assessment should be defined in formal procedures or left to the discretion of individual policy-makers and assessors.

The question is not new. It was a key issue in the procedures for Environmental Impact Assessment (EIA) that were introduced in the USA with the National Environmental Policy Act of 1969, and subsequently in the European Union's EIA Directive of 1985. It arises also with the EU's 2001 Directive for Strategic Environmental Assessment (SEA). Experience with EIA and SEA offers pointers for any formalised process of *ex ante* impact assessment, including the EC's IA procedures for assessing the economic, social and environmental impacts of policy proposals. In some respects the SEA Directive is the more relevant, although in others the lessons from project level EIA are more informative. The EIA process is generally more highly procedural than SEA, with extensive international experience of both formal and discretionary approaches to defining when an impact assessment is needed and what level of analysis is appropriate. Lessons from both EIA and SEA have implications for the EC's policy level assessments.

For a formal impact assessment process to be effective it must be consistent with the decision-making context to which it applies (Radaelli 2004). We will therefore briefly review the approval structure for EU legislation and other policy measures, before proceeding to discuss the six highly pertinent subsidiary questions posed by the workshop organisers.

The decision-making process for EU policy initiatives

Decision-making authority for most EU legislation and policy is shared between the Council of the European Union and the European Parliament (European Commission 2008). The powers of the Council, the Parliament and the Commission are defined in the EU treaties. For some types of measure Council need only consult Parliament, for others it must obtain its assent, and in some specific cases the Commission can adopt laws on its own initiative. Most EU legislation is approved through a co-decision procedure in which legislative power is shared equally between Council and Parliament.

Proposals sent to Parliament are examined by committees whose reports are submitted to plenary session along with the proposal. Those presented to Council are examined by relevant departments in Member State governments, whose representatives state their position at a meeting of the Council of the European Union.

The European Commission is the only institution empowered to initiate legislation, although Council and Parliament can ask it to do so. Commission proposals and their associated IA reports are prepared by the Directorate-General responsible for the relevant policy area. Other DGs are consulted through an Inter-Service Steering Group or Impact Assessment Steering Group convened by the lead DG. The proposal and its IA are presented to the College of Commissioners, and are approved for submission to Council and Parliament by collegiate decision of all Commissioners in a meeting of the College of Commissioners.

The quality of each IA report is evaluated by the Impact Assessment Board (IAB), chaired by the Commission's Deputy Secretary-General responsible for Better Regulation (European Commission 2006). The IAB has a permanent member from each of the four Directorates-General most closely associated with sustainable development issues (Economy and Finance; Enterprises and Industry; Employment, Social Affairs and Equal Opportunities; Environment). Board members are required to evaluate IA quality in a personal capacity, and their departments are prohibited from giving them instructions.

Of the institutions directly involved in the legislative process only the IAB has a formally defined responsibility for Impact Assessment. Its Rules of Procedure require it to present its opinion on the quality of the IA report to the College of Commissioners, with the power to ask for a re-submission. This has been invoked in about ten percent of cases (European Commission 2008a). However, the IAB has no mandate to specify the content of a report or make policy recommendations based on its findings. The Rules of Procedure of the Council of the European Union and of the European Parliament make no mention of Impact Assessment (Council of the European Union 2006, European Parliament 2008). Those of the College of Commissioners were amended in 2005 to incorporate the IA process, but with no clear responsibility to take account of the IA findings in its decisions. The relevant change was to Article 23 on Cooperation and Coordination Between Departments, with the introduction of paragraph 5(d). This requires that

‘the Secretariat-General shall be consulted on all initiatives which are subject to impact assessment or public consultation’ (European Commission 2005).

This is the only mention of Impact Assessment in the Rules of Procedure of the three decision-making bodies.

