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Accreditation of EIA Experts and Other Tools for Assuring Quality Control

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Introduction

- No explicit provisions in the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 25 February 1991)
- No explicit provisions in Directive 2011/92/EU (Directive 85/337/EEC)

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EU Evaluation

- Concerns regarding the quality of the EIA expressed in 2009 EU Commission Report “*On the application and effectiveness of the EIA Directive*” (Com (2009) 378final)
- Major differences in quality of EIA documentation, between and within MS

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EU Evaluation

- Several ways of ensuring proper quality control
 - Proper accreditation of consultants that undertake EIA
 - Preparation of reports by independent consultants
 - Use of independent external review or expert assistance
 - Use of guidelines on specific issues
 - Keep the data used up to date

EU Evaluation

- Similar observations in 2003 EU COM Report on EIA
- Increased Quality Control advocated in GHK, Technopolis Study 2008, *Evaluation of EU EIA Legislation*
- *Id.* COWI Report 2009
- *Id.* Results of the consultation on the Review of the EIA Directive 2010 (53% in favour)

Proposal amending Directive 2011/92/EU

- COM(2012) 628 final – 26.10.2012
- Explanatory Memorandum
 - To respond to the shortcomings of the Directive (...) (2) the quality and analysis of the EIA...
 - Amendments to reinforce the quality of the process

Proposal amending Directive 2011/92/EU

- Art. 5 is Amended
 - Developer shall prepare an environmental report - Content is more detailed
 - On the basis of a scoping decision by competent authority
 - That may seek assistance from accredited and technically competent experts

Proposal amending Directive 2011/92/EU

- Developer shall ensure that ER is prepared by accredited and technically competent experts *or*
- Competent authority shall ensure that the ER is verified by accredited and technically competent experts and/or committees of national experts

Proposal amending Directive 2011/92/EU

- Accredited and technically competent experts that assisted the competent authority in the scoping shall not be used by the developer for the preparation of the environmental report
- More detailed requirements regarding the content of the ER (review of Annex IV)
- Detailed arrangements with regard to accredited experts to determine by MS

Experiences with Quality Control

- **Flemish Region of Belgium**

- SCOPING
 - Notification of EIA Service by developer of intention to draw up an EIS + checking by EIA Service
 - Publication (website, local authorities) + circulation of it among different competent authorities en specialised agencies + transboundary notification in case of significant transboundary effects

Flemish Region of Belgium

- Input by the public (30 days) and competent authorities and specialised agencies (40 days)
- Scoping decision by the EIA Service within 60 days
 - Content of EIS (including alternatives)
 - Impacts to be studied in detail
 - Methodology to be applied
 - Team of experts to be used
 - Specific guidelines

Flemish Region of Belgium

- EXPERT INVOLVEMENT
 - EIS has to be written by a team of accredited experts
 - EIS Coordinator
 - EIS Domain Experts (human, fauna flora, soil, water, air, sound and vibrations, climate, landscape..)
 - Accreditation by Environment Minister after having obtained the opinion of the EIA Service and the Accreditation Unit of Environmental Permits Dept.

Flemish Region of Belgium

- General requirements
 - Master or Bachelor
 - Complementary training + yearly update training
 - 3 or 5 years of experience in assisting
 - Regularly quality checking of EIA work
- Accreditation can be suspended or withdrawn in case of serious failures
- For a particular EIS the experts, chosen (and paid) by the developer, may not have any interest in the project or its alternatives, nor be involved in its realisation

Flemish Region of Belgium

- Regular consultation with EIA Service during writing of EIS + apply the general and specific guidelines
- ▶ QUALITY REVIEW OF EIS
 - EIS has to be submitted to EIA Service
 - EIA Service reviews the EIS against scoping decision, general and specific guidelines, legal requirement (30 days)
 - Review Report – approval or disapproval with indication what should be improved – Only approved EIS can be used in permitting procedure

Flemish Region of Belgium

- ▶ DEMAND FOR RECONSIDERATION
 - Complaint is submitted to an Advisory Committee (3 to 5 independent members appointed on a case by case basis)
 - Opinion within 40 days – Binding when unanimity
- ▶ HANDBOOK AND GUIDELINES
 - <http://www.lne.be/themas/milieueffectrapportage/deskundigen/richtlijnenboeken>

Walloon Region of Belgium

- ACCREDITED EXPERTS
 - Developer has to choose one or more accredited experts (including a co-ordinator) for writing EIS
 - Developer has to notify his choice to the competent authority
 - Competent authority can reject developer's choice of experts for lack of independence
 - Accreditation of natural or legal persons by the Environment Minister – *for categories of projects*

Walloon Region of Belgium

- Accreditation can be withdrawn in case of EIS of poor quality after consultation of the Walloon Council for the Environment and Sustainable Development
- SCOPING – Optional (not mandatory)
 - Competent authority, after consultation (30 d.) of different consultative bodies: 45 days

Walloon Region of Belgium

- QUALITY REVIEW OF EIS
 - Walloon Council for the Environment and Sustainable Development or Region Council for Land Use Planning review the quality of each EIS
 - They can ask to revise an EIS that is of poor quality



The Netherlands

- STANDARD PROCEDURE (in some instances a simplified procedure can be used)
- SCOPING
 - Developer notifies competent authority (permit) of its intention to start a EIA –procedure
 - Publication of notification
 - Input from the public and specialised agencies
 - Opinion of competent authority (6 à 12 weeks)

The Netherlands

- Opinion of the Commission for Environmental Assessment can be asked (not mandatory)
<http://www.eia.nl>
independent expert body that provides advisory services and capacity building on environmental assessment
- QUALITY REVIEW OF EIS
 - Publication of EIS (together with permit demand)
 - Opinion of the Commission for Environmental Assessment (mandatory) (6 weeks)
