Position Paper on
Environmental Assessment in the European Union

(adopted 20 September 2010 by the BHDTF /EU Partners of BirdLife International)

Executive Summary

In the European Union (EU) a system of environmental assessment (EA) requirements has developed to ensure decisions at every level - from policies to plans and programmes and specific projects – are taken with full consideration of their likely impacts on the environment and nature. With biodiversity in crisis, taking impacts into account in these ways remains necessary, but it is no longer sufficient. The EA system needs real ‘teeth’ so it can ensure policies, plans and projects do not result in a net loss of biodiversity.

Having failed to meet its target of halting biodiversity loss by 2010, the EU has established a new target of: “halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss.” The Birds and Habitats Directives will play a crucial role, but this ambitious target will not be achieved unless biodiversity outside internationally designated sites is given better protection.

No net loss of biodiversity, and net gain wherever possible, must be embodied as a principle in the EA system that applies in the wider countryside.

This Position Paper considers how this can be achieved through environmental impact assessment of projects (EIA), strategic environmental assessment of plans and programmes (SEA) and impact assessment (IA) of the European Commission’s own policies and other initiatives. It proposes reforms to each of these forms of EA, and establishes eight overarching priorities for strengthening the EA system as a means to achieve the EU’s biodiversity goals. These are summarised below under ‘policy recommendations’.

There are significant strengths in the current system, for example in bringing baseline information about nature, and likely impacts on it, to the attention of decision-makers and the public. However these environmental assessments need significant strengthening so that they achieve their potential to ensure an end to biodiversity losses and the degradation of ecosystem services. Providing information, and a procedural framework for taking it into account, is no longer adequate. Improvements are needed in four key areas:

First, ‘screening’ rules need to be tightened so that proposals with impacts on the environment and nature do not slip through the net, whether these are for policies, plans or projects.
Second, the system must require **assessment of alternatives**, defined in such a way that final proposals can be reasonably expected to result in 'no net loss or a net gain' in biodiversity. Public participation will be vital in enabling these alternatives to be identified.

Third, **quality control** mechanisms are urgently needed to ensure that the information and impact predictions at the heart of environmental assessments are fit for purpose.

Lastly, the system needs real ‘teeth’ in the post-decision **follow-up phase**. Proposed mitigation and/or compensation for biodiversity impacts must be adequate to ensure no net loss of biodiversity, in principle and also in practice.

**Summary policy recommendations**

1. Use EIA, SEA and IA in a coordinated way to achieve no net loss of biodiversity and ecosystem services, or a net gain.
2. Embody the ‘mitigation hierarchy’ in legislation so that environmental assessments first identify ways to avoid negative impacts, then ways to minimise them and finally, if necessary, compensate for any residual losses of biodiversity.
3. Improve coordination between EIA and SEA and/or merge EIA and SEA legislation, to better address the cumulative impacts of projects.
4. Maximise transparency, effective information provision and opportunities for public participation at all stages of EIA, SEA and IA.
5. Tighten screening rules in EIA, and extend the scope of SEA to cover policy proposals at the EU and Member State levels.
6. Require assessment of alternatives in all environmental assessments, including a ‘most environmentally beneficial’ way to achieve the objectives of the policy, plan or project.
7. Introduce measures to ensure the quality of information and impact predictions in environmental assessments, such as a requirement for work to be carried out by independent certified professionals, placing a duty on Member States to ensure quality, and development of European guidance on biodiversity impact assessment.
8. Introduce a requirement to monitor impacts and the effectiveness of mitigation measures in EIA and IA, and strengthen this requirement in SEA, so that monitoring results are made publicly accessible and corrective measures are taken where needed.
Introduction

Rigorous assessment of biodiversity impacts, tied to effective measures to prevent net losses of biodiversity, cannot be limited to ‘appropriate assessments’ (AA) under Article 6 of the Habitats Directive. Environmental assessments must also address and protect:

- habitats and species of European importance outside Natura 2000 sites;
- areas protected under national legislation;
- unprotected biodiversity in the wider countryside, at sea and outside the EU; and
- ecosystem services.