When the IA process was being introduced experimentally it may well have been appropriate to assign no formal responsibility for taking account of its findings in policy decisions. However, this limits the extent to which the IA process can be made proportionate for those decisions. It contrasts with the EU Directives for EIA and SEA, in which decision-makers are ultimately responsible for specifying what information they need in order to make a reliable decision. It also contrasts with the transparency requirements of those Directives.

Article 8 of the EIA Directive states that the impact assessment report must be taken into consideration in the consent procedure for the proposal (European Commission 2003). Article 5 gives the competent authority the power to require further information if the report is considered to be inadequate. Article 9 requires that, when the decision has been made, the public must be provided with information describing the main considerations on which it was based, including the public participation process and the measures taken to avoid, reduce or offset any major adverse effects. Similarly, Article 9 of the SEA Directive requires that the public be provided with a statement summarising how the impact assessment report and the opinions expressed on it during consultation were taken into account in the decision, and the reasons for choosing the proposal in the light of other reasonable alternatives (European Commission 2001).

Legislation on environmental assessment in most other high income countries is similarly prescriptive in defining the responsibilities of decision-makers. In countries with less well developed democratic institutions the law is often more discretionary (George 2000). In Nigeria, for example, the EIA Act was drafted to contain all the elements of international best practice, with the inconspicuous but convenient proviso that for any given proposal their implementation would be at the discretion of the relevant Minister (Nwafor 2006).

A similar level of discretion may have been appropriate for the EU’s IA system when it was still at an experimental stage. Commissioners, members of Council and Parliamentarians should now have a much clearer understanding of the circumstances in which IA makes a useful contribution to their decisions. If IA reports have proved to be of use only for highly controversial major proposals, considerable wasted time and effort could be saved by a screening procedure which restricts IA to such proposals. Renda (2008), for example, has suggested that IA should be targeted at key strategic priorities identified by the Council. The IA guidelines would then need to be revised accordingly. The remainder of the discussion will instead assume that the objectives of the EU’s IA system will remain unchanged, and that it will continue to be used as a means of promoting better regulation across the full spectrum of EU law and policy.

Discretion or formalism in the screening and scoping of policy proposals

The first of the six subsidiary questions addressed by workshop is:

Is it reasonable to formalise the decision when an impact assessment has to be carried out or to what extent should discretion remain?

The EIA Directive and many other countries' EIA systems include a formal definition of those types of project for which an impact assessment must be carried out, other types for which the requirement is at the discretion of the decision-making body, and those for which an assessment is not needed. The SEA Directive adopts a similar three tier approach for the screening of plans and programmes.

These Directives apply only to the assessment of environmental impacts. It may be argued that any development project, plan or programme will have an impact on the environment, and that an assessment should therefore be mandatory for all. However, environmental assessment is just one component of an extensive body of EU environmental legislation. It was introduced with the prime aim of filling a gap left by existing laws and regulations. Many types of development, particularly small ones, are highly generic in their effects, and are readily subjected to specific legislation. Environmental assessment fills the gap for more complex projects whose impacts would be uncertain without a specific investigation of each individual case. For simpler developments subject to other legislation EIA contributes nothing, unless the decision-making body identifies some additional aspect of a proposal that could have significant impacts not covered by other controls.

While this three tier approach has passed the test of time for environmental assessment it may not be appropriate for an IA process that is not a complement to other controls, but the only relevant control, and which examines economic and social impacts as well as environmental ones. If a policy is not expected to have any significant impact in any of the three spheres it should not be proposed. The prime aim of IA is to promote better regulation, by ensuring that policy makers do not introduce new or revised legislation in response to some new problem without a full understanding of the consequences, along with those of alternative courses of action. This objective applies to their own sphere of responsibility as much as it does to those of other officials. On the basis that every policy proposal that is worth proposing will have a significant impact, at least in the sphere of influence of its own proponent, and that the intended impact is unique to that proposal, IA should apply to them all.

