

**An independent body to oversee  
strategic environmental assessment in  
Scotland: bureaucratic burden or  
efficient accountable administration?  
- *A preliminary report* -**

Anna McLauchlan and Elsa João

Graduate School of Environmental Studies, University of Strathclyde  
Level 6, Graham Hills Building, 50 Richmond Street, Glasgow, G1 1XN  
<http://www.strath.ac.uk/Departments/GSES/>

This preliminary report was written in response to a request from Scottish Environmental Link. The views contained in this paper are the authors' own and do not necessarily represent those of Scottish Environment Link.

January 2005

## Contents

	<i>Page</i>
Executive summary	3
Acronym list	4
1. Introduction	5
2. The objective of SEA in Scotland	5
3. How the contribution of an independent body can be assessed	6
4. Report structure	7
5. Co-ordination and communication	8
6. Access to information	11
7. Accountability and transparency	13
8. Conclusions	16
<b>References</b>	<b>17</b>
<b>Appendix I - EIA and SEA Systems with particular aspects relevant to an independent body</b>	<b>23</b>
I.1 Canada	25
I.2 Czech Republic	27
I.3 Hong Kong, China	28
I.4 Latvia	29
I.5 The Netherlands	30
I.6 Poland	33
I.7 Nordic EA Network	34
I.7.1 Finland	35
I.7.2 Iceland	35
I.7.3 Sweden	36
<b>Appendix II - EIA and SEA Research Centres, Libraries and Information Systems</b>	<b>38</b>
II.1 EIA Research Centres in Europe	38
II.2 Portuguese “Instituto do Ambiente”	38
II.3 Scottish Executive Information and Library Service	39

## Executive Summary

This report intends to inform the debate about whether an independent organisation to administer Strategic Environmental Assessment (SEA) is needed to support the Scottish Ministers desire to make Scotland a world leader in SEA. Interlocking roles an independent body could perform were developed from literature about the administration of environmental assessment in several countries and studies regarding “effective” SEA; arguments for and against a freestanding administrative body have then been assessed in the context of these roles and existing/proposed Scottish legislation.

An SEA Gateway to manage delivery of reporting between responsible authorities and statutory consultation authorities is in place in Scotland. The Gateway will have to record the reporting it administers, this information could be made publicly available through **registers of reporting** which would provide: greater transparency; support links between SEAs; reduce the potential for conflicting strategic action; enabling better identification of cumulative impacts; forge links with other forms of appraisal such as project Environmental Impact Assessment (EIA). A defined register could assist the Gateway with collating **management information and statistics on the operation of SEA**.

A register could be administered through a dedicated electronic **central access point** extending the present function of the Gateway to **offer guidance on SEA to those preparing strategic action** to: support the *flexibility* necessary to conduct the wide variety of SEA to be administered in Scotland; provide assistance throughout imminent planning system reform; enable the Scottish Executive to seamlessly fulfil their obligations under the Freedom of Information Act; make information readily available to contribute to a more “Open Scotland”.

Presently, dispute between consultation authorities and the responsible authority regarding whether SEA is required is arbitrated by the Scottish Ministers (even when the Scottish Ministers are the responsible authority). An independent body could take on the role of **arbiter in the case of dispute** to decide whether SEA is *required*, this would not interfere with decision-making per se because it will not have bearing on how SEA is *used* by the responsible authority. The viability and cost-effectiveness of a freestanding arbiter may depend on the volume of cases open to dispute, but would arguably provide a lasting legacy of environmental protection. Robust systems require quality review, especially where the role of consultation authorities is limited to guidance and compliance, therefore if the Scottish Ministers wish to be considered a world leader in SEA, provisions of a system to **audit the quality of environmental reporting and implementation of SEA** are necessary.

All functions a freestanding body could perform will incur design and maintenance costs. These should be balanced against existing costs of disseminating information through the Gateway and the benefits of co-ordinated transparent strategic action, informed responsible authorities and public access to information. The actual cost incurred by a freestanding body depends on the appropriateness of design and its management, and care must be taken to guarantee the roles it could undertake are co-ordinated and internally compatible. As this research is preliminary, further investigation into the feasibility and costs associated with the roles a freestanding body could perform in Scotland is recommended.

## Acronym list

CEAA	Canadian Environmental Assessment Agency
CEI	Czech Environmental Institute
CESD	Commissioner of the Environment and Sustainable Development [Canada]
EA	Environmental Assessment
EC	European Commission
EIA	Environmental Impact Assessment
EIABS	Environmental Impact Assessment State Bureau [Latvia]
EIAO	Environmental Impact Assessment Ordinance [Hong Kong, China]
EIS	Environmental Impact Statement
EPD	Environmental Protection Department [Hong Kong, China]
ETPL	Environmental Test of Proposed Legislation [The Netherlands]
EU	European Union
FoES	Friends of the Earth Scotland
IAIA	International Association of Impact Assessment
IEMA	Institute of Environmental Management and Assessment
IPPC	Integrated Pollution Prevention and Control
NCEIA	Netherlands Commission for Environmental Impact Assessment
NGO	Non Governmental Organisation
NHS	National Health Service
NNA	The Northern Netherlands Assembly
ODPM	Office of the Deputy Prime Minister
RSPB	Royal Society for the Protection of Birds
SE	Scottish Executive
SEA	Strategic Environmental Assessment
SEPA	Scottish Environment Protection Agency

## 1. Introduction

There is currently debate about whether an independent organisation to administer Strategic Environmental Assessment (SEA) is needed to support the Scottish Ministers desire to make Scotland a world leader in SEA. Such an organisation could extend the existing SEA gateway (which presently manages delivery of reporting between responsible authorities and statutory consultation authorities) by preparing guidance, recording and disseminating information relevant to SEA, being an arbiter in cases of dispute, and auditing the quality of environmental reporting. However an independent SEA body could be viewed as an unelected and therefore undemocratic interference in public sector decision-making, creating a costly bureaucratic burden. To provide a basis for assessment of the need for an independent body to administer SEA in Scotland this report proposes roles this body could perform (section 4), and then explores arguments for and against such a body in the context of these roles (sections 5 – 7)<sup>1</sup>.

## 2. The Objective of SEA in Scotland

Whether an independent body to administer SEA is needed must be assessed against the aims of the particular SEA regime in relation to the context in which the regime operates. The “Scottish Ministers want Scotland to be a world leader in Strategic Environmental Assessment (SEA)” (SE 2004b, p.1) and are presently extending existing legislation via the SEA Bill (SE 2004b). Therefore the need for an independent body must be measured in terms of what it can contribute to Scotland becoming a world leader in SEA together with the benefits that the Scottish Minister expect to arise from SEA (listed in Box 1).

Box 1: Benefits of SEA, from the consultation document on the Proposed Environmental Assessment (Scotland) Bill (SE 2004, p.1).

SEA provides a systematic method of considering the effects on the environment of strategies, plans and programmes helping to reduce or avoid environmental impact. It will bring a number of benefits:-

- It can contribute to the Executive’s aim of improving the quality of Scotland’s environment and making Scotland more sustainable;
- It can achieve better policy making by ensuring that environmental effects are fully considered at an early stage in policy formulation and the environmental effects of different options are assessed;
- SEA will contribute to more open government. The public and interested organisations will be able to comment on environmental reports and public bodies will be obliged to explain how they have taken such comments into account.

How the Scottish Ministers think SEA can benefit Scotland is relatively clear (see Box 1), however to become a world leader Scotland would require to become the most successful or advanced in particular areas of SEA provision. This may be delivered by some of the proposals in the SEA Bill:

---

<sup>1</sup> Proposals contained within this document are discussed in the context of SEA in Scotland. That is, SEA which emanates from The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SE 2004a) and the Consultative Draft of the Environmental Assessment (Scotland) Bill (contained in SE 2004b).

the inclusion of strategies (including policies and legislation), rather than just plans and programmes as stipulated in the SEA Directive; a requirement to assess *all* strategies, plans and programmes, rather than just those with a statutory basis<sup>2</sup>; the administrative provision of an SEA Gateway to streamline the delivery of environmental reporting to/from the statutory consultation authorities.

However, several factors may impinge on these proposed advances to legislation: the word “strategies” is not included in the draft Bill, causing concern that assessment of “strategies” may not be a statutory requirement (FoES 2004; RSPB 2004); there is debate about the meaning of some of the terminology used in the draft Bill, for example “minimal significance” (SE 2004b, p.16 6(2)) and “the first formal preparatory act” (Ibid p.14 5(1)(a)) (FoES 2004; RSPB 2004); there is an opportunity to *pre-screen* certain plans, programmes or strategies (strategic actions) out of the requirement to conduct an SEA (i.e. strategic actions not mandatory under the SEA Directive that are considered to have “minimal significance”).

At present pre-screening does not need to be reported or recorded (SE 2004, p.16 6(2)), therefore it will not be possible to monitor whether the decision to pre-screen has been taken with an understanding of screening criteria or of environmental assessment generally (FoES 2004; NHS Scotland 2004; RSPB 2004). Due to uncertainty about how the provisions of the draft Bill are to be delivered, and to enable comparisons with recognized good practice, reference is made to existing research focussing on measuring “successful” SEA to determine whether an independent body could contribute to Scotland realising the benefits (outlined in Box 1) and being regarded as an SEA “world leader”.

### 3. How the contribution of an independent body can be assessed

For this report, criteria against which an independent body to administer SEA can be assessed, have been developed through reviewing existing research to determine what can be considered “successful” or “effective” SEA. There is agreement that for SEA to be effective it should be a factor in the decision-making process, thus influencing the strategic action and in turn the outcome of that action (e.g. Hildén et al 2004, p.523; ODPM 2004; Noble 2003; Thérivel & Partidário 1996)<sup>3</sup>. Noble (2003, see Box 2) has classified how audit criteria to review SEA contribute to actual effectiveness where: *Input criteria* do not indicate the effectiveness of SEA but establish the commitment of the organisation or institution; *process criteria* relate to its effectiveness as they address application and performance; and *output criteria* determine the effectiveness of the assessment. Therefore the *quality* of the SEA process and of SEA reporting is distinct from an *effective* SEA.

However it is clear from the research undertaken by Noble that *output criteria* (how the SEA process has materially impacted upon the decision), are to a significant extent “a reflection of the inputs and the quality of the SEA process” (Noble 2003 p.132)<sup>4</sup>. Therefore support of *quality* of SEA reporting and the SEA process contributes to SEA *effectiveness*.

---

<sup>2</sup> Although the SEA Bill provides for exemptions in line with the SEA Directive e.g. of financial or budgetary plans or programmes.

<sup>3</sup> There is a large body of literature discussing requirements of effective SEA – most of which originates from case studies (Hildén et al 2004; Noble 2003; Fischer 2002; Verheem 2002; Fischer 2001; Noble & Storey 2001; Sheate et al 2001a; Noble 2000; von Seht 1999; Sadler 1996) which overlap with statutory guidance to inform and test the *quality* of reporting and the process generally (e.g. ODPM 2004 pp.79-80; Canadian Audit Criteria available from Noble 2003, p.134).

<sup>4</sup> Marsden (1998 p.256) has highlighted that “effectiveness” can be measured in both substantive and procedural terms. Where substance is equated with change (i.e. output criteria) and procedure with compliance (i.e. input and process criteria).

Box 2: Categorisation of generic SEA Audit Criteria – these can be used to measure success or effectiveness of SEA (Noble 2003, p.133).

- (i) *Input criteria:* Concern SEA procedures and institutional requirements and address such issues as: the availability of practitioner guidelines and legislation; appropriateness of SEA procedures and requirements; purpose of the assessment; availability of data; and linkages of the SEA system to the policy process.
- (ii) *Process criteria:* Concern SEA procedures and application and include: validity of assessment methods; variety of alternatives and objectives considered in the analysis; impact identification; recommendations for impact mitigation; follow-up requirements; transparency; participatory approaches; time and cost efficiency; validity and usefulness of assessment findings; and documentation of SEA results.
- (iii) *Output criteria:* Concern SEA effectiveness and determine: whether the analysis fed the PPP discussion; whether the analysis had any effect on the policy process, policy formulation or the decisions taken; whether insights and arguments improved the decisions outcome; whether the PPP was modified or improved as a result of the analysis; and whether the SEA helped in the sustainable development of the environment.