This paper’s three Sections set out the position of the BirdLife International BHDTF on:

1. The need for environmental assessment and its role in biodiversity protection;
2. Good practice principles for impact assessment to further biodiversity protection;
3. Recommendations for strengthening environmental impact assessment (EIA) of projects, strategic environmental assessment (SEA) of plans and programmes, and ‘Impact Assessment’ (IA) of European Union initiatives;

This Position Paper draws on a combination of views and experience of various BirdLife International partners, and the results of a survey of Partners’ views on the strengths and weaknesses of EIA and SEA carried out in June 2010.

- Annex A explains the key differences between EIA, SEA and IA.
- Annex B suggests how each can be better applied within the existing framework.

1. Environmental assessment and biodiversity protection

1.1 Why is environmental assessment necessary?

In an ideal world, with ecosystems in robust health and with a prevailing culture of precaution and stewardship in our dealings with the natural world, formal assessment requirements would not be necessary for biodiversity conservation. Biodiversity is in crisis, however, and all too often decisions and actions are taken with too little consideration for the likely consequences for the environment and nature. This inevitably results in inadequate efforts to avoid, minimise and compensate for negative impacts, and net loss of biodiversity and ecosystem services.

This is unlikely to change as long as the benefits of environmental protection and enhancement (to other species and to future generations, and in the form of ‘public goods’ or ‘ecosystem services’) remain less tangible than the private benefits of environmentally damaging decisions and actions.

One of the primary purposes of democratic politics is to articulate and defend the public interest and ensure the continued provision of public goods such as a healthy natural environment. A parallel can be drawn with public health and safety – another public good. Where health and safety legislation is weak or weakly enforced, the public are more likely to live and work in dangerous buildings, use dangerous means of transport and suffer exposure to toxic pollution. This is because decision-makers and developers are not required in law to assess and minimise risks to public safety, and/or do not face strong legal sanctions should their actions put the public at unnecessary risk.

In these situations, there is a strong temptation to press ahead to achieve immediate goals, while overlooking potential or likely consequences for the wider public. Just as policy has to provide for public safety, it has to require consideration of the interests of future generations and other species. Protecting nature, ecosystem services and biodiversity requires similar provisions in policy and the law to ensure the consequences of today’s decisions and actions are identified and taken into account.
Environmental assessment requirements and practices have evolved to make this happen. The assessment system is necessary to embed consideration of environmental consequences in our decisions and actions. The EA system, if strengthened in legislation and practice, will be vitally important in coming decades to ensure nature is adequately protected, and that environmental policy and conservation ambitions and targets are achieved.

1.2 The role of impact assessment in supporting delivery of EU biodiversity policy

While AA is a key tool for avoiding impacts on Natura 2000 sites, the broader environmental assessment system is also potentially powerful for biodiversity conservation. EIA, SEA and IA have particularly important roles in relation to impacts in the wider countryside outside the Natura 2000 network, at sea and outside the EU, and in addressing the implications of climate change for biodiversity. These assessments provide established, consistent and systematic mechanisms for integrating biodiversity considerations into decision-making processes, at all levels and across a broad range of sectors such as built development, transport, energy, agriculture and forestry. There is great potential to make this system truly effective.

Assessment processes can ensure existing biodiversity is protected and identify opportunities to enhance biodiversity and meet relevant targets. They do this by:

- enabling stakeholder participation in formulating proposals;
- identifying the likely negative effects of proposals on biodiversity;
- evaluating how serious these effects are likely to be, including cumulative effects;
- considering less environmentally damaging alternatives to the policy, plan, programme or project;
- identifying any likely positive effects or opportunities to address biodiversity targets, e.g. through habitat creation;
- identifying how any negative effects can be avoided or reduced; and
- ensuring that negative effects are mitigated and that the implementation of a policy, plan, programme or project is monitored.

EIA helps ensure large projects and developments in sensitive areas do not go ahead without proper consideration of environmental impacts. It enables the concerned public to find out about such developments and engage with the relevant planning process. In this way it often leads to better projects with less overall impact on nature and the environment, or prevents the very worst projects and severest impacts on biodiversity from going ahead.

SEA is a crucial procedure to protect biodiversity in the wider countryside because highly complex, cumulative effects such as habitat loss can be more effectively avoided or mitigated through SEA of national and regional plans, than in the context of individual project EIA.

IA should be strengthened to avoid any negative impacts resulting from EU and trans-boundary policies on biodiversity and ecosystems. In relation to biodiversity policy outside the EU there needs to be rigorous use of IA at a strategic level of EU trade agreements, external assistance, development aid and any policy that affects areas outside the EU, including support to partner countries to engage effectively with the process, with special regard to the potential biodiversity impacts.