Three caveats should be added. Firstly, there may be some types of decision made by the College of Commissioners that have no significant impact outside the Commission itself. If such decisions can be identified generically they would not need an IA. Secondly, there may be some types of policy proposal that can be shown on a generic basis to be highly unlikely to have impacts in one of the three spheres (economic, social or environmental). In such cases it would be reasonable to exclude that sphere from the assessment. There may also be cases where the IA needs to cover only one sphere, which

would be the sphere of responsibility of the lead DG. Even here, however, an IA will always be needed if the objectives of better regulation are to be achieved. Thirdly, the need to assess a proposal's likely impacts in every case does not mean that a highly complex assessment is needed in every case.

In its 2007 annual report the IAB noted that some of the impact assessments that were reviewed did not seem justified by the limited impact of the corresponding initiative, and that a more proportionate analysis could have been incorporated in the initiative itself. It suggested that 'full impact assessment' should be carried out only where it adds real value. There is no definition of what a less than full assessment might consist of. Here again there is much to be learned from experience with EIA, and to a lesser extent SEA. Under the EU Directive and in most other jurisdictions EIA begins with a scoping exercise to define the breadth and depth of the subsequent assessment. In some jurisdictions scoping is the responsibility of the competent authority, while under the EU Directive the competent authority must at least give an opinion on the scope if this is requested by the proponent. This leaves the authority free to request further information if the assessment reveals a need for it. The EC's IA system is faced with a major difficulty in this respect. It does not define any equivalent competent authority.

The purpose of the EU's formal systems for EIA and SEA is not to provide a report which an independent body considers to be of high quality, but to provide decision-makers with sufficient information, but no more, on which to base their decision. Whether the level of assessment is proportionate for the likely impacts is decided by the body that needs the information. Guidance is often available on what is likely to be needed for different types of proposal, but decision-makers retain the authority to request whatever is needed for each particular case.

It would not be practicable for the College of Commissioners to do the same for EU policy proposals. Commissioners would need to get their Directorates-General to do it for them. The four DGs from which IAB members are chosen would have particularly important roles, since they have the greatest expertise in economic, social and environmental issues. DG Environment has the competence to operate a three tier screening system for environmental impacts similar to those for EIA and SEA, and, where appropriate, to issue guidance on what is likely to be required for particular types of proposal. The other DGs are equally competent in their own spheres. All have the competence to specify what additional information might be needed if an IA report does not provide it, or if they doubt its validity. Commissioners would need to do no more than take the issues raised by their DGs to the College, debate them as necessary, and come to their collegiate decision.

Similar considerations apply to Council and Parliament. Each Member State represented in Council already evaluates proposals and IA reports as fully as they consider necessary, making use of the expertise in their relevant government departments. Parliament already evaluates them through its committees. However, if Council or Parliament considers the IA report to be inadequate it cannot require the Commission to revise it. The Commission, the Council and Parliament have agreed a common approach to IA

which concedes only that when the Commission is asked to complement its original IA it may, or may not, decide to do so (Council of the European Union 2005). When Council or Parliament introduces a substantive amendment to a proposal, responsibility for assessing the impacts rests with them. Nonetheless, both Council and Parliament have access to the necessary expertise to make appropriate contributions to a three tier screening approach similar to those defined in the EIA and SEA Directives.

In answer to the first of the subsidiary questions we may conclude that it would indeed be reasonable to formalise the decision on when an impact assessment has to be carried out, by making IA mandatory for all proposals other than those in any definable category that can have no significant impact outside the Commission itself. For all other proposals a three tier screening system would be applied in each of the economic, social and environmental spheres, developed and implemented by the DGs responsible for those spheres. The Council of the European Union, in collective response to advice from Member States, would have the power to require further information when needed. Parliament would have similar discretion to ask the Commission to revise a report if its committee considered it to be inadequate for the decision that has to be made.

Screening criteria

The second of the subsidiary questions is:

Should there be a clear-cut criterion such as the USD 100 million impact as in the USA?

The conclusion for the previous question leads directly to a negative answer for this one. The only criterion that would be needed in the EU's IA system is whether the proposal is intended to have any significant impact outside the Commission itself.