The effectiveness of a particular system will depend on how the assessment fits into the individual planning context (Hildén et al 2004; Marsden 1998), additionally how “effectiveness” is *measured* depends on the type of strategic action (i.e. policy, plan or programme) on which SEA is being conducted (Fischer 2002). Inevitably, because the European SEA Directive was implemented in July 2004, existing studies analyse much SEA conducted without a legislative base or SEA that *do not* come from the same legislation as that in place or proposed for Scotland<sup>5</sup>. Most focus on land-use plans produced in response to distinct planning systems, and there is doubt whether concrete comparisons can be made with SEA in Scotland because of the different context. However, in reality, there is an enormous amount of agreement in literature regarding generic requirements of “effective” SEA and the benefits that a comprehensive SEA regime can deliver, probably due to criteria evolving interactively through academic debate (Fischer 2002 p.87).

#### 4. Report Structure

This report examines whether an independent body would be a bureaucratic burden or efficient accountable administration in relation to roles such a body could perform. These roles are grouped under three main headings: co-ordination and communication; access to information; and accountability and transparency. Roles have been established with reference to international SEA performance criteria (as discussed in section 3), which have developed from and informed SEA regimes in other countries (further information about environmental assessment in a number of other countries is contained in the two appendices of this report). These roles are then examined in

---

<sup>5</sup> Obviously studies into effectiveness will have a more uniform basis in future due to the implementation of the European Union Directive of SEA (EC 2001).

the context of the Scottish Ministers benefits (Box 1), provisions in existing legislation (SE 2004a; SE 2004b) and a desire for administrative efficiency. This provides a basis upon which to measure arguments for and against an independent body to administer SEA in relation to the existing Scottish context, including the Scottish Ministers aim of making Scotland a “world leader” in SEA.

A review of existing environmental assessment systems was conducted through accessing relevant web sites and published literature. Preliminary discussions with SEA experts have also taken place via phone and email, primarily through the SEA discussion list of the International Association of Impact Assessment (IAIA). It is proposed that the interlocking roles an independent body could fulfil are as follows, the rest of this report is organised using this structure:

## **5 Co-ordination and Communication**

- 5.1 Administration of SEA reporting\*
- 5.2 Publicly available register of SEA reporting
- 5.3 Collect management information and statistics on the operation of SEA\*
- 5.4 Supporting links within SEA, and with other forms of statutory and non-statutory appraisal

## **6 Access to Information**

- 6.1 Awareness raising
- 6.2 Central access point
- 6.3 Offer guidance on SEA to those preparing strategic actions\*

## **7 Accountability and Transparency**

- 7.1 An arbiter in case of disputes
- 7.2 Audit the quality of environmental reporting and implementation of SEA

*\* present functions of the SEA Gateway*

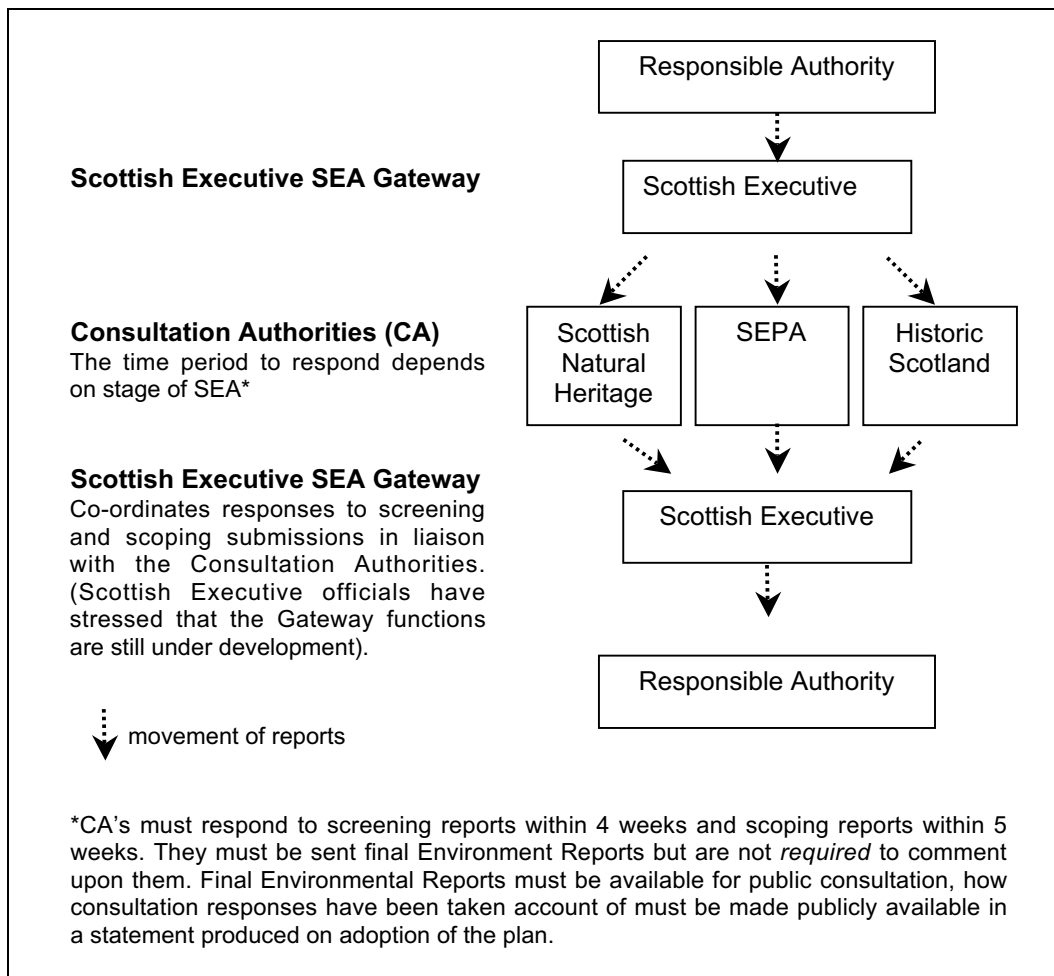
## **5. Co-ordination and communication**

### **5.1 Administration of SEA reporting**

The administration of SEA reporting is presently a function of the Scottish Executive’s SEA Gateway (see Box 3). The Gateway receives SEA screening, scoping and final environment reports from the responsible authorities which are then forwarded to the three consultation authorities (Scottish Natural Heritage, SEPA and Historic Scotland). The consultation authorities are required to return comments to the Gateway about screening and scoping reports within a certain time period, the Gateway then delivers comments to the responsible authorities. To facilitate interaction between different responsible authorities and enable better public information, a **publicly available register of SEA reporting** may be appropriate.



Box 3: Administration of the SEA Consultations in Scotland (SEPA Representative, 2004 pers. comm.; SE 2004a; SE 2004b).



## 5.2 Publicly available register of SEA reporting

To establish whether a register could contribute to the administration of SEA we must first examine the existing provisions for publicising SEA proceedings as outlined in the Scottish legislation. After *screening*, within 14 days, responsible authorities must publish in at least one newspaper circulating in the area to which the strategic action relates: the title of the plan or programme; that an environmental assessment is/is not required in respect of the strategic action; and the address (which may include a website) at which a copy of the determination and any related statement of reasons may be inspected or from which a copy may be obtained. (SE 2004a, 15; SE 2004b, p.17 9).

Similarly *once an SEA report is complete*, to provide for consultation the responsible authority (again within 14 days) must publish a notice: stating the title of the plan or programme to which it relates; stating the address (which may include a website) at which a copy of the relevant documents may be inspected or from which a copy may be obtained; inviting expressions of opinion on the relevant documents; and stating the address to which, and the period within which, opinions must be sent (SE 2004a, 18; SE 2004b, p.20 15)

The responsible authority must ensure that contents of the notice are likely to come to the attention of: the public affected by, or likely to be effected by or those that have an interest in the strategic action (this could include being published in at least one newspaper, as before). Additionally relevant documents must be available at the responsible authority for inspection (free of charge) and

a copy of the environmental report must be displayed on their website. Similar steps are made for post adoption procedures (SE 2004a, 20; SE 2004b, 17). However, it is questionable whether these minimum provisions are sufficient to inform people affected by the strategic action both about the SEA *process* and how it may be relevant to them in the context of the particular strategic action.

The Scottish Executive SEA Gateway will have to record all reporting it manages; consequently notices could easily be made more widely available to complement provisions in the legislation. A register of SEA reporting, if web based, would enable responsible authorities and the public to search for notices of screening, scoping and final environmental reports, and link to copies of reports available from responsible authorities' websites. There are advanced systems to electronically administer access to EIA and SEA information and reports such as those in Hong Kong and the Czech republic (see appendix I). The Portuguese Instituto do Ambiente (Appendix II) and Canadian Environmental Assessment Agency (CEAA) presently hold electronic registers of project EIA.

A recent audit of the Canadian SEA system recommended that they extend the registry, enabling greater access to SEA reports (CESD 2004), this is now under investigation (CEAA Representative 2004, pers. comm.). Latvia and have a system of registering EIA (which may extend to SEA) and the Netherlands are developing a searchable database (see appendix I). A register would enable access to documents processed by the Gateway, thus contributing to greater transparency, and is compatible with national and wider UK Government thinking on improving delivery of public services through the Internet<sup>6</sup> (as further discussed in section 6). This mirrors the planning portal listing of development plans for England and Wales (The Planning Inspectorate, Undated).

### **5.3 Collection of management information and statistics on the operation of SEA**

Development of a coherent system to log and make publicly available reports would additionally assist with the **collection of management information and statistics on the operation of SEA**, presently a function of the SEA Gateway (SE 2004b, p.7). The information administered by the SEA Gateway – outlined in section 5.1 could be made available on line, together with links to related information such as screening, scoping and final environmental reports listed in section 5.2. If pre-screening is retained, it would be possible to log pre-screened plans (as discussed in section 7.1) thereby enabling a degree of monitoring currently not available. The systems in Canada, Portugal and Hong Kong enable the public to search for information about environmental assessments by geographic area, type of development, stage of process (such as screening, scoping, consultation) etc.

### **5.4 Support links within SEA but also other forms of statutory and non-statutory appraisal**

A register, by ensuring responsible authorities can easily access information about existing or in-progress environmental assessments, would demonstrate the interaction between different levels and types of planning. In principle, policies lead to plans, programmes then projects, in a tiered hierarchy of planning. In practice planning does not conform to such a model (Fischer 2005; Hildén & Jalonen 2005; Noble 2003) and “to ensure that the greatest benefits are derived from SEA the decision implications of SEA should trickle both up and downstream” (Noble 2003 p.136). Therefore a register could lead to better co-ordination by **supporting links within SEA practice** by highlighting where strategic actions have similar spheres of influence. The consequent cross sector working could reduce duplication of effort, simultaneously providing a greater awareness of

---

<sup>6</sup> These factors have been recognised in the Scottish Executives drive towards open government <http://www.scotland.gov.uk/Topics/Government/Open-scotland>.

cumulative impacts (as required by regulation). Furthermore, demonstrating the relationship between strategic actions subject to SEA should reduce the potential for conflicting planning and enable better measurement of progress towards targets associated with sustainable development (such as reductions in Carbon Dioxide emissions).

A register could assist responsible authorities to source and therefore learn from previous examples of SEA in recognition that appraisal techniques evolve through an iterative critical process. Arguably, responsible authorities will be familiar with the range of plans and programmes being undertaken in their area. However, reporting could require greater management due to imminent reforms to the planning system and the intention to extend the volume of strategic actions to which SEA applies. A register would also provide enhanced opportunities for data sharing and consequently cost reduction (as discussed in section 6), whilst **promoting public access to information** by ensuring responsible authorities, NGO's and the public can easily access details about existing or in-progress SEA.

Therefore registers of reporting would also **support linkages between SEA and other forms of statutory and non-statutory appraisal** such as Environmental Impact Assessment (EIA) or Health Impact Assessment; a need emphasised by those undertaking SEA by virtue of the SEA Bill, but not the present legislation (NHS Scotland 2004). In turn, this would inform debates within the United Nations and the European Union about the integration of SEA and EIA within a single body of regulation (Abaza et al 2004)<sup>7</sup>.

The *necessity* of a register to assist with interaction of plans prior to implementation of the SEA Bill is open to debate. However, information about SEA reporting will have to be recorded by the Scottish Executive SEA Gateway, and a publicly available system would provide greater transparency and a basis for coherent collation of information to feed into management information and statistics. Obviously a register would incur design and maintenance costs, although these should be balanced against existing costs of disseminating information through the Gateway and the benefits a register could bring in terms of informing responsible authorities and the public. The number of existing registers to administer environmental assessments, which have developed independently in several countries, demonstrates that they are perceived to be of value.

## 6. Access to Information

### 6.1 Raising Awareness

Appraisal is a learning process, a way to promote discussion (Owens et al 2004) and for Scotland to be viewed as a “world leader” requires **raising awareness** to ensure SEA is high on the political agenda and widely understood amongst responsible authorities and importantly their decision-makers. A publicly accessible register of SEA reporting (as discussed above) would enable access to information, while raising the profile of SEA in Scotland. Such a register could be administered through a broader **central access point** to provide a single point of contact for responsible authorities and the public.