Globally there have been a number of initiatives specifically on biodiversity and impact assessment, for example:

- adoption of both EIA and SEA guidance by the Convention on Biological Diversity (CBD), most recently in 20061; and

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1 http://www.cbd.int/decision/cop/?id=11042 and more generally http://www.cbd.int/impact/
• adoption of EIA and SEA guidance by the Ramsar Convention, most recently in 2008²;
• development of principles on ‘biodiversity-inclusive’ impact assessment by the Biodiversity Section of the International Association for Impact Assessment (IAIA) in 2005 (see Section 2 below);
• the IAIA Capacity Building for Biodiversity and Impact Assessment (CBBIA) project, in which the CBD and Ramsar Conventions were closely involved. The CBBIA outputs include training manuals and EIA/SEA Guidance; and
• an increasing interest in including economic valuations and information about ‘ecosystem services’ into impact assessments³.

Biodiversity impacts are covered in EIA, SEA and IA, but are not always accorded adequate priority, and the guidelines above are not well applied in many cases. As a result environmental assessment’s potential to help biodiversity protection is not always realised. Common weaknesses are:
• not all policies, plans, programmes and projects affecting biodiversity are subject to impact assessment;
• transparency and opportunities for public participation are often inadequate;
• provision of baseline information and assessments of likely impacts are often poor quality, where these are not carried out in an impartial and rigorous way;
• impact assessments often concentrate on limited components of biodiversity, such as designated sites, rather than looking at all levels/facets of biodiversity that could be impacted (e.g. ecosystems, habitats, species, genes, connectivity and ecosystem services);
• impact assessments often fail to include economic information relating to changes in ecosystems services;
• assessments do not assess alternative proposals in order to identify a most environmentally beneficial option;
• the ‘no net loss’ and ‘mitigation hierarchy’ principles (see Section 2 below) are not implemented adequately; and
• post-decision monitoring and enforcement of mitigation measures are often inadequate.

BirdLife believes that these weaknesses should be addressed, and that better implementation of the EU environmental assessment requirements should play an important part in supporting delivery of the EU’s post 2010 biodiversity policy.

2. Good practice principles for biodiversity and impact assessment

This Section first presents some generic principles, and then principles specific to various stages of impact assessment⁴. To enable impact assessment to properly support delivery of biodiversity objectives, the principles below should be:
• embedded in EU environmental assessment legislation and guidance.
• embedded in Member State environmental assessment legislation and guidance; and
• applied in individual environmental assessments at all levels (project and strategic assessments at both EU and Member State levels);

⁴ These are based on recommendations made by the IAIA.
2.1 Generic principles

2.1.1 Aim for no net loss of biodiversity and biodiversity gain
Despite the premise in the international biodiversity-related Conventions and in the EU 2020 target that further loss of biodiversity is unacceptable, biodiversity is currently in crisis as losses continue. Biodiversity must be conserved to ensure it survives, continuing to provide services, values and benefits for current and future generations. Take the following approach to help achieve no net loss of biodiversity and contribute to delivery of the post 2010 biodiversity target:

- avoid irreversible losses of biodiversity;
- seek alternative solutions that minimize biodiversity losses;
- use mitigation to restore biodiversity resources;
- compensate for unavoidable loss by providing replacement biodiversity of at least similar biodiversity value;
- seek opportunities for biodiversity enhancement.

This approach is sometimes referred to as application of the ‘mitigation hierarchy’ and/or ‘positive planning for biodiversity’. It helps achieve no net loss by ensuring that priorities and targets for biodiversity at international, national, regional and local level are respected, and that policies, plans, programmes and projects routinely make a positive contribution to achieving these - for example ensuring that common biodiversity is kept common, habitats and species in Favourable Conservation Status (FCS) remain in good status, and helping restore habitats/species of Community Interest to FCS.

2.1.2 Take an ecosystem approach
The CBD advocates an ‘ecosystem approach’ because people and biodiversity depend on healthy functioning ecosystems. Ecosystems have to be assessed in an integrated way - unconstrained by artificial boundaries. To deal with uncertainty and the dynamic nature of ecosystems, and with the often unpredictable nature of ecosystem functions and responses, requires a long-term perspective based on a biodiversity-based study area and on adaptative management. Biodiversity concerns are not limited to protected areas.