The US system for Regulatory Impact Assessment (RIA) predates the EU system and was introduced primarily to improve economic performance. The system is more prescriptive than the EU's in the level of economic analysis required, as appropriate for impacts that are significant for the whole economy. Its cost-effectiveness therefore benefits from the cut-off criterion. The objectives of the EC's IA system are different, and require a different approach.

Significance criteria

The third question is:

Is the significance criterion of the EU impact guidelines sufficiently defined to be helpful?

The criterion to which the question refers is given in Section 3.2.1 of the proposed IA guidelines (European Commission 2008b) issued in draft form in May 2008 (Box 1):

Box 1. Draft IA Guidelines Section 3.2.1

Significance of impacts. An initiative may have a particularly significant impact in one or more of the fields analysed in the impact assessment (economic, social or environmental). It may also have impacts on certain economic sectors, on economic actors, groups of citizens, on businesses, SMEs, or citizens, fundamental rights, or on regions, species or habitats. Other issues may also be relevant – the impact on a third country or the contribution to Commission programmes such as the programmes for simplification of legislation or for the reduction of administrative burdens.

The first step in deciding whether these impacts merit special attention in the IA will be in the IASG on the basis of past experience, observation of markets and political developments etc

The first paragraph gives valuable guidance on issues that need to be considered when deciding whether or not an impact is significant. The second goes some way towards indicating how significance might be assessed. As a whole the guidance is helpful, but not helpful enough.

A key aspect that needs to be stressed is the relationship between magnitude and significance (Wood 2003). If the magnitude of an impact is uncertain it may be less significant than it appears. An impact whose assessed magnitude appears to be large may be insignificant in comparison with the baseline for the same parameter and the magnitude of existing trends. Once these issues have been dealt with the assessor still needs fuller information on how to evaluate significance.

For environmental impacts Annex III of the EIA Directive and Annex II of the SEA Directive specify criteria for determining the likely significance of effects. Those in the SEA Directive are the more appropriate for strategic level decisions and may be applied directly to policy assessment with only minor revisions. They are given in Box 2.

Box 2. Significance criteria in the EU Directive for SEA

ANNEX II. Criteria for determining the likely significance of effects referred to in Article 3(5)

1. The characteristics of plans and programmes, having regard, in particular, to
 - the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
 - the relevance of the plan or programme for the integration of environmental considerations in particular with a
 - view to promoting sustainable development,
 - environmental problems relevant to the plan or programme,
 - the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to
 - the probability, duration, frequency and reversibility of the effects,

- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
- the value and vulnerability of the area likely to be affected due to:
 - special natural characteristics or cultural heritage,
 - exceeded environmental quality standards or limit values,
 - intensive land-use,
- the effects on areas or landscapes which have a recognised national, Community or international protection status.

Several of these criteria are equally relevant for social or economic as well as environmental impacts. Others would be needed with a more direct bearing on economic and social issues. These could be developed fairly easily using similar principles.

Significance thresholds

The fourth of the subsidiary questions has two parts, of which the first is:

- a) When should a possible environmental consequence be considered significant?

The criteria discussed above serve mainly to identify characteristics that should be considered when evaluating significance, and give little guidance on how to judge whether an impact is significant or not.

The concept of significance is particularly important in the approach to environmental assessment employed in the USA, where the National Environmental Policy Act requires that an assessment be carried out for all major actions ‘significantly affecting the quality of the human environment’ (Wood 2003). In order to implement this approach to the screening of development proposals the regulations issued by the US Council on Environmental Quality specify that the significance of a potential impact should be evaluated in terms of both its context and its intensity, for which the US Federal Environmental Assessment Review Office identifies three main forms of significance criterion (Canter 1996). These are summarised and interpreted in Table 1.