---

<sup>7</sup> Although, a matter of contention may be how environmental assessments of projects benefiting private industry will interact with SEA taken forward by the public sector i.e. the cost of environmental assessment may be passed from the private to the public sector.

## 6.2 Central access point

Such a resource could disseminate information by: linking statutory and non-statutory consultation bodies and their available data sources; providing examples of good practice; linking to templates and guidance. Indeed, the 6<sup>th</sup> Environmental Action Programme of the European Union (2002) identified better information and delivery of that information as key to improving environmental policy in the next decade, specifically to assist with management and improvement of EIA and SEA studies in Europe (Vanderhaegen & Muro, In Press )<sup>8</sup>. This has clearly been embraced by the Scottish Executive through drives to make all public services, that can be delivered electronically, online by 2005<sup>9</sup>.

## 6.3 Offer guidance on SEA to those preparing strategic actions

“Once the requirement and processes for SEA are established the next most important requirement is guidance” (Sheate et al 2001, p.86). The Scottish Executive has stated SEA must be separate from (although it can be a component) of wider appraisal (SE 2004b p.6). The type of SEA required depends on the context which differs with respect to the level of strategic action and the sector (i.e. health, transport, fisheries). Additionally some sectors will be undertaking SEAs on strategic actions that require input from a wider range of stakeholders than that provided by statute. An independent body or extended gateway could **offer guidance on SEA to those preparing strategic actions** by supplying indicative lists of additional consultees, or criteria that govern their selection<sup>10</sup> (Woodland Trust Scotland 2004). Thus, extending the function of the present SEA Gateway which assists responsible authorities and the public in understanding the legislation; and providing direction towards appropriate sources of guidance (advice obtained from the Scottish Executive)<sup>11</sup>.

The Scottish Executive has commissioned a project to explore the possibility of SEA templates, although rigid guidance can impair the flexibility required due to SEAs specificity to the sector or the level or strategic action (Hildén et al 2004, p.530). However, flexibility requires support and an awareness of the diversity of possible courses of action (Verheem & Tonk 2000 pp.181-182), especially with imminent planning system reform. Hong Kong, under the EIA Ordinance, has a sophisticated system for disseminating information about environmental assessment. The Netherlands Commission for Environmental Impact Assessment (NCEIA) is currently developing links to examples of best practice together with relevant literature. There are number of other environmental assessment advisory services tailored to particular regimes throughout Europe (see appendix I).

Additionally systems could be developed to provide information about data held by consultation authorities. Responsible authorities could highlight where data gaps have been identified, if this was co-ordinated it could provide coherent links to academic research. However it is possible to get distracted by data, forgetting that full environmental data is not required or perhaps desirable for SEA (Therivel 2004 p.38) and that the type and volume of data needed varies with context and the level of strategic action (Fisher 2002). Therefore, effort should perhaps be directed towards “examining and developing the links to decision making” (Hildén et al 2004, p.533).

---

<sup>8</sup> The Infrastructure for Spatial Information in Europe (INSPIRE) is dealing with barriers to use of spatial data in support of good governance.

<sup>9</sup> <http://www.scotland.gov.uk/Topics/Government/Open-scotland/18882/15413>

<sup>10</sup> In addition to those provided by statute.

<sup>11</sup> In addition to other functions such as the co-ordination of responses to screening and scoping submissions, discussed in other areas of this document.

Yet, an effective SEA process, *informing* the decision outcome, must have quality inputs and processes (Noble 2003). A recent (though not exhaustive) survey of practitioners who prepare environmental reports in Europe found:

problems related to the availability of spatial data increase the costs of EIA and SEA reports by, on average, 5.5-6.6%. If these costs could be removed, annual savings of 100-230 million Euro per annum would be achieved. As the SEA Directive 2001/42/EC has been transposed in most of the Member States only since [July 2004], we expect an important increase in the number of SEAs carried out in Europe in the medium-term. In addition to this, the use of spatial data is expected to become increasingly important in EIA and SEA studies in the future. It is therefore expected that the real cost reduction that can be expected over the coming years should be situated in the high end of this spectrum (Vanderhaegen & Muro, In Press).

A centralised information source would enable the public to access explanatory information about the SEA process, and their potential role in that process<sup>12</sup>. Additionally regulations stipulate that SEA environmental reports should be available on the responsible authority's website (as noted in section 1), however there is no guidance to govern the *length of time* reports are available. Website materials are transient and a publicly accessible centralised resource for hard copies of completed SEA screening, scoping and environmental reports should be provided, also enabling *comparisons between reports* to aid future research. There is potential to store completed SEAs in the same manner as present project environmental impact statements (see Appendix II).

To an extent, access to information, such as guidance for responsible authorities, is available from the SEA Gateway and this will be augmented by the preparation of SEA templates. However it is clear from international experience that to develop good practice, an SEA body or extended Gateway could collate and disseminate further relevant information about SEA. This would support the *flexibility* necessary to conduct the wide variety of SEA to be administered in Scotland: providing support throughout imminent planning system reform; enabling the Scottish Executive to seamlessly fulfil their obligations under the Freedom of Information Act; fulfilling their desire to make information available to create a more "Open Scotland".

## 7. Accountability and Transparency

Co-ordination and communication together with access to information (described in sections 5 and 6) will undoubtedly also contribute to accountability and transparency, enabling a degree of public monitoring of SEAs. Although perhaps the most contentious role an independent body could undertake would be to act as **an arbiter in the case of disputes**.

### 7.1 An arbiter in the case of disputes

Present provisions in SEA legislation and the SEA Bill stipulate that:

If the responsible authorities and consultation authorities do not reach agreement as to whether or not the plan or programme is likely to have significant environmental effects, the responsible authority shall refer the matter to the Scottish Ministers for their determination (SE 2004a, 15 (6); SE 2004b, 8 (6)).

Additionally if the Scottish Ministers determine that "the plan or programme is unlikely to have significant environmental effects" it must "prepare a statement of the reasons for that determination" (SE 2004a, 15 (7); SE 2004b, 8 (7)). This statement must be publicised in line with

---

<sup>12</sup> <http://www.scotland.gov.uk/Topics/Government/Open-scotland>

the provisions set out for responsible authorities in section 15 of the current legislation and section 9 of the SEA Bill (SE 2004a; SE 2004b).<sup>13</sup>

Therefore whether this decision is considered to be transparent rests on whether the provisions for publicising reporting and the final strategic action are sufficiently robust (as discussed in section 5). However, accountability has not been addressed because there is no opportunity, beyond judicial review, to question determinations made by the Scottish Ministers. Furthermore NGOs have expressed concern that the Scottish Ministers will be both responsible authorities taking forward strategic actions, and arbiters in the case of dispute (under both SE 2004a and SE 2004b).

It is the Scottish Executive's belief that the volume of strategic actions where Scottish Ministers are both responsible authority and arbiter in cases of dispute would be very small. Moreover, the Scottish Executive advises that there is a degree of administrative separation in that advice is solicited from an Executive department not responsible directly for the strategic action to assist the Scottish Ministers in making their determination. However, with strategies, which can mean legislation and policies assessed under the provisions of the Bill there will undoubtedly be a number of strategic actions taken forward by the Scottish Ministers and departments within the Executive that have the potential for significant environmental impacts. When a Bill goes through the Parliamentary process, it will be subject to SEA if it fits the existing criteria for assessment (i.e. significant environmental impacts) the SEA consultation is likely to be done in tandem with regular consultation on a Bill. Although how this will work in practice has not been established, or whether this will (or can) apply to private members bills, or indeed whether there is a protocol for high-level policies.

Concern that strategic actions could be inappropriately screened out of assessment has been amplified by the "pre-screening" clause in the SEA Bill enabling exemption based on judgment by the responsible authority that the strategic action has no or "minimal significance" (SE 2004b, 6(2))<sup>14</sup>. The SEA Bill stipulates that the screening criteria from schedule 2<sup>15</sup> should be applied in determinations (SE 2004b, 6(2)). However, **self-exemption without provision for publicising decisions, makes it impossible to monitor whether schedule 2 was observed or indeed understood.**

When a plan is pre-screened out, the only difference with present screening procedure (if schedule 2 is adhered to as desired by the regulation) is the act of writing down the brief assessment and making publicly available the information that an SEA is, or is not, required. If pre-screening is to remain in the final Bill, a publicly available register (described in sections 5) which could enable a written acknowledgement of pre-screened plans, would increase accountability. Additionally this would enable responsible authorities to comprehend the volume of strategic actions being undertaken by their own organisations (surprisingly this knowledge appears to be lacking in Local Authorities (Local Authority Representatives, 2004, pers. comm.)).

To an extent, the need for an independent body to act as an arbiter relates to the debate surrounding planning call-in decision-making processes and their compatibility with the European Convention on Human Rights' guarantee of a hearing by an independent and impartial tribunal (Article 6(1)); "impartiality" has been questioned in the courts because civil rights could be compromised because the secretary of state is both policy-maker and decision-taker in planning matters (as described in Poustie 2001; Corner & Brown 2002). However these and further legal wrangles regarding civil

---

<sup>13</sup> Additionally where one or more responsible authorities are taking forward a strategic action and there is a disagreement about which party is the responsible authority, the authority shall be determined by the Scottish Ministers (SE 2004a, 4; SE 2004b, 2(3)(b)).

<sup>14</sup> This only applies in cases where SEA screening is not required by the SEA Directive

<sup>15</sup> Schedule 2 provides loose criteria for determining the likely significance of effects on the environment, to be used in screening and pre-screening (SE 2004b, p.31).

rights in development control, even with regard to a persons “substantive rights” under the Aarhus Convention (Dunion, 2003 p.204-205), are unlikely to have direct bearing on how SEA would be administered through an independent body.

SEA is a process of self-assessment (Noble 2003 p.137), and “the final decision [about the design of strategic action] is nearly always a political one upon which the SEA findings will not be binding” (von Seht 1999 p.10). Therefore an independent body would *not make decisions* about how the SEA should be *used* by the decision-maker, but rather advise whether an SEA *is required*. Evidence could be taken from the both the responsible authority and the consultation authorities (potentially by written submission) enabling a transparent assessments of whether SEA *is required*.

Several systems for assessing policies and legislation exist (Finland, Latvia, the Netherlands and Canada) although literature suggests the success of their operation has been based on political will to use assessments and appropriate management. An independent body to undertake the role of arbiter could provide for a lasting legacy of environmental protection, beyond short-term political horizons – this is required for planning to be sustainable. It has been argued that the cost of establishing and maintaining a freestanding administrative body outweighs the public service benefits (SE 2004b, p.4). Clearly this depends on the design of the system and also whether appropriate guidance is developed for SEA of various types of strategic action.

## 7.2 Audit the quality of environmental reporting and implementation of SEA

An independent body, possibly with NGO representation, could **audit the quality of environmental reporting and implementation of SEA**. As discussed, *quality* is not synonymous with effectiveness (section 3), however SEA’s influence on the decision outcome “are to a significant extent a function of the input and quality of the SEA process” (Noble 2003, p.137). The European SEA Directive (EC 2001) does not require specific quality assurance mechanisms for SEA. However international SEA performance criteria identify “independent checks and verification” as a requirement of good practice SEA (Verheem 2002) with an independent review body explicitly cited as a “key success factor” (Sheate et al 2001a p.iv; further discussed in Theodórsdóttir & Elmarsdóttir 2003 pp.94 – 95 and von Seht 1999, p.3)<sup>16</sup>.

In Scotland, iterative monitoring of SEA will to an extent be delivered through input from the Consultation Authorities, and an independent body would have to complement their operation. Consultation Authorities must comment on: *screening reports* determining whether the strategic action should be subject to SEA (SE 2004a, 14; SE 2004b, 8); and *scoping reports* determining the scope and level of detail of information to be included in the environment report (SE 2004a 17; SE 2004b 14). Therefore, in the absence of an independent review body, quality *control* rests on how consultation authorities decide to process SEA reporting and how their comments are incorporated into the SEA by the responsible authority. It may additionally be influenced by comments from the public through formal consultation (at this stage Consultation Authorities must be sent the final report but are not *required* to comment) and the need to show how comments have been included in final reports.

This demonstrates the importance of the developing approach of the Consultation Authorities<sup>17</sup>. By definition, *strategic* environmental assessment must consider alternatives to (or options within) the

---

<sup>16</sup> To assess success or effectiveness, audit criteria need to be designed for the context (Scotland), the sector (e.g. transport, fisheries, health) and the level of strategic action (policy, plan, or programme) (Fischer 2002; Nobel 2003, p.128). Obviously, available guidance should be a reflection of the audit criteria (or vice versa), which in turn should represent the context and objective of the particular SEA regime.