2.1.3 Apply the precautionary principle
Apply the precautionary principle in any situation where important biodiversity may be threatened and there is insufficient knowledge to quantify risks or implement effective mitigation. Application of the precautionary principle requires that binding decisions should be delayed while steps are taken to ensure that the best available information can be obtained through consultation with local stakeholders/experts and/or new information on biodiversity can be obtained/consolidated.

2.1.4 Take a participatory approach
Consult widely to ensure that all stakeholders have been consulted from the screening stage onwards and that important biodiversity values are taken into account. Valuation of biodiversity should be done in negotiation with the different groups or individuals in society (stakeholders) who have an interest in biodiversity.

2.2 Principles applying to stages of impact assessment

2.2.1 Screening - are adverse effects on biodiversity likely?
Use biodiversity inclusive screening criteria to determine whether important biodiversity resources may be affected. Biodiversity screening ‘triggers’ for impact assessment should include potential impacts on protected areas and areas supporting protected species, but also impacts on other areas that are not protected but are important for biodiversity, for example because they:

- act as buffer, linking habitat or ecological corridor;
are critical for migration;
• support particularly large or continuous areas of previously undisturbed habitat;
• act as refuges for biodiversity during climate change;
• support biodiversity for which mitigation is difficult or its effectiveness unproven;
  including habitats that take a long time to develop characteristic biodiversity; and/or
• are currently poor in biodiversity but have potential to develop high biodiversity with
  appropriate intervention.

2.2.2 Scoping - what are the potential biodiversity impacts? What biodiversity data is needed?
Scoping leads to terms of reference for impact assessment, defining the issues to be studied
and methods to be used. Use scoping as an opportunity to raise awareness of biodiversity
concerns and discuss alternatives to avoid or minimise negative impacts on biodiversity.
Produce a scoping report for consultation. This should include:
• the type of policy, plan, programme or project, possible alternatives and a summary of
  the activities likely to affect biodiversity;
• an analysis of opportunities and constraints for biodiversity (include 'no net
  biodiversity loss' or 'biodiversity restoration' alternatives);
• expected biophysical changes (in soil, water, air, flora and fauna) resulting from
  proposed activities or induced by any socio-economic changes;
• spatial and temporal scale of influence, identifying effects on connectivity between
  ecosystems and potential cumulative effects;
• available information on baseline conditions and any anticipated trends in biodiversity
  without the proposal;
• likely biodiversity impacts associated with the proposal;
• biodiversity services and values identified in consultation with stakeholders and
  anticipated changes in these (highlight any irreversible impacts);
• possible measures to avoid, minimise, or compensate for significant biodiversity loss
  or damage;
• information required to support decision-making and summary of important gaps; and
• proposed impact assessment methodology and timescale.

Develop in-country (sectoral) guidance for practical use, which translate this generic scoping
sequence into tools such as guidelines and sample terms of reference.

2.2.3 Assessment, evaluation of impacts and alternatives - what are the magnitude and
significance of biodiversity impacts? Which alternative is most favourable for biodiversity?
• Address biodiversity at all appropriate levels and allow enough survey time to consider
  seasonal features.
• Take an ecosystem approach and involve relevant stakeholders (including local
  communities). Consider the full range of factors affecting biodiversity. These include
direct drivers of change associated with a proposal (e.g. land conversion and
vegetation removal, emissions, disturbance, introduction of alien species) and indirect
drivers of change which are harder to quantify (e.g. economic, socio-economic, cultural
and technological processes or interventions).
• Evaluate impacts of alternatives with reference to the baseline situation. Compare
  against thresholds and objectives for biodiversity. Take into account cumulative threats
  and impacts resulting either from repeated impacts of projects of the same nature over
  space and time, and/or from proposed policies, plans or programmes.
• Biodiversity is influenced by cultural, social, economic and biophysical factors.
  Involvement of people with suitable expertise and cooperation between different
  specialists in the impact assessment team is therefore essential, as is integration of
  findings that have bearing on biodiversity. Provide insight into indirect ‘causal-chain'
effects. If possible, quantify the changes in quality and amount of biodiversity. Explain
  the expected consequences of any biodiversity losses associated with the proposal,
including the costs of replacing biodiversity services if they will be damaged by a proposal.

- Explain how the consequences relate to relevant biodiversity properties, objectives, and legal obligations.