Table 1. Types of significance criteria

	Form of criterion	Nature of impact significance
institutional recognition	legal requirement or other institutional norm, e.g. official policy, legal standards	widely understood and agreed
public recognition	opposition to the impact, controversy over it, or conflict between different sections of the community	not widely enough agreed to have resulted in an institutional norm, but of concern to at least some sections of the public
technical recognition	concern based on technical understanding of the impact's consequences	not widely enough understood to cause public concern, but of concern to technical specialists

Source: George (2000a)

All three forms are equally important. The first is straightforward, in that an impact will be significant by definition if it breaks the law, results in a legal standard being exceeded, or fails to comply with an officially adopted policy. The second type of criterion applies when public concern is equally high but has not yet resulted in the adoption of an institutional norm. The third applies when equally serious concerns expressed by experts have yet to influence the general public. The significance of greenhouse gas emissions was recognised primarily by technical experts in the 1960s and 1970s, then increasingly by the general public in the 1980s before achieving institutional recognition in the UN Climate Convention in 1992.

The second part of the question is:

b) Should there be additional thresholds for environmental impacts?

As discussed above, every policy proposal that is intended to have a significant impact beyond the Commission itself should have an IA, but not necessarily covering all three spheres of sustainable development. For the environmental aspects, screening criteria could be established that are similar in principle to those in the SEA Directive. These define types of plan or programme rather than thresholds, other than for the possible exclusion of those which apply only to small areas at the local level.

More extensive use of thresholds is made in the EIA Directive. However, thresholds are generally less useful at the strategic level of plans and programmes than they are at the project level. They may have little to offer at the policy level.

Political significance

The fifth of the six questions is:

Does the political importance criterion of the EU impact guidelines put the environment at a disadvantage as it focuses on economic issues and asks for contestants and controversy in order to estimate political importance?

The criterion in question is given in Section 3.2.2 of the proposed IA guidelines (Box 3):

Box 3. Draft IA Guidelines Section 3.2.2

Political importance:

- Does the initiative relate to Commission strategic or annual priorities (such as promoting growth and jobs, promoting energy efficiency) and/or does it cut across several policy fields?
- Could the initiative raise subsidiarity/proportionality concerns?
- Is it particularly controversial? Who might contest the initiative?

- Has the initiative a particular importance in the inter-institutional context or for certain Member States?

There is only one mention of a specific environmental issue in the criterion (energy efficiency), but also only one mention of a specific economic issue (promoting growth) and one social issue (jobs). This would seem to be a reasonable balance. Table 1 identifies controversy over environmental impacts as one of the factors recognised in the USA as a measure of their significance. Economic, social and environmental issues are all equally likely to generate controversy and political concern.

It may be argued that the adoption of political importance as a significance criterion reduces rather than increases any disadvantage to environmental issues. Much of the guidance on IA encourages assessors to use cost-benefit analysis techniques to attach an economic value to all environmental (and social) impacts, so that a decision can be made on the basis of one significance criterion only (net present economic value). Not all environmental economists agree that this is legitimate (Winpenny 1991). Any direct or indirect effect that an environmental impact has on economic performance should obviously be included in the assessment of a proposal's economic impact. The use of environmental economics techniques to incorporate any other effect into an economic equation is itself highly controversial. The recognition that impacts can have political as well as economic significance reflects the view that not all human values are economic values. It also allows for wide variations in those values, without relying on the assumption that a particular economic theory is an adequate description of human motivation. Reconciling the different values of different people is an inherently political process.