<sup>17</sup> SEPA and SNH have prepared separate indicative lists of what they think should be in screening and scoping reports, provided as guidance for their staff and supplied on request to responsible authorities. At a conference in September 2004 it was stated “consultation authorities have been developing a common approach in terms of the information they will require at screening, scoping and reporting stages. In 12 months it is hoped that an event will be held to share such experience” (McLauchlan & Walker 2004, p.14).

strategic action (Noble 2000), however in Scotland, “consultation bodies are not in a position to identify alternatives” when these are not provided by a responsible authority (McLauchlan & Walker 2004, p.15). Clearly, with no requirement for parliamentary reporting or auditing in Scotland, some kind of independent review of *quality* and *consistency* is required if consultation authorities are focussed on guidance and compliance.

Internationally, many systems have made provisions for quality control in EIA and SEA. For example, in the Czech Republic those undertaking assessments are authorised by the Ministry of the Environment, and the Netherlands and Latvia have review bodies which determine the scope and level of detail to be applied (to an extent this *may* be undertaken by the consultation authorities in Scotland) and also review of the quality of reporting (see appendix I). A freestanding body need not be cumbersome; it could be through a small group (e.g. the existing Gateway could be re-designed) which could draw upon the experience of recognised or accredited experts, thus providing flexibility, independence and impartiality.

The SEA system for assessment of legislation (Environmental Test of Proposed Legislation) in the Netherlands, outlines how an independent body, the NCEIA, can act as a reviewer guiding the assessment of legislation (although the extent of this review is still under consideration) (see appendix I1.5.1, Table A1). However, a current concern of the Netherlands Commission for EIA, is whether it is appropriate for an independent body to simultaneously prepare guidance, act as an advisor and assess the quality of reporting (Representative of NCEIA 2005, pers. comm.). All of this clearly depends on how the roles an organisation undertakes are designed and managed in relation to the individual context.

## 8. Conclusions

To develop best practice, an SEA body or extended gateway could collate and disseminate relevant information about SEA, supporting the *flexibility* necessary to conduct the wide variety of SEA to be administered in Scotland. The Gateway will have to make a record of the SEA reporting it administers, therefore it should be comparatively straightforward to make this publicly available through an electronic register. These functions are compatible with drives to make information about public services more readily available, providing support throughout imminent planning system reform. This could clarify the relationships between SEAs, reducing the potential for conflicting strategic actions, and link to other forms of appraisal such as project EIA. A dedicated central unit for advice and best practice, supporting already stretched responsible authorities, assisting them in a co-ordinated accountable strategic action, could have an enormous impact on the delivery of SEA across Scotland.

An independent body could act as an arbiter in the case of dispute, deciding when SEA was *required*. The viability of this depends on the volume of cases, although it could provide a lasting legacy of environmental protection. It is clear that if a progressive system lacks a binding review procedure it can damage the success of SEA delivery and the sustainability of strategic actions. Therefore if the Scottish Ministers wish to be considered a world leader in SEA *practice* some provision for audit of the quality of environmental reporting and implementation of SEA are necessary.

However, *independence* does not necessarily mean *impartiality*, if a body is simultaneously preparing guidance, giving advice and auditing quality of reporting. The research presented in this report is preliminary and further research is recommended into the context and operation of regimes in different countries and the feasibility and costs associated with the role of a freestanding body. However, ultimately, whether an independent body is a bureaucratic burden or efficient accountable administration rests on whether it is designed to suit the existing context, is sufficiently flexible to accommodate change, and is appropriately managed.



## References

- Abaza, H., Bisset, R. & Sadler, B. (2004) Environmental Assessment and Strategic Environmental Assessment: Towards an Integrated Approach. United Nations Environment Programme. Available online: <http://www.unep.ch/etu/publications/textONUBr.pdf> [visited 20.01.2005]
- Bjarnadóttir, H. & Åkerskog, A. (2003) Sustainable development and the role of SEA in municipal comprehensive planning in Sweden. In: Hilding-Rydevik, T (2003) (ed) *Environmental Assessment of Plans and Programs: Nordic experiences in relation to the implementation of the EU directive 2001/42/EC*. Stockholm: Nordregio, pp.117-150.
- Boverket. (Undated) *The Catalogue in English*. Available online from: <http://www.boverket.se/> [visited 20.01.2005]
- CEAA. [Canadian Environmental Assessment Agency] (Undated) *Agency Website*. Available online: [http://www.ceaa-acee.gc.ca/index\\_e.htm](http://www.ceaa-acee.gc.ca/index_e.htm) [visited 20.01.2005]
- CEI [Czech Environmental Institute] (Undated) *The EIA Centre (Environmental Impact Assessment)*. Available online from: <http://www.ceu.cz/eng/> [visited 20.01.2005]
- CESD. [Commissioner of the Environment and Sustainable Development] (2004) Chapter 4 - Assessing the Environmental Impact of Policies, Plans and Programmes, in, 2004 Report of the Commissioner of the Environment and Sustainable Development. Available online: [http://www.oag-bvg.gc.ca/domino/reports.nsf/html/c2004menu\\_e.html](http://www.oag-bvg.gc.ca/domino/reports.nsf/html/c2004menu_e.html) [visited 20.01.2005]
- Corner, T. & Brown, P. (2002) Applying Alconbury: Article 6, third parties and development plans. *Journal of Planning and Environment Law*. pp.661-673.
- Dunion, K. (2003) *Troublemakers: The Struggle for Environmental Justice in Scotland*. Edinburgh, Edinburgh University Press.
- EAI [Environmental Assessment Institute] (2003) *Quality Management of work performed by the EAI*. Available online: [http://www.imv.dk/Files/Filer/Strategiplan\\_mv/Quality\\_management.pdf](http://www.imv.dk/Files/Filer/Strategiplan_mv/Quality_management.pdf) [visited 20.01.2005]
- EC. [European Commission] (2001) European Parliament and Council of the European Union Directive 2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment”. Available online: [http://europa.eu.int/comm/environment/eia/full-legal-text/0142\\_en.pdf](http://europa.eu.int/comm/environment/eia/full-legal-text/0142_en.pdf) [visited 20.01.2005]
- EC. (2004) *Archives: Relations with Latvia*. Available online: <http://europa.eu.int/comm/enlargement/latvia/> [20.01.2005]
- EIASB [Environmental Impact Assessment State Bureau] (Undated). *Website homepage*. <http://www.vidm.gov.lv/ivnvnv/Eivn.htm> [20.01.2005]
- EIAO. [Environmental Impact Assessment Ordinance] (Undated) *Environmental Impact Assessment Ordinance*. Available online: <http://www.epd.gov.hk/eia/> [visited 25.01.2005]

Emmelin, L. (2003) Reflections on comparative studies within a Nordic programme for “planning as an instrument for sustainable development”. In: Hilding-Rydevik, T (2003) (ed) *Nordic experiences of impact assessment of plans and programmes*. Workshop proceedings from SEA workshop, 11-12 February 2002, Stockholm. Nordregio Electronic Paper 2003:1. Stockholm: Nordregio, pp.63-68.

Environment Canada (2000) *Strategic Environmental Assessments at Environment Canada: How to Conduct Environmental Assessments of Policy, Plan and Programme Proposals*. Prepared by the Environmental Assessment Branch. Available online: <http://lnweb18.worldbank.org/ESSD/envext.nsf/41ByDocName/AnalyticalandAdvisoryAssistanceStrategicEnvironmentalAssessmentGeneralReferenceDocuments> [visited 20.01.2005]

Fischer, T.B. (2002) Strategic Environmental Assessment performance criteria – the same requirements for every assessment? *Journal of Environmental Assessment Policy and Management*. Volume 4. Number 1. pp.83-99.

FoES. [Friends of the Earth Scotland] (2004) *Strategic Environmental Assessment: Proposed Environmental Assessment (Scotland) Bill. Friends of the Earth Scotland Response*. Available online: [http://www.foe-scotland.org.uk/nation/SEA\\_bill\\_response.pdf](http://www.foe-scotland.org.uk/nation/SEA_bill_response.pdf) [visited 20.01.2005]

Hildén, M., Furman, E & Kaljonen, M. (2004) Views on planning and expectation of SEA: the case of transport planning. *Environmental Impact Assessment Review*. Volume 24. pp.519-536.

Hildén, M. & Jalonen, P. (2003) Key issues in strategic environmental impact assessment: Finnish experiences. In: Hilding-Rydevik, T (2003) (ed) *Environmental Assessment of Plans and Programs: Nordic experiences in relation to the implementation of the EU directive 2001/42/EC*. Stockholm: Nordregio, pp.41-72.

Hildén, M. & Jalonen, P. (2005) Implementing SEA in Finland – Further Development of Existing Practice. In: Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag, pp.159-175.

Hildén, M. & Valve, H. (2003) Which plans and programmes could be covered by the Directive on the assessment of the effects of certain plans and programmes on the environment, the “SEA Directive”, in Finland? In: Hilding-Rydevik, T (2003) (ed) *Nordic experiences of impact assessment of plans and programmes*. Workshop proceedings from SEA workshop, 11-12 February 2002, Stockholm. Nordregio Electronic Paper 2003:1. Stockholm: Nordregio, pp.25-28.

Hilding-Rydevik, T (2003a) (ed) *Environmental Assessment of Plans and Programs: Nordic experiences in relation to the implementation of the EU directive 2001/42/EC*. Stockholm: Nordregio. Available online: <http://www.nordregio.se/Files/r0304.pdf> [visited 20.01.2005]

Hilding-Rydevik, T (2003b) (ed) *Nordic experiences of impact assessment of plans and programmes*. Workshop proceedings from SEA workshop, 11-12 February 2002, Stockholm. Nordregio Electronic Paper 2003:1. Stockholm: Nordregio. Available online: <http://www.nordregio.se/Files/ep0301.pdf> [visited 20.01.2005]

Lerman, P. (2003) Impact assessment in Swedish planning. In: Hilding-Rydevik, T (2003) (ed) *Environmental Assessment of Plans and Programs: Nordic experiences in relation to the implementation of the EU Directive 2001/42/EC*. Stockholm: Nordregio, pp.151-166.

Ma\_kowiak-Pandera, J. & Jessel, B. (2005) Developments of SEA in Poland. In: Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag, pp. 201-215.

Marsden, S. (1998) The importance of context in measuring the effectiveness of strategic environmental assessment. *Impact Assessment and Project Appraisal*. Volume 16. Number 4. pp.255-266.

Marsden, S. (1999) Legislative EA in the Netherlands: The E-test as a strategic and integrative instrument. *European Environment*. Volume 9. Number 3. pp.90-100.

McLauchlan, A. & Walker, E (2004) *Strategic Environmental Assessment: Leading the Way in Europe*. Conference report compiled for Holyrood Conferences and Events: Edinburgh.

Ministry of the Environment. (Undated) *Website Homepage*. Available online: [http://www.mos.gov.pl/index\\_main.shtml](http://www.mos.gov.pl/index_main.shtml) [visited 20.01.2005]

NCEIA (2004) Netherlands Commission for Environmental Impact Assessment. Website. Information about national activities available online: <http://www.eia.nl/eia/sitemap.htm> [visited 20.01.2005]

Information about international activities available online: <http://www.eia.nl/nceia/> [visited 20.01.2005]

NHS Health Scotland. (2004) *Strategic Environmental Assessment: A consultation on the proposed Environmental Assessment (Scotland) Bill, September 2004, Paper 2004/12. Consultation Response on behalf of the Scottish Health Impact Assessment Network. Submitted by NHS Health Scotland*.

NNA [The Northern Netherlands Assembly] (Undated) The Netherlands. Available online: <http://www.snnonline.nl/infotype/webpage/view.asp?objectID=282> [visited 20.01.2005]

Noble, B. F. (2000) Strategic Environmental Assessment: What is it? & What makes it strategic? *Journal of Environmental Assessment Policy and Management*. Volume 2. Number 2. pp.203-224.

Noble, B. F. (2002) The Canadian Experience with SEA and Sustainability. *Environmental Impact Assessment Review*. Number 22. pp.3-16.

Noble, B. F. (2003) Auditing strategic environmental assessment practice in Canada. *Journal of Environmental Assessment Policy and Management*. Volume 5. Number 2. pp.127-148.

Noble, B.F. (2004) Strategic environmental assessment quality assurance: evaluating and improving the consistency of judgements in assessment panels. *Environmental Impact Assessment Review*. Volume 24. pp.3-25.