### 2.2.4 Mitigation and enhancement - what biodiversity mitigation and enhancement measures should be put in place?

Apply the ‘positive planning’/mitigation hierarchy approach, whereby avoidance has priority and compensation is used as a last resort measure. Avoid ‘excuse’ type compensation. Look for opportunities to positively enhance biodiversity. Acknowledge that compensation will not always be possible; there will still be cases where it is appropriate to ‘say no’ to development proposals on grounds of irreversible damage to biodiversity.

### 2.2.5 Preparation of the impact statement - present the biodiversity information

The impact statement should set out all the biodiversity issues, concentrating on those that are most important and explaining the main risks and opportunities for biodiversity, and be accompanied by a non-technical summary. The impact statement should:

- include a biodiversity methods statement;
- discuss the scoping process including consultation;
- include maps showing the study area and biodiversity constraints and opportunities;
- present new survey material;
- explain proposed mitigation and enhancement measures and give detailed prescriptions for their implementation (e.g. in an environmental management plan) and assessments of their likely success;
- provide a summary of residual biodiversity impacts; and
- specify how and by whom unexpected impacts will be identified and remedied (e.g. in a monitoring programme and/or environmental management plan).

### 2.2.6 Review of the impact statement - is the biodiversity information adequate for decision-making?

A specialist with appropriate expertise should undertake peer review of environmental reports with regard to biodiversity, where biodiversity impacts are significant.

### 2.2.7 Decision-making - consider and act on the biodiversity information

Avoid pitting conservation goals against development goals; balance conservation with sustainable use for economically viable and socially and ecologically sustainable solutions. For important biodiversity issues, apply the precautionary principle where information is insufficient and the no net loss principle in relation to irreversible losses associated with the proposal.

### 2.2.8 Management, monitoring, evaluation and auditing - is a biodiversity monitoring programme necessary? What mechanism should be put in place to manage unexpected biodiversity impacts?

It is important to recognise that all prediction of biodiversity response to perturbation is uncertain, especially over long time frames. Management systems and programmes, including clear management targets (or limits of acceptable change) and appropriate monitoring, should be set in place to ensure that mitigation is effectively implemented, unforeseen negative effects are detected and addressed, and any negative trends are detected (e.g. through development of a monitoring and/or management plan). Ensure provision is made for regular auditing of impacts on biodiversity. Provision should also be made for emergency response measures and/or contingency plans where upset or accident conditions could threaten biodiversity.
3. BirdLife longer-term recommendations on strengthening environmental assessment

BirdLife recommends that the European Commission should strengthen the overall environmental assessment system, by making the following revisions.

3.1 Reforms to EIA requirements

BirdLife proposes that the EIA Directive should be revised in the following ways:

1. Amend the Directive to have an explicit objective to protect ‘biodiversity’ (not just ‘flora’ and ‘fauna’).
2. Introduce measures to ensure the quality of environmental information supplied by developers, such as: EU-level guidance on biodiversity surveys and impact prediction; requirements to use independent and accredited assessment teams; and a legal requirement on EU Member States to ensure information is good quality.
3. Simplify and harmonise screening decisions by further detailing criteria and thresholds in the EIA Directive. Caveats must remain in place to ensure projects that do not meet these criteria but have significant effects on the environment, for example in sensitive areas, are screened in.
4. Update Annexes I and II of the EIA Directive to include new types of climate change mitigation and adaptation projects, such as carbon capture and storage. Consider use of a Regulation to specify contents of Annexes, to enable quicker and more harmonised updating.
5. Make early scoping (consulting environmental authorities and the public on the scope of an EIA) mandatory for all EIAs.
6. Require Member States to inform the public of EIA procedures and decisions in effective ways that better enable public participation.
7. Require assessment of alternatives, including assessment of a ‘most environmentally beneficial option’.
8. Require application of the mitigation hierarchy so that negative impacts are avoided where possible, minimised elsewhere and fully compensated for where necessary, to ensure no net loss of biodiversity and a net gain where possible.
9. Introduce specific requirements for environmental monitoring in EIA follow-up, and requirements for corrective action where developments result in net biodiversity loss.
10. Revise the EIA Directive so that it fosters better coordination with other environmental assessment requirements, particularly SEA.