While the political importance criterion of the IA guidelines presents no disadvantage to environmental issues, Annex 7 of the draft does. It bears the title 'Assessing economic, social and environmental impacts', with ten sections (Box 4):

Box 4. Draft IA Guidelines Annex 7

- 7.1. Impacts on international trade and cross-border investments
- 7.2. Impacts on firms in terms of investment, operating costs, products and services
- 7.3. Impacts on technological development and innovation
- 7.4. Impacts on the number and the quality of jobs
- 7.5. Impacts on SME's
- 7.6. Impacts on public authorities
- 7.7. Macroeconomic impacts
- 7.8. Impacts on consumers
- 7.9. Monetisation of non-market impacts
- 7.10. Life cycle assessment approach

These would seem to be unduly weighted towards economic interests. The last, life cycle assessment (LCA), appears to have been added as an afterthought, as 'one of the tools

commonly used in assessing environmental impacts'. While LCA can give valuable information for particular types of decision, it is rarely used for assessing the environmental impacts of EU legislation or policy. The treatment of social impacts in the annex is only marginally more useful. The annexes to the 2008 draft guidelines need to be expanded considerably in these respects.

Limiting the discretionary power of the lead agency

The last of the subsidiary questions is:

Which additional standards for the IA should be defined in the EU guidelines to limit discretionary power of the lead DG?

As argued above, the prime responsibility for limiting the discretionary power of the lead DG in its preparation of IA reports rests with the three decision-making bodies. Of these the College of Commissioners has the most important role, as it represents all aspects of the appropriate expertise at European level, and is responsible for their coordination. As the decision-making body for submitting proposals to the Council and Parliament, the College has full authority to require the lead DG to provide whatever information it needs for making its decision.

If the Rules of Procedure of the Commission were amended to incorporate this responsibility, it may be desirable to minimise the number of IA reports rejected by the College through the provision of guidance on the quality standards that lead DGs are expected to meet. The draft IA guidelines provide a strong basis for this, but would benefit from the addition of quality criteria similar to those used for EIA and SEA.

Quality review packages that have been developed for SEA may be adapted for use in the EC's IA system (Lee and Kirkpatrick 2004). Box 5 gives examples of criteria that have been derived from one of these packages (Lee et al 1999), from a total of 49 criteria covering a report's description of the proposal and the affected environment, the identification and evaluation of impacts, alternatives, mitigation, monitoring, and presentation of the results.

Box 5. Example review criteria for IA reports

Alternatives

- Are the nature and causes of the problem to be addressed adequately analysed and described?
- Are the objectives of the proposal and their relationship to other policy objectives adequately defined?
- Have the affected parties been consulted in identifying alternative options for meeting these objectives?
- Have both regulatory and non-regulatory options been considered?
- Are the alternative options, including the do nothing option, described and evaluated?
- Are the reasons for adopting the chosen option adequately described?
- Has the significance of the predicted impacts been used in making the choice?

Assessment of Impacts

- Is impact magnitude predicted, either in quantitative or qualitative terms?
- Is impact significance assessed, taking into consideration, where relevant: impact magnitude; baseline magnitude; baseline trends; impacted locations (Member States, regions, localities); impacted economic sectors; impacted social groups; impact duration; opinions of affected parties; opinions of relevant experts; EU policies; international commitments?
- Is the methodology used to predict impact magnitude and significance described and adequately justified?
- Are the sources of data described and adequately justified?
- Are all value judgements explicitly stated?

Uncertainties

- Are uncertainties and other limitations regarding data, methodologies and results acknowledged and, where appropriate, quantified?
- Does the report explain and justify how these uncertainties and limitations have been handled?

Consultation

- Does the report present information on consultation undertaken with relevant: government authorities; business associations; expert institutions; NGOs; other affected or interested parties; the general public?
- Are the opinions expressed by consultees summarised and taken into account?

Source: Derived from Lee et al (1999)

Quality criteria of this nature might, for example, be developed and issued by the IAB and used in its reviews of IA reports before they are submitted to the College.

Summary and conclusions

While the Impact Assessment Board is mandated to evaluate the quality of IA reports, the decision-making bodies responsible for approving the legislation and policies that are assessed have no formally defined responsibility to take the findings into account in their decisions. This limits the extent to which the resources devoted to IA can be made proportionate to the importance of those decisions. Sufficient experience with IA has now been gained to formalise the objectives of the process and the corresponding responsibilities of the College of Commissioners, the Parliament and the Council. It would then be possible to define those types of proposal whose economic, social or environmental impacts are such as to require assessment, and to specify the depth and breadth of that assessment, using a similar approach to that used in the EU Directives for EIA and SEA.