Nordregio. (Undated) *The Nordic EA Network*. Available online from: <http://www.nordregio.se/> [visited 20.01.2005]

ODPM. [Office of the Deputy Prime Minister] (2004) *A Draft Practical Guide to the Strategic Environmental Assessment Directive*. Available online:

[http://www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_029817.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_029817.pdf)  
[visited 20.01.2005]

Owens, S., Rayner, T., & Bina, O. (2004) *New Agendas for Appraisal: Reflections on Theory, Practice and Research. Environment and Planning A*. Volume 36. Number 11. pp.1943-1959.

The Planning Inspectorate. (2005) *Planning Portal: Website Homepage*. Available online:  
<http://www.planningportal.gov.uk> [visited 20.01.2005]

Poustie, M. (2001) *The Rule of Law or the Rule of Lawyers? Alconbury, Article 6(1) and the Role of the Courts in Administrative Decision-Making. European Human Rights Law Review*. Issue 6. pp.657-676.

Powell, N. (2005) SEA in Canada. In: Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag, pp.251-268.

REC (Undated) *About the Regional Environmental Centre for Central and Eastern Europe (REC)*. Available online: <http://www.rec.org/REC/Introduction/intro.html> [visited 20.01.2005]

RSPB. [Royal Society for the Protection of Birds] (2004) *Strategic Environmental Assessment: A Consultation on the proposed Strategic Environmental Assessment (Scotland) Bill. RSPB Scotland Comments – October 2004*.

Ruza, S. (2005) Experiences with SEA in Latvia. In: Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag, pp.217-225.

Sadler, B. (1996) *International Study of the Effectiveness of Environmental Assessment. Final Report*. Canadian Environmental Assessment Agency. International Association for Impact Assessment.

Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag.

SE. (2004a) *Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004*. Available online: <http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/ssi2004/20040258.htm> [visited 20.01.2005]

SE. (2004b) *Strategic Environmental Assessment: A Consultation on the Proposed Environmental Assessment (Scotland) Bill. Paper 2004/12*.

Sheate, W.R., Dagg, S., Richardson, J., Aschemann, R., Palerm, J. and Steen, U. (2001a) *SEA and Integration of the Environment into Strategic Decision-Making (Volume 1 – Main Report)*, Final Report to the European Commission, DG XI, Contract No. B4-3040/99/136634/MAR/B4. Office for Official Publications of the European Communities, Luxembourg. Available online: <http://europa.eu.int/comm/environment/eia/sea-support.htm#int> [visited 20.01.2005]

Sheate, W.R., Dagg, S., Richardson, J., Aschemann, R., Palerm, J. and Steen, U. (2001b) *SEA and Integration of the Environment into Strategic Decision-Making (Volume 2 – Country Reports)*, Final Report to the European Commission, DG XI, Contract No. B4-3040/99/136634/MAR/B4. Office for Official Publications of the European Communities, Luxembourg. Available online: <http://europa.eu.int/comm/environment/eia/sea-support.htm#int> [visited 20.01.2005]

Skipulagsstofnun. (Undated a) *Planning and Building Act. No. 73/1997, No. 135/1997 and No. 58/1999*. Available online:

[http://www.skipulag.is/focal/webguard.nsf/key2/planning\\_and\\_buildingact.html](http://www.skipulag.is/focal/webguard.nsf/key2/planning_and_buildingact.html) [visited 20.01.2005]

Skipulagsstofnun. (Undated b) *Website homepage*. Available online:

<http://www.skipulag.is/focal/webguard.nsf/key2/english.html> [visited 20.01.2005]

Stinchcombe, K. & Gibson, R.B. (2001) Strategic Environmental Assessment as a means of pursuing sustainability: ten advantages and ten challenges. *Journal of Environmental Assessment Policy and Management*. Volume 3. Number 3. pp.343-372.

ten Heuvelhof, E. & Nauta, C. (1997) The effects of environmental impact assessment in the Netherlands. *Project Appraisal*. Volume 12. Number 1. pp.25-30.

Theodórsdóttir, Á. H. (2003) National contribution – Iceland. In: Hilding-Rydevik, T (2003) (ed) *Nordic experiences of impact assessment of plans and programmes*. Workshop proceedings from SEA workshop, 11-12 February 2002, Stockholm. Nordregio Electronic Paper 2003:1. Stockholm: Nordregio. pp.37-48.

Theodórsdóttir, Á. H. & Elmarsdóttir, M. K.(2003) Basis for implementation of the EU Directive 2001/42/EC in Iceland. In: Hilding-Rydevik, T (2003) (ed) *Environmental Assessment of Plans and Programs: Nordic experiences in relation to the implementation of the EU directive 2001/42/EC*. Stockholm: Nordregio, pp.73-98.

Thérivel, R. & Partidário, M.R. (1996) *The Practice of Strategic Environmental Assessment*. Earthscan Publications Ltd, London.

Thérivel, R. (Undated) Strategic Environmental Assessment Course Module: Country Profiles.

Available online: <http://www.onlinelearning.unu.edu/sea-version1/Resources/Systems/systems.html> [visited 20.01.2005]

UNECE. [United Nations Economic Commission for Europe] (2003) Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context. Available online:

<http://www.unece.org/env/eia/documents/protocolenglish.pdf> [visited 20.01.2005]

Václavíková, L. & Jendrike, H.(2005) National Strategy for the Implementation of SEA in the Czech Republic. In: Schmidt, M., João, E. and Albrecht, E. (eds.) (2005) *Implementing Strategic Environmental Assessment*. Berlin: Springer-Verlag, pp.193-200.

Vanderhaegen, M. & Muro, E. (In Press) Contribution of a European spatial data infrastructure to the effectiveness of EIA and SEA studies. *Environmental Impact Assessment Review* (forthcoming).

van Muijen, M.L. (2000) The Netherlands: Ambitious on Goals - Ambivalent on Action, in, Lafferty, W.M. & Meadowcroft, J. (eds.) *Implementing Sustainable Development: Strategies and Initiatives in High Consumption Societies*. pp.142-173. Oxford: Oxford University Press.

Verheem, R. (1996) *Strategic Environmental Assessment in the Netherlands, Overview and Case Studies*. Commission for Environmental Impact Assessment, the Netherlands.

Verheem, R. (2002) *Strategic Environmental Assessment: Performance Criteria*. Developed for the International Association of Impact Assessment (IAIA) in consultation with IAIA members. Available online: [http://www.iaia.org/Members/Publications/Special\\_Pubs/sp1.pdf](http://www.iaia.org/Members/Publications/Special_Pubs/sp1.pdf) [visited 20.01.2005]

Verheem, R. & Tonk J (2000) Strategic environmental assessment: One concept, multiple forms. *Impact Assessment and Project Appraisal*. Volume 18. Number 3. pp.177-182

von Seht, H. (1999) Requirements of a comprehensive strategic environmental assessment system. *Landscape and Urban Planning*. Number 45. pp.1-14.

Wiszniewska, A. (Undated) Strategic Environmental Assessment in the Polish System of Spatial Planning. Available online: [http://www.rec.org/REC/Programs/EnvironmentalAssessment/pdf/seminar2004/AleksandraWiszniewska\\_bp.pdf](http://www.rec.org/REC/Programs/EnvironmentalAssessment/pdf/seminar2004/AleksandraWiszniewska_bp.pdf) [visited 20.01.2005]

Woloszyn, W. (2004) Evolution of environmental impact assessment in Poland: problems and prospects. *Impact Assessment and Project Appraisal*. Volume 22. Number 2. pp.109-119.

Woodland Trust Scotland (2004) *Strategic Environmental Assessment Consultation*. Available online: [http://www.woodland-trust.org.uk/campaigns/consultationmore/WTS\\_SEA\\_consultation110304.pdf](http://www.woodland-trust.org.uk/campaigns/consultationmore/WTS_SEA_consultation110304.pdf) [visited 20.01.2005]

World Bank (2002a) *Czech Republic*. Environmental Impact Assessment: Individual Country Reports (date prepared: February 2002) [http://lnweb18.worldbank.org/ECA/ECSSD.nsf/a3b026a6ee1e272585256ad2007130d3/2a36f24ad951ad4785256bed00715b2d/\\$FILE/CzechRepublicEIA.pdf](http://lnweb18.worldbank.org/ECA/ECSSD.nsf/a3b026a6ee1e272585256ad2007130d3/2a36f24ad951ad4785256bed00715b2d/$FILE/CzechRepublicEIA.pdf) [visited 20.01.2005]

World Bank (2002b) *Republic of Poland*. Environmental Impact Assessment: Individual Country Reports (date prepared: February 2002) [http://lnweb18.worldbank.org/eca/ecssd.nsf/925393B2B836FC8485256BED00724C54/\\$file/PolandEIA.pdf](http://lnweb18.worldbank.org/eca/ecssd.nsf/925393B2B836FC8485256BED00724C54/$file/PolandEIA.pdf) [visited 20.01.2005]

# APPENDICES

## **Appendix I - EIA and SEA Systems with particular aspects relevant to an independent review body**

### I.1 - Canada

I.1.1 - Register of Reporting: The Canadian Environmental Assessment Registry

### I.2 - Czech Republic

I.2.1 - Register of Reporting: SEA Information System

### I.3 - Hong Kong, China

I.3.1 - Register of Reporting

### I.4 - Latvia

I.4.1 - Register of Reporting

### I.5 - The Netherlands

I.5.1 - The Netherlands Commission for Environmental Impact Assessment (NCEIA)

I.5.2 - NCEIA International Services

I.5.3 - Web Based Information Database

I.5.4 - Library

### I.6 - Poland

### I.7 - Nordic EA Network

I.7.1 - Finland

I.7.2 - Iceland

I.7.3 - Sweden

## **Appendix II - EIA and SEA Research Centres, Libraries and Information Systems**

### II.1 - EIA Research Centres in Europe

### II.2 - Portuguese “Instituto do Ambiente”

### II.3 - Scottish Executive Information and Library Service

## **Appendix I**

### **EIA and SEA Systems with features relevant to an independent review body**

This appendix primarily contains information about organisations which manage environmental assessment. The focus is on both strategic and project assessment due to their close relation and because elements of their administration are often managed by the same organisation. Within all of the systems discussed, SEA is considered to be the comprehensive process of evaluating the environmental effects of a policy, plan or programme with the aim to achieve sustainable development. This analysis is not exhaustive, however the report and these appendices were compiled with an awareness of a broad range of international systems in place to implement SEA due to Dr. João's role as editor of the recent publication "Implementing Strategic Environmental Assessment" (Schmidt et al 2005).

There has been some confusion in literature about the terminology used to describe legal mechanisms in different countries. For example, European Union Directives are legally binding whereas in Canada, non-implementation of Cabinet Directives cannot be subject to legal challenge. Clarification from those working within specific administrations has been sought where implications of regulations were unclear. There is also debate about what exactly constitutes an independent or freestanding body. Some consider The Planning Services within Northern Ireland to be an independent body, although in reality it is an Executive Agency within the Department of the Environment which undertakes a similar function to the consultation authorities in Scotland.

Systems to implement SEA, both in and out of Scotland, tend to be rapidly evolving. Much information has been collated from secondary sources and a fuller review would require comprehensive analysis of primary legislation, further literature reviews and greater consultation with those involved in implementing legislation and critiquing its effectiveness. Additionally, progress must be viewed in relation to other planning and environmental initiatives because the context in which a body operates (in political, social, economic and environmental terms) will have tremendous impact on the success of its operation. Therefore the information in this appendix should be regarded as a preliminary review, with further work needed to fully examine the operating context and effectiveness of the administrations discussed.



## I.1 - Canada

Canada is a Federal State with a Federal Government, ten Provincial and three Territorial Governments. There is a constitutional division of legislative authorities and a resulting division of policy authorities. The Federal Government administers trade and commerce, taxation, criminal law, public debt, fisheries, currency and coinage, banks and banking, and First Nations (indigenous peoples) and First Nations' lands amongst other issues. The provinces predominately administer the sale of non-Federal lands, hospitals, municipal institutions, local works and undertakings and matters of a local or private nature in the Province. There is shared jurisdiction in some areas, including the environment (adapted from Powell 2005 p.251).

A two-tier system operates in Canada, Environmental Impact Assessment (EIA) mandated by legislation and SEA based on administrative orders or Cabinet decisions. EIA is administered by the **Canadian Environmental Assessment Agency (CEAA)** set up in 1994 as a result of and to prepare for the *Canadian Environmental Assessment Act* coming into force in early 1995. The CEAA is an independent federal body, accountable to the Canadian Parliament through the Minister of the Environment, whom it both reports to and advises on environmental matters (CEAA, Undated).