3.2 Reforms to SEA requirements

Birdlife supports extension of the scope of the SEA Directive to cover policies (as well as plans and programmes). Without such an extension a situation will continue where the most important parts of many plans are not assessed because they are deemed ‘policy’. In addition Birdlife recommends the European Commission should:

1. Require public consultation at screening and scoping stages.
2. Require assessment of genuinely alternative ways of meeting a policy, plan or programme’s objectives. These should be alternative policies, plans or programmes, not just various options for inclusion.
3. Require assessment of a ‘most environmentally beneficial’ alternative plan/programme.
4. Require application of the mitigation hierarchy so that negative impacts are avoided where possible, minimised elsewhere and fully compensated for where necessary, to ensure no net loss of biodiversity and a net gain where possible.
5. Improve links between SEA and EIA, so that projects contributing to significant cumulative impacts are less likely to proceed in the absence of prior SEA.

3.3 Reforms to Impact Assessment requirements

Birdlife considers that the current Impact Assessment process does not provide adequately strong requirements and incentives for European policy makers to consider the environmental and biodiversity impacts. The IA requirements are not legally binding, and therefore decisions supported by an IA cannot be overturned in the courts if environmental consequences have been addressed inadequately. Moreover, the IA system enables impacts on nature to be traded off against economic and social gains, resulting in policies that fail to recognise the principles of ‘no net loss’ of biodiversity and wider environmental limits. Many of IA’s weaknesses in practice are a result of Directorates General (DGs) carrying them out ‘in-house’ - a much more rigorous independent assessment process is needed.

Birdlife therefore recommends that the legal provisions in the SEA Directive (strengthened in the ways suggested above) should be extended explicitly to cover the EC’s and Member State policy decisions in addition to Member State plans and programmes.

In the absence of an extension of the SEA Directive to cover policies, BirdLife recommends the following reforms to the IA system:

1. Require assessment by an independent body, rather than by the DG responsible for the proposal.
2. Include a specific requirement to rigorously consider biodiversity objectives, targets and assets.
3. Require the identification, assessment and consideration of the least environmentally-damaging option.
4. Strengthen requirements to seek proposals that are beneficial (or at least neutral) in terms of biodiversity impacts in addition to furthering social and/or economic objectives - rather than encouraging damaging trade-offs in the name of ‘sustainability’.
5. Require separate reporting on likely environmental and biodiversity impacts, so these can be considered in their own right rather than solely in the light of economic and social impacts.
6. Require a post-adoption statement to clarify how IA influenced the legislation or policy, and to improve transparency.

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Annex A. EU impact assessment requirements

Other than ‘appropriate assessments’ under the Habitats Directive (which are the subject of other Birdlife position papers)[5], there are currently three sets of environmental assessment requirements in the EU with strong potential to enhance biodiversity conservation: environmental impact assessment (EIA) of projects; strategic environmental assessment (SEA) of ‘plans and programmes’; and impact assessment (IA) of the European Commission’s own legislative and policy initiatives. This Annex explains these three requirements and their key differences.

SEA can be used to assess policies, but the SEA Directive covers certain ‘plans and programmes’ developed by authorities within Member States. EIA covers ‘projects’ on the ground, and is usually carried out by developers or their consultants. In combination, there is potential here for good coverage of the various levels of decision-making with major impacts on biodiversity.

While EIA and SEA are legal requirements for certain kinds of projects, programmes and plans, IA is an administrative rather than a legal requirement. In IA the focus is explicitly on social and economic as well as environmental impacts. The three forms of environmental assessment are defined below, and a table summarises their coverage, aims and legal basis.

Definitions

**EIA:** The IAIA defines an EIA as "the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made." (Principles of EIA Best Practice, 1999). According to the European Commission EIA ‘ensures that environmental consequences of projects are identified and assessed before authorisation is given. The public can give its opinion and all results are taken into account in the authorisation procedure of the project. The public is informed of the decision afterwards.’ The EIA Directive was introduced in 1985, and amended in 1997, 2003 and 2009. A further review was initiated by the European Commission in 2010.