The paper has argued that, since every proposal is intended to have a significant impact that is unique to that proposal, and since the prime objective of IA is to contribute to better regulation across the full spectrum of EU law and policy, IA should be mandatory for all proposals other than those in any definable category that can have no significant impact outside the Commission itself. The suggested mechanisms for screening proposals that need assessment, and for scoping the content of that assessment, would apply separately to economic, social and environmental impacts. Every proposal that is

intended to have an impact beyond the Commission itself would require an IA covering at least one of the three spheres.

By drawing on European and international experience with environmental impact assessment and strategic environmental assessment the paper has identified a number of potential components of appropriate screening and scoping procedures. These include significance criteria, guidance on evaluating significance, and additional criteria which the Impact Assessment Board might use in evaluating the quality of IA reports. The paper also notes that the EC's current draft guidelines need to be expanded considerably in their guidance on assessing social and environmental impacts. However, irrespective of any such improvements, revisions to the IA guidelines may have little effect on the quality of EU legislation and policy until the responsibilities of decision-makers for taking the IA findings into account are more clearly defined.

References

Canter LW (1996) Environmental Impact Assessment, Second Edition, McGraw Hill, New York

Council of the European Union (2005) Inter-Institutional Common Approach to Impact Assessment (IA), Council Document 14901/05, Brussels

Council of the European Union (2006) Council Decision of 15 September 2006 adopting the Council's Rules of Procedure, Brussels

European Commission (2001) Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the Effects of Certain Plans and Programmes on the Environment, Official Journal of the European Communities, Brussels

European Commission (2003) Council Directive 85/337/EEC on the Assessment of the Effects of Certain Public and Private Projects on the Environment, as amended by Directives 97/11/EC and 2003/35/EC, Brussels

European Commission (2005) Rules of Procedure of the Commission as amended by Commission Decision 2005/960/EC, 15 November 2005

European Commission (2006) Rules of Procedure of the Impact Assessment Board, Brussels

European Commission (2008), Decision-making in the European Union, http://europa.eu/institutions/decision-making/index_en.htm

European Commission (2008a) Impact Assessment Board Report for the year 2007, SEC(2008) 120, Brussels

European Commission (2008b) Impact Assessment Guidelines, Draft version 27/05/2008

European Parliament (2008) Rules of Procedure, 16th Edition, Brussels

George C (2000) Comparative Review of Environmental Assessment Procedures and Practice, in Lee N and George C. (eds) Environmental Assessment in Developing and Transitional Countries, John Wiley & Sons, London

George C (2000a) Environmental Impact Prediction and Evaluation, in Lee N and George C. (eds) Environmental Assessment in Developing and Transitional Countries, John Wiley & Sons, London

Lee N and Kirkpatrick C (2004) A Pilot Study of the Quality of European Commission Extended Impact Assessments, Working Paper 8, Impact Assessment Research Centre, University of Manchester

Lee N, Colley R, Bonde J and Simpson J (1999) Reviewing the Quality of Environmental Statements and Environmental Appraisals, Occasional Paper 55, EIA Centre, University of Manchester

Nwafor JC (2006) Environmental Impact Assessment for Sustainable Development: The Nigerian Perspective, EDPCA Publications, Enugu

Radaelli C (2004) How Context Matters: Regulatory Impact Assessment in the European Union, Paper presented at the annual meeting of the American Political Science Association, Chicago, Sep 02 2004

Renda A (2008) Advancing the EU better regulation agenda: selected challenges for Europe, Centre for European Policy Studies, Brussels

Winpenny J (1991) Values for the Environment: A Guide to Economic Appraisal, HMSO, London

Wood C (2003) Environmental Impact Assessment: a Comparative Review, second edition, Prentice Hall, Harlow