Through their headquarters in the national capital of Ottawa and six regional offices, the CEAA works in partnership with other federal departments and agencies, provinces and territories, environmental and Aboriginal groups, industry and others to ensure that their efforts are coordinated and harmonised. Provinces may have separate EIA legislation and EIA administrations which can enter into agreements with the federal government to reduce duplication of effort (CEAA, Undated).

To better integrate Canada's environmental goals with its economic, social and cultural values (i.e. supporting sustainable development), the CEAA: Administers the Canadian Environmental Assessment Act; encourages **public participation**; advances the science and practice of environmental assessment through **research and development**; promotes high-quality assessment through **training and guidance**; provides administrative and advisory support for the mechanisms of **project environmental assessments**; promotes the use of **strategic environmental assessment** as a key tool to support decision-making at policy level, through provisions contained in the *Cabinet Directive on Environmental Assessment of Policy, Plan and Programme Proposals* (CEAA, Undated).

The *Canadian Environmental Assessment Act* applies to *projects* where the Government of Canada has decision-making authority – whether as a proponent, land manager, source of funding or regulator. All *projects* receive an appropriate degree of environmental assessment. The degree depends largely on the scale and complexity of the likely effects of the project. Consequently, there are four types of project environmental assessments with varying public involvement (further information is available from CEAA, Undated).

In principle Canada has been committed to assessing **environmental implications of policies** since 1984 by virtue of the Environmental Review Process Guidelines (EARP) which defined a “proposal” as “any initiative, undertaking or activity for which the government of Canada has a decision-making responsibility” (Noble 2003 p.128). SEA in Canada is driven by a Cabinet Directive (originating in 1990 and updated in 1999 and 2004, available from CEAA 2005) which requires all ministerial departments to conduct an SEA of policies, plans and programmes, overseen by the commissioner of the Environment and Sustainable Development. “Public participation and complete documentation is expected of the department or agency conducting the SEA” (Sheate et al 2001b, p.94).

SEA in Canada is motivated by the need to ensure ministers have the ability to take account of environmental considerations when delivering decisions and is therefore practiced in relation to broader policy issues (i.e. cabinet documents) and information is largely kept in confidence and not made public (CEAA Representative 2004, pers. comm.). However, since January 2004 departments and agencies have been required to prepare a public statement of environmental effects when a detailed assessment of environmental effects has been conducted through an SEA (CEAA 2005). However a Canadian Cabinet Directive is **not** legislation, therefore if a ministry neglects to do SEA, even if assessment is clearly required under the Cabinet Directive, they cannot be challenged in the courts (Ibid).

Despite a lack of SEA *legislation*, Canada can police the implementation of SEA through a number of different policy initiatives including the Federal Government's commitment to sustainable development by way of the *Auditor General Act* which requires the completion of SEA. "Under the Act, the Commissioner for Environment and Sustainable Development will hold Departments accountable for 'greening' their policy, plans and programs and will review progress in implementing the strategies" (Powell 2005, p. 252).

SEA also fits into the regulatory impact assessment requirements for proposed Federal regulations. Under the government's regulatory policy, Federal Departments and Agencies must include environmental implications and risks in the benefit-cost analysis conducted on a proposed regulation. When regulations address health, social, economic or environmental risks, the analysis must demonstrate that the regulatory effort is being expended where it will do the most good (Powell 2005, p. 253).

The CEAA provides guidance and support to the SEA process and at present they are determining how reporting can be better co-ordinated and publicised. [There are also discussions about the extension of SEA to regional strategic environmental assessments](#) (CEAA Representative 2004, pers. comm.). However a recent audit demonstrated that levels of SEA were generally low and there was a lack of effort put into the assessments (CESD 2004). This was not seen as a failure of the CEAA but rather one of certain government departments and agencies lacking proper management systems (amongst other issues) – a problem the Canadian government intends to address (Ibid). Critics of the Canadian SEA system have stressed major obstacles to the success being the lack of agreement about methodology and lack of legislative basis on which to enforce assessments (Noble 2003).

The Canadian approach demonstrates a belief that SEA is most effective when applied to high-level policies (CEAA Representative 2004, pers. comm.), however for this to be effective it clearly requires political will and good management. At present the European Union has focussed on assessments of *plans and programmes* generally related to land-use (EC 2001). Therefore elements of the Canadian system to implement and oversee *project* environmental assessment could be valuable in informing plan and programme assessments within Europe.

One aspect of particular relevance (because of the intention to extend the volume of strategic actions to which SEA applies in Scotland) is the registry to record information about planned, in process or completed assessments. The recent Canadian audit recommended that a similar registry could be developed to make information about SEAs available (CESD 2004) and, as already stated, the CEAA are presently determining how reports can be better co-ordinated and publicised (CEAA Representative 2004, pers. comm.).

### **I.1.1 Register of Reporting: The Canadian Environmental Assessment Registry**

The Canadian Environmental Assessment Registry ensures convenient public access to records relating to the environmental assessment of a *project*. The Registry has two components:

- **a government-wide *Internet site of project information, including a notice of commencement of an environmental assessment*** (available from [http://www.ceaa.gc.ca/050/index\\_e.cfm](http://www.ceaa.gc.ca/050/index_e.cfm))

The Internet site can be searched using key words to easily locate projects or by specific criteria, such as by department or province. A list of all environmental assessments currently out for public comment is also available together with an interactive map showing where environmental assessments are occurring in Canada.

- **a publicly accessible *project file for each assessment which contains all records, reports and public comments***. The Registry contains additional information for participation exercise and review conducted for project EIA. For screening-type assessments conducted under the *Canadian Environmental Assessment Act*, you will find information on: a notice of the commencement of the environmental assessment; a description of the scope of the project being assessed; a copy of the environmental assessment report or how a copy may be obtained; the responsible authority's decision on the environmental assessment; notices requesting public comments when public consultations are undertaken; a copy of the scope of the assessment, or how a copy may be obtained, when public consultations are undertaken; details on follow-up programs when they are implemented for an environmental assessment. Contacts are available so that documents relating to environmental assessments can be easily obtained.

Further information about the Canadian Environmental Assessment Agency and SEA in Canada (including critical reviews) can be sourced from: CEAA, Undated; Thérivel, Undated; Environment Canada 2000; Marsden 1998; Sheate et al 2001b, pp.92-96; Noble 2003; Noble 2004; Powell 2005.

## **I.2 - Czech Republic**

SEA legislation in the Czech Republic has existed since 1992 by virtue of the *Act on Environmental Impact Assessment*. The Czech Republic operates a novel system where only authorised experts undertake EIA and SEA to ensure the quality of the assessments (Václavíková & Jendrike 2005). To comply with the requirements of the SEA Directive and the Kiev SEA Protocol, a further *Act on Environmental impact Assessment of Development Conceptions and Programmes* has been introduced. In the Czech Republic SEA now applies to strategies, policies, plans and programmes (which are defined as “conceptions”) apparently pertaining to a greater list of strategic actions than those covered by the SEA Directive (Ibid). The SEA Directive introduced the requirement for a screening stage, and the need to precisely define the word “conceptions”, which now must be assessed at regional as well as national level (Ibid).

The competent authorities for executing SEA are either the Ministry of the Environment (as was the case prior to implementation of the Directive) or the Regional Authorities<sup>18</sup>. The competent authorities undertake screening and scoping, the authorised EIA/SEA expert undertakes the evaluation together with submitting the draft conception and their evaluation to the competent authority (Václavíková & Jendrike 2005).

---

<sup>18</sup> The Ministry of the Environment will be the competent authority if the affected territory comprises the entire Czech Republic, a whole Region, or a National Park or protected landscape. In all other cases the Regional Authority will be the competent authority (Václavíková & Jendrike 2005).

An **EIA Centre** was established as part of the Czech Environmental Institute as a **source of help and professional support** for the Ministry of the Environment and State Administration. It prepares, organises and realises examinations of professional competence regarding EIA. **Edits the quarterly magazine Environmental Assessment** aimed at the theoretical and practical problems of EIA, SEA, IPPC and the other connected disciplines. Develops and **ensures the operation of the EIA and SEA information system**, as discussed below (CEI, Undated).

To guarantee quality of assessments, the authorised expert undertaking assessment must have certain relevant professional qualifications, no criminal record and have experience in the field for a period of 3 years. To receive authorisation, professional qualifications are checked and the person must undertake both a written and verbal examination (carried out by a special commission established by the Ministry of the Environment – it is assumed this is the EIA Centre although this requires clarification). A list of authorised persons is published on the Internet (so that their status can be easily verified) as part of the information system discussed below (<http://www.ceu.cz/EIA/is/osoby.asp>) (CEI, Undated; Václavíková & Jendrike 2005). Authorisation to carry out EIA or SEA is granted for five years (and can, repeatedly, be extended by another five years on request of the license holder). The authorisation can be withdrawn by the Ministry of Environment if, for example, “the license holders seriously or repeatedly infringes his/her obligations” (Václavíková & Jendrike 2005, p. 200).

### **I.2.1 - Register of Reporting: EIA/SEA Information System**

Strategic actions are publicised in similar manner to Scotland. Additionally, there is an Internet-based system for organising information about EIA and now SEA assessments. It appears that all information provided by the proponent *as well as* conclusions of the competent authority have to be published in full on the Internet as a result of the *Act on Environmental Impact Assessment*<sup>19</sup>. An electronic database of all EIA projects has been in place since 1992 and contains: all original documents; links to relevant legislation; contact dates of relevant people and bodies; a list of persons authorised to undertake assessments (Václavíková & Jendrike 2005). The application software is able to store, categorise, search, process, compare, and summarise data (CEI 2005). A comprehensive information system *for SEA* based on this system is now available on the website of the Czech Ecological Institute (<http://www.ceu.cz/EIA/SEA/UPD/>).

Further information about SEA in the Czech Republic is available from: CEI, Undated; REC, Undated (from Country Offices/ Czech Republic); World Bank 2002a; Václavíková & Jendrike 2005.

## **I.3 – Hong Kong, China**

Despite awareness amongst local and central government, Chinese experience of undertaking SEA tends to be in its infancy (Huang & Yang 2005, p.334). However, in 1998, five years earlier than Mainland China, the Special Administrative District, Hong Kong, implemented its EIA Law or Environmental Impact Assessment Ordinance (EIAO). The EIAO formalised Hong Kong’s 15 years of experience implementing project EIA, environmental monitoring and auditing processes. SEA has been applied to major policies and planning strategies at both strategic and regional level since 1989. The Executive Council, Hong Kong’s highest-level decision-making body, is responsible for examining the submitted information on environment implications (Huang & Yang 2005, p.335).

---

<sup>19</sup> Obviously the competent authority undertakes a different role within the EIA and SEA process. In the same way that a planning department would be undertaking SEA of development plans and a developer would undertake EIA of a project.

An environmental protection unit was established in 1997 which has now developed into the **Environmental Protection Department (EPD)**. The “EPD has a multidisciplinary team of engineers and scientists, together with support and staff and manpower totals over 1000. This has allowed the possibility of broadening from common project-orientated programmes to a more strategic concept” (Briffet et al 2003 p.178). The EIAO enables the EPD to prevent or minimise environmental impacts from development. It can reject project options proposed by government departments if they do not properly address environmental impacts. “An element of EIA, the Environmental Monitoring and Audit, has also been introduced to keep checks on impacts arising during the construction and operation of the projects” (Ibid).

Additionally NGO’s are given public opportunities to comment on projects identified as having adverse impacts, and public involvement and access to information has been encouraged through registers of projects, in attempts to make decision-making transparent (Ibid). However the emphasis on growing the economy, and mainland China’s weak record in environmental protection, have been identified as obstacles to the success of strategic and project appraisals (Ibid p.179).

### **I.3.1 - Register of Reporting:**

The Government of Hong Kong Region through the EIAO has established a publicly accessible online register of environmental reporting. Projects profiles can be pinpointed by geographic area and are available for public comment (see chapter 13, EIAO, Undated). The EIAO site includes Hong Kong's legislative framework, their latest project profiles, and latest EIA reports. Application forms for EIA reports and permits, and appeal forms regarding summons to a witness and notice of appeal by an environmental permit holder can be accessed from this site. This site is presently undergoing development to encourage continuous public involvement in the EIA process. The EIAO registry is an exceptionally in-depth advanced electronic system for organising information about environmental assessment.

Further information about SEA in China (specifically Hong Kong) can be found from: EIAO, Undated; Briffet et al 2003 p.178; Huang & Yang 2005.