**SEA:** “The formalised, systematic and comprehensive process of evaluating the environmental effects of a policy, plan or programme and its alternatives, including preparation of a written report on the findings of that evaluation, and using the findings in publicly accountable decision-making” (Therivel et al. 1992)[6]. The SEA Directive was implemented in 2004. According to the European Commission SEA aims “to ensure that environmental consequences of certain plans and programmes are identified and assessed during their preparation and before their adoption. The public and environmental authorities can give their opinion and all results are integrated and taken into account in the course of the planning procedure. After the adoption of the plan or programme the public is informed about the decision and the way in which it was made.”[7]

[5] ‘Appropriate assessment’ (AA) applies to both plans and projects, and in some Member States AA requirements are dealt with through SEA and EIA procedures. However, AA is fundamentally different from the other impact assessment requirements discussed in this paper. While IA, SEA and EIA are aids for use in developing proposals and decision-making, AA actually constrains decisions and is a legal test that a plan or project must pass before it is adopted/consented. BHDTF has separate position papers on aspects of AA available (on compensatory measures) or in preparation (on alternatives and the test for public interest).


IA: “Before the European Commission proposes new initiatives it assesses the potential economic, social and environmental consequences that they may have. [IA] is a set of logical steps which helps the Commission to do this. It is a process that prepares evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impact.” (EU Impact Assessment Guidelines)\(^8\). Impact Assessment has been in place since 2003, and current guidelines were released in 2009.

### Key differences between EU environmental assessment requirements

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<td><strong>EIA</strong></td>
<td>Projects</td>
<td>To ensure that planning decisions are made with full knowledge of a project’s likely significant environmental effects, and that any negative effects are prevented, reduced or offset, while positive effects are enhanced.</td>
<td>Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment as amended by Directives 97/11/EC and 2003/35/EC and 2009/31/EC (“EIA Directive”(^9))</td>
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<td><strong>SEA</strong></td>
<td>Plans and programmes (although some countries, such as Scotland, apply SEA to policy)</td>
<td>To provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparations and adoption of plans and programmes with a view of promoting sustainable development.</td>
<td>Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (“SEA Directive”(^10))</td>
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<td><strong>IA</strong></td>
<td>All legislative proposals and most non-legislative proposals which define future policies, e.g. white papers, action plans, expenditure guidelines</td>
<td>To assess the potential economic, social and environmental consequences of new EU initiatives. IAs prepare the evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impact.</td>
<td>Not directly required by legislation(^11).</td>
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Annex B: BirdLife recommendations on implementation of existing EIA, SEA and IA requirements.

The table below sets out a series of recommendations specific to implementation of existing IA, SEA and EIA requirements. They are aimed at those responsible for conducting the assessments in each case – project developers, ‘responsible authorities’ and Directorates General, respectively.

**Recommendations to those responsible for EIAs, SEAs and IAs**

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<td><strong>EIA</strong></td>
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<td>1. Approach the EIA process as a means to improve the environmental profile of project proposals, and to ensure projects do not result in a net loss of biodiversity.</td>
<td>1. Approach the EIA process as a means to justify or conceal avoidable environmental impacts.</td>
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<td>2. Go beyond the legal minimum in terms of procedure – use EIA even where it may not be legally required, always consult on the EIA scope, and consider genuinely distinct and more environmentally beneficial options.</td>
<td>2. Try to save time and money by doing the legal minimum – the spirit of the law matters as well as the letter of the law.</td>
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<td>3. Use independent assessment professionals and rigorous methodologies to collect baseline data on biodiversity and to assess likely impacts – wildlife and environmental groups can often help.</td>
<td>3. Rely on a brief biodiversity survey at just one time of year to provide a reliable baseline.</td>
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<td>4. Use the assessment findings to avoid negative impacts first, then to minimise them and lastly to define mitigation options.</td>
<td>4. Attempt to cover up negative impacts, or rely on mitigation where impacts could be avoided or reduced instead.</td>
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<td>5. Follow up on EIA findings through monitoring and management measures, and keep stakeholders informed of follow up measures.</td>
<td>5. ‘Shelve’ the EIA once consent has been granted.</td>
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<td><strong>SEA</strong></td>
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<td>1. Approach SEA as an opportunity to learn, improve plans and programmes and build support.</td>
<td>1. Approach SEA as an administrative hurdle, cost burden or delay in securing consent for inflexible plans.</td>
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<td>2. Engage environmental including biodiversity authorities and stakeholders early and proactively to help define the scope of the SEA, to help steer the process and to assist with data and methodologies.</td>
<td>2. Ignore advice received at the scoping stage, nor employ lawyers and consultants to define the legally safe minimum SEA effort.</td>
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<td>3. Identify and assess genuinely alternative ways to achieve a plan’s objectives, including a ‘most environmentally beneficial’ alternative