## **I.4 - Latvia**

Latvia is a Parliamentary Republic with three-levels of administration, a central government, 26 local districts or Rajons (which are not directly elected) and Local self-governments consisting of 70 cities and 483 Pagasts (authorities from the soviet time, located in rural areas); seven cities have competence for both local and Rajons levels. In addition, the Government has designated five “Planning Regions” corresponding broadly to historical regions (EC 2004; Sheate et al 2001b p.111).

The **Environmental Impact Assessment State Bureau (EIASB)** is a public authority supervised by the Latvian Ministry of Environmental Protection and Regional Development. It was established in January 1999 to carry out EIA of proposed public and private projects to conform with the *Environmental Impact Assessment Act* of 1998 to enable Latvia to harmonise its legislation with the European EIA Directives (Council Directive 85/337/EEC and Council Directive 97/11/EC) (EIASB 2005). In Latvia, the SEA Directive is implemented by amendments to the Act and new secondary legislation (Ruza 2005 p.219). The EIASB additionally was delegated responsibility to deal with issues related to integrated pollution prevention and control (resulting from Council Directive 96/61/EC) in 2000 and procedures for industrial risk accidents assessment and risk reduction measures in 2002.

The EIASB is responsible for **deciding through case-by-case examination whether SEA should be applied, the scope and level of detail of the information to be included in the environmental**

**report and for evaluating the environmental report;** mirroring the EIABS's existing approach to project EIA (Ruza 2005 p.220). Ultimately the value of the EIASB's activity in the field of SEA depends on the skills and competencies of those involved in the assessment (Ibid).

The scope of SEA in Latvia is wider than that proposed by the directive:

“SEA will be carried out also for planning documents, which are prepared for regional development, for extraction of mineral resources and for harbour development plans. Extractive industry has been especially emphasised due to special legal provisions by which this sector is regulated. SEA will also be mandatory for all territorial plans drafted for the so called major towns and 26 districts. However certain types of planning documents have been exempt from the rule to have obligatory SEA. These are territorial plans at local level (e.g. parish and municipality) and also so-called detailed plans. Territorial plans covering other planning levels (e.g. national and regional) are required to have SEA” (Ruza 2005 p.220).

#### **I.4.1 - Register of Reporting**

Information about project EIA's is presently available on the EIABS website, listing projects where EIA has been completed, is being applied and where EIA has not to be carried out. Where EIA is being carried out the website contains details of the proponent of the project and the date of decisions and contact details of the co-ordinator of the project within the EIASB (EIASB, Undated). Where a project is complete, details about dates when draft and final environmental impact statements were produced are available together with information about public participation exercises and hearings (Ibid). It has not been established whether this will be/has been extended to SEA.

Further information about SEA in Latvia can be found in: EIASB, Undated; REC, Undated (from Country Offices/ Latvia); Sheate et al 2001 pp.97-102; Ruza 2005.

### **I.5 – The Netherlands**

Government in The Netherlands has three levels of administration: central government, the provinces and the municipalities. The provinces and the municipalities are regional and local democracies and have their own legislative and administrative powers, although they are strongly dependent on the scope given to them by the legislative central government to ensure that the unity of the state is not disturbed by the decentralised system (NNA, Undated).

**I.5.1 - The Netherlands Commission for Environmental Impact Assessment (NCEIA)** is a private foundation, with its own budget funded through government subsidies. It acts as an independent expert committee and is involved in all EIAs in the Netherlands as a result of the *Environmental Impact Assessment Act* passed in 1987. It also acts as an international environmental advisor, an activity funded through the Directorate General for International Cooperation (DGIS) of the Ministry of Foreign Affairs in The Hague. The commission does not make political judgements but checks compliance with legislative requirements for EIA and assesses the *quality* of information available to decision-makers (NCEIA, Undated). The NCEIA has two distinct departments, one national and one international. However, with regard to SEA, the departments have a close working relationship (Petrie van Gent & Rob Verheem 2005, pers. comm.).

The commission advises decision makers (government ministers and provincial and municipal councils) on the environmental aspects of plans and projects (NCEIA, Undated). Duties include (independent) screening, scoping and review for EIA (in the Netherlands and internationally for some large, controversial projects) and most recently some national and international involvement

in SEA, extending to advice on Terms of Reference (content and process) and review of SEA reports. The Commission also provides advice about how to conduct the SEA process (Petrie van Gent 2004, pers. comm.). The Commission can draw on a pool of 400 independent consultants to: **advise on the scope of EIAs** to determine relevant impact *and alternatives*; to prepare advisory reviews of the content of environmental impact statements to ensure **all necessary information for decision-makers is available and accurate**. The secretariat in Utrecht houses the staff of the Commission for EIA: a chairperson, several deputy chairpersons, 17 technical secretaries and 19 supporting staff. The chairperson and the technical secretary keep track of deadlines to ensure advisory reports are submitted within the statutory period. Working groups, comprising three to five advisors chosen for their specific expertise from the pool of about 400 experts, usually meet here. Four technical secretaries and two project secretaries are involved in international activities (NCEIA, Undated).

Prior to implementation of the SEA Directive, the Netherlands had developed a two-tier system of SEA. Strategic Environmental Impact Assessment (SEIA) for some sectoral and spatial plans, and Environmental Test (E-test) for legislation and regulations. The time taken for SEIA assessments, due to extensive provision for public participation, has been identified as potentially burdensome (Marsden 1998 p.264) although some commentators suggest the EIA Committee played a valuable role in the SEIA process (ten Heuvelhof & Nauta 1997).

With the introduction of the European SEA Directive, NCEIA's involvement in SEA is mandatory only where plans or programmes affect protected nature areas (i.e. where areas that may be affected fall under the European Bird and Habitat Directives, or have been specifically designated as areas of ecological value) (Wil Thissen 2004, pers. comm.). Where this is not the case, it is mandatory for the body responsible for the strategic action to take a formal decision on whether or not an independent review will be part of the SEA process. However, this is still being debated, with a final decision expected sometime in spring 2005 (Petrie van Gent & Rob Verheem 2005, pers. comm.).

The environmental test (E-Test) was introduced in 1995 and was designed to assess the environmental impacts of legislation and regulations. The Netherlands Environmental Test of Proposed Legislation (ETPL) (an improved form of the E-Test) is not required under the European SEA Directive and is thus not influenced by the Directive. Nevertheless, the ETPL will stay in existence as a separate instrument, required under the *National Cabinet Directive*. The ETPL is not mandatory for policies, but it is for legislation. SEA of policies is not required in The Netherlands (although a number of 'plans and programs' that are listed as requiring an SEA are regarded as 'policies' in other countries, e.g. some waste or water plans) (Petrie van Gent & Rob Verheem 2005, pers. comm.).

There is no mandatory role for the NCEIA in the ETPL and they have not been involved thus far. However, since 1 January 2005, the government has delegated the work of the 'proposed legislation desk' to the NCEIA for the duration of one year. The table A1 below outlines the duties of this desk within the ETPL process, demonstrating how a review board can be involved in an SEA of legislation.

**Table A1 - Steps in the Environmental Assessment of Proposed Legislation**  
(Petrie van Gent & Rob Verheem 2005, pers. comm.).

**Phase 1: Quick Scan**

<b>What to do?</b>	<b>By whom?</b>	<b>When to do it?</b>
Identify proposed legislation	Ministry concerned	As soon as the proposed legislation is known
Perform Quick Scan	Ministry concerned	
Send Quick Scan to Proposed Legislation Desk	Ministry concerned	
Desk examines quality of the Quick Scan and whether it agrees on its conclusions	Proposed Legislation Desk	Review is completed within two weeks after receipt of the Quick Scan
Conclusions on which more detailed assessment should be carried out and the questions to address in those assessments	Proposed Legislation Desk and Ministry concerned; agreed arrangements are recorded in writing	

**Phase 2: Impact analysis**

<b>What to do?</b>	<b>By whom?</b>	<b>When to do it?</b>
Carry out assessments	Ministry concerned	In parallel with further elaboration of proposed legislation
Submit proposed legislation to Ministry of Justice for a check of its legal quality	Ministry concerned	Four weeks before submission to Cabinet
Review performed assessments	Proposed Legislation Desk and Ministry of Justice	Within three weeks of reception of proposed legislation
Prepare 'legislation report' on outcomes of assessments and legal quality and send to ministry responsible	Ministry of Justice	Within three weeks of reception of proposed legislation
Submit proposed legislation to the Cabinet; in the case of any negative conclusions on either assessments or legal quality the legislation report should be added to the proposal	Ministry concerned	

**I.5.2 - NCEIA International Services**

International advisory services (for both EIA and SEA) are delivered by the Department of Development Co-operation in the context of the particular countries environmental assessment legislation and regulations (if unavailable, international norms and standards are applied) (NCEIA, Undated). The NCEIA's international activities are shifting from EIA to SEA; a change motivated by Ministries of the Environment in participant countries wishing strategic level decision-making to be informed by environmental information, together with a move among donor organisations from project to programme financing (Ibid). The Department of Development Co-operation by preparing guidelines and Terms of Reference, support and guide SEA whilst simultaneously reviewing outcomes of the SEA. This has led to discussions questioning whether it is possible for a freestanding body to maintain impartiality whilst simultaneously providing, guidance, review services and *independent* advice (Petrie van Gent 2004, pers. comm.).



### **I.5.3 - Web Based Information Database (under construction)**

The database will contain a growing number of SEA (and to a lesser extent EIA) documents and links, including in-house information and experience from the NCEIA. **The emphasis was placed on SEA because it is rapidly developing and in response to (an often expressed) need for case studies and examples of good practice.** The focus of the database is: SEA and SEA-related case studies; approach, concepts, methodology documents; legislation, regulations, directives; manuals and guidelines; and SEA training materials. Additional contributions of relevant information are welcomed. The database can be searched by looking under headings specific to SEA/EIA or by using a number of keywords (NCEIA, Undated).

### **I.5.4 - Library**

The library of the NCEIA keeps: all Dutch Environmental Impact Statements (EISs) with notifications of intent, guidelines, other possible reports and the decisions regarding projects; the advisory guidelines and *the advisory reviews of the Commission*; background literature regarding the environment, in the broadest possible sense, and the implementation of Environmental Impact Assessment; Governmental documentation, regarding the environment (Ibid).

The library is intended to support the work of the Commission, however it is open to the public by appointment (9am- 5pm, Monday to Friday), most publications are in Dutch, lending facilities are not available (Ibid).

Further information about SEA in the Netherlands can be found in: NCEIA, Undated (includes annual reports available in English); Thérivel, Undated; Thérivel & Partidário 1996; Verheem 1996; ten Heuvelhof & Nauta 1997; Marsden 1999; van Muijen 2000; Verheem & Tonk 2000; Sheate et al 2001b, pp.54-59.

## **I.6 - Poland**

The *Land Use Act* of 1994 introduced SEA into legislation in Poland by making environmental assessment mandatory for local land use plans. However an ordinance from the following year stated environmental reports should be delivered *after* the local land use plan and therefore SEA had little impact on the contents of plans or the decision-making process (Ma\_kowiak-Pandera & Jessel 2005 p.204). In 2000 the *Environmental Impact Assessment Act*<sup>20</sup> was established to implement the European EIA Directives, Espoo convention on EIA in transboundary context, Aarhus Convention and the common EU position on SEA (Ma\_kowiak-Pandera & Jessel 2005).

This was augmented ten months later by the *Environmental Protection Act* (EPA) of 2001, which covers all Poland's environmental issues, however land use plans are additionally subject to the *Land Use Planning and Management Act* of 2003. This has created two separate systems of SEA: The EU Directive through the EPA applies to programmes, strategies, policies and other plans ("sectoral plans") where the National *Ministry of the Environment* and the Regional *Voivodeship* (Department of Environmental protection) are the competent authorities; The *Land Use Planning and Management Act* (together with the EPA) applies to Land-use plans on the local, regional and national level where the competent authorities are respectively the commune (a department or person in charge of environmental protection), the Voivodeship, or the Ministry of the Environment (Ma\_kowiak-Pandera & Jessel 2005).

---

<sup>20</sup> The Act on Access to Information on the Environment and Its Protection and on Environmental Impact Assessment - [http://www.mos.gov.pl/mos/akty-p/index\\_eng.htm](http://www.mos.gov.pl/mos/akty-p/index_eng.htm)

The EPA goes beyond the European SEA Directive: financial or budget plans, programmes and projects for national defence and civil emergency are not excluded; it additionally requires SEA of programmes, strategies and policies. However, legal definitions of these terms are not provided, leaving the extent of the legislation unclear (Ma\_kowiak-Pandera & Jessel 2005). Experience to date reveals that some projects requiring SEA under the terms of the SEA Directive have not been subject to assessment. This is apparently due to a lack of knowledge and developed methodological approaches, which could be remedied by provision of easily accessible examples of good practice, perhaps through published pilot studies (Ma\_kowiak-Pandera & Jessel 2005).

There is provision for **National EIA Commissions** which make recommendations to the Ministry of the Environment. “The National EIA Commission (first established back in 1989) and the *Voivodship* EIA Commissions play a significant role in shaping and implementing the Polish EIA process” (World Bank 2002b). There is limited information (critical or otherwise) about these commissions in English, the details below are from a World Bank Environmental Impact Assessment Country Report interpreting the EIA Act:

Chapter 7, Articles 50-54, of the Act on Access to Information on the Environment and EIA deals with EIA Commissions. Article 50(1) establishes a National EIA Commission entrusted with advising on EIA matters to the Minister of Environment. The Chairman of the National EIA Commission, his or her deputies, and commission members (60 people in total), representing various scientific disciplines and nongovernmental organizations (with statutory objectives related to environmental protection), are appointed by the Minister of Environment. The tasks of the National EIA Commission include a) providing opinions on specific cases; b) monitoring the operation of a national EIA system and providing recommendations on necessary improvements; c) developing EIA methodologies and training programs; d) presenting opinions on draft legal acts related to an EIA system; e) cooperating with *Voivodship* EIA Commissions [established under Article 51(1)]. Articles 51-54 specify that *Voivodship* EIA Commissions shall comprise 20-40 members, define their objectives and responsibilities, and instruct the Minister of Environment to establish rules for coordination between the National and *Voivodship* EIA Commissions (World Bank 2002b).

The World Bank (2002b) suggests that the Polish system for dealing with environmental assessment could be simplified to clarify who is responsible for undertaking and reviewing tasks, particularly with regard to monitoring.

Further information about SEA systems in Poland can be found in: Ministry of the Environment, Undated; REC, Undated (from Country Offices/ Poland); Thérivel, Undated; Wiszniewska, Undated; World Bank 2002b (particularly p.5-6); Woloszyn 2004; Ma\_kowiak-Pandera & Jessel 2005.

## **I.7 - Nordic EA Network**

All Nordic countries, through membership of the European Union (Denmark, Finland and Sweden) and the Trough Agreement on the European Economic Area (Iceland and Norway), need to comply with the European EIA and SEA Directives (Nordregio, Undated). They have their own EIA and SEA systems but are involved in collaborative discussion through the Nordic EA Network. Launched in 1999 the Network aims to support research and development of EIA and SEA with relevance for the Nordic countries to enhance an understanding of the links between sustainable development and regional development planning/programming. Hosted by Nordregio, the Nordic Centre for Spatial Development in Stockholm, it developed from an Ad hoc group for EIA under the Nordic Council of Ministers (a forum for cooperation between the Nordic Governments) in

1989. Originally financed by the Nordic Council of Ministers, the EA Network now survives on a mix of funds (Ibid).

The EA network provides a forum to exchange ideas and experience through seminars, conferences and by supporting research studies in the field of Environmental Assessment and sustainable development in a regional context (Ibid). The network disseminates information about EIA, SEA and regional development via Nordregio's: website, European Journal of Spatial Development, Journal of Nordregio reports, working papers and electronic papers (Ibid).

Further information about SEA in Nordic countries can be found in: Hilding-Rydevik 2003a; Hilding-Rydevik 2003b; Nordregio, Undated

### 1.7.1 FINLAND

SEA has been required in Finland since the *Environmental Assessment Act* of 1994. The *Act* applies SEA to a broader range of strategic action than that prescribed by the SEA Directive as it "includes policies as well as plans and programmes that do not set the framework for development consent of projects" (a detailed analysis is contained in Hildén & Jalonen 2005 pp.160-161). The Act did not set out how SEA should be conducted but mandated that the Ministry for the Environment and the council of State should issue guidelines. Separate guidance was issued in 1998 for assessment of policies, plans and programmes, and for government bills. However the procedural requirements of the SEA Directive apply only to the subset of plans and programmes that are covered by the SEA Directive (Ibid p.161).

Explicit requirements to carry out assessments of environmental effects of plans and programmes are also contained in a number of specific Acts (e.g. The Land Use Building Act of 1999, Regional Development Act 2002) (Ibid p.159). As with Scotland, the authority responsible for drafting the strategic action determines the need for assessment (Ibid p.160). Methods of applying SEA to government bills in Finland may be relevant for Scotland.

Further information about the SEA system in Finland can be found in: Noregio, Undated (section pertaining to Finland); Sheate et al 2001b, pp.23-28; Hildén & Jalonen 2003; Hildén & Valve 2003; Hildén & Jalonen 2005.

### 1.7.2 ICELAND

The **National Planning Agency** (Skipulagsstofnun) is a state authority in charge of administration, monitoring and implementation of the *Planning and Building Act* of 1998 and the *Act on Environmental Impact Assessment*. The planning agency assists the planning Minister who has supreme control for planning and building (Skipulagsstofnun, Undated a). Among the main roles of the National Planning Agency is to give advice on planning and building issues, assist local authorities in preparing spatial plans and to review spatial plans produced by local authorities. It advises on EIA, makes screening decisions and advises on scoping reports for project and strategic environmental assessments, carries out public consultation on and makes decisions regarding environmental statements (Skipulagsstofnun, Undated a; Skipulagsstofnun, Undated b).

Therefore the National Planning Agency is undertaking quality assurance throughout project planning "informally in the first part of the process, but with formal review of the planning proposal and planning process in the second half of the process" (Theodórsdóttir & Elmarsdóttir 2003, p.95).

This quality control applies to both project and strategic EIA. However there appears to be a lack of a plan making framework to link national and municipal planning (Ibid).

In November 2003 the National Planning Agency published guidelines on municipal planning which includes detailed guidance on environmental assessment of municipal plans. The SEA Directive's requirements have been taken into account in the guidelines (Nordregio, Undated), although provisions beyond the SEA Directive are stipulated such as public involvement at the scoping stage (Theodórsdóttir & Elmarsdóttir 2003, pp.73-98). It appears from documents produced prior to the introduction of the SEA Directive (Ibid) that existing quality controls will be applied to strategic actions covered by the SEA Directive – although this point requires further clarification.

The National Planning Agency additionally organises regular conferences, seminars and courses and publishes guidelines and reports (Skipulagsstofnun, Undated b).

Further information about the SEA system in Iceland can be found in: Noregio, Undated (section pertaining to Iceland); Theodórsdóttir 2003; Theodórsdóttir & Elmarsdóttir 2003; Hildén & Jalonen 2005.

### 1.7.3 SWEDEN

Two acts are of key importance to the implementation of the SEA-directive in Sweden; the *Planning and Building Act* (Plan-och bygglagen, PBL) and the *Environmental Code* of 1999 which “serves as an umbrella for the [PBL] as well as other special acts connected with the physical environment” (Bjarnadóttir & Åkerskog 2003, p.119). Due to amendments to the PBL, SEA has been compulsory for *municipal* comprehensive plans since 1996. There is no mandatory *regional* land use planning. Spatial planning in Sweden is essentially untiered with a local planning monopoly and limited planning at higher levels (Emmelin & Lerman 2005). Development plans with probable significant environmental impacts should undergo an EIA/SEA (elements of both EIA and SEA are included), in combination with assessments of social and economical aspects. Furthermore a number of Swedish municipalities have conducted voluntary EIAs/SEAs for a long period. 600-700 EIAs/SEAs of municipal development plans are performed every year. SEA is required as one of the first steps in the EIA procedure of the Swedish Road Act and the Swedish Railroad Act (Nordregio, Undated).

The SEA Directive has been integrated into Swedish legislation by redrafting EIA legislation; EIA and SEA are described by the same word in the Swedish language. Some commentators think this, in addition to other issues, will lead to confusion and a “minimalist approach” to implementing the SEA Directive (Emmelin & Lerman 2005). However there have been some “ambitious attempts at applying SEA methods” for example in municipal planning as outlined above Emmelin & Lerman (2005) suggest a lack of clear regulation and appropriate guidance, together with a largely untiered planning system and unambitious approach to implementing the Directive may create substantial problems with compliance with the European SEA Directive.

**Boverket, The National Board of Housing, Building and Planning**, is the Swedish government agency for planning, overseeing the management of land and water resources, urban development, building and housing. The Swedish Parliament and the government exercise strategic control over Boverket’s activities, although they target their activities at other groups including government agencies, local authorities, county administrations, other regional bodies and the range of actors in the housing and construction market (Boverket, Undated). Boverket has responsibility for EIA and SEA through regulations in the PBL (Boverket Representative 2005, pers. comm.). Boverket have been set a task set by the government to give advice to municipalities and others how to use SEA in

practice in the context of the PBL, although the extent of this role has not been established by this research (Ibid).

Representatives of Boverket were contacted because it appeared to be an independent advisory body. The process of planning appears to be substantially different in Sweden and Scotland (see Emmelin & Lerman 2005), and concrete comparisons may not be possible or valuable.

Further information about the SEA system in Sweden can be found in: Boverket, Undated; Noregio, Undated (section pertaining to Sweden); Sheate et al 2001b, pp.73-78; Bjarnadóttir & Åkerskog 2003; Emmelin 2003; Lerman 2003; Hildén & Jalonen 2005.

## Appendix II

### EIA and SEA Research Centres, Libraries and Information Systems

The organisations described below are involved in training and academic research related to environmental assessment. Therefore they undertake different roles to those an independent body could perform (as described in the main text of this report). Such centres do not collate information or maintain registers of reporting to inform responsible authorities or the public, and any audits of quality of environmental reporting may not have a direct material impact on those responsible for implementing EIA or SEA. For example, the Institute of Environmental Management and Assessment (IEMA) is a UK based non-profit organisation, aiming to achieve best practice standards in environmental management, auditing and assessment. The Centre for Environmental Assessment and Management (CEAM) within IEMA can provide an independent review of the quality of specific environmental reports on request (both for EIA and SEA) – however the importance placed on these reviews is at the discretion of the individual. Although reference copies of EIA reports are available to the public through the Scottish Executive Information and Library Service, Scotland has no dedicated environmental assessment centre.

#### II.1 - EIA Research Centres in Europe

There are a number of non-statutory EIA centres and related bodies in Europe undertaking documentation, training, research and some advisory services related to EIA and SEA. They have different organisational forms but many are attached to research centres, universities or NGOs. A leaflet containing information about 28 centres in 17 different countries is available online from the EIA centre at Manchester University. However, this leaflet was prepared in December 1998 and some of the information is outdated, especially with respect to organisations providing non-statutory EIA review in the UK (now undertaken by CEAM).

Many of the centres provide access to resources, or libraries of EIA studies, like ENFO in Ireland or the National Centre for Environmental Impact Assessment in Norway. Others review EIS, such as the Austrian Federal Environmental Agency.

Further information is available from the University of Manchester EIA Centre at <http://www.art.man.ac.uk/EIA/publications/leafletseries/leaflet01/>

#### II.2 - Portuguese “Instituto do Ambiente”

The **Instituto do Ambiente in Portugal** has a detailed Internet based register of approved, rejected, or in process EIA projects (see [http://www.iambiente.pt/IPAMB\\_DPP/](http://www.iambiente.pt/IPAMB_DPP/)). Of particular interest is the link to relevant geographical information, of projects that are currently going through public consultation (e.g. [http://www.iambiente.pt/IPAMB\\_DPP/publico/eia\\_cp.asp](http://www.iambiente.pt/IPAMB_DPP/publico/eia_cp.asp)). For these projects it is possible to see a non-technical summary (e.g. [http://www.iambiente.pt/IPAMB\\_DPP/docs/RNT1249.pdf](http://www.iambiente.pt/IPAMB_DPP/docs/RNT1249.pdf)), but also to obtain and query relevant geographical information (including some remote sensing information). Projects can be searched by type (e.g. all road EIAs), those currently going through public consultation, those going through the early stages of the EIA process, or via a register listing both completed and rejected projects.

### **II.3 - Scottish Executive Information and Library Service**

All Environmental Impact Statements (EIS's) produced in Scotland are available in the library of the Scottish Executive Information and Library Service. Three copies of all EIS's are sent to the Scottish Executive Planning Department, one of which is sent to the library. The other two EIS are distributed for comments within the Planning Department, comments are then retained by that department. The library also houses some Environmental Impact Assessment (EIA) scoping studies.

All EIS and EIA scoping studies are catalogued by the library. The planning department reference number is incorporated into library records of these documents for ease of access. The library is open to the public for reference during regular office hours (9am-5pm, Monday to Friday) although they prefer to be contacted in advance with requests for particular EISs or EIA Scoping Reports.

**Contact:** Scottish Executive Information and Library Service, K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD  
Tel. 0131 244 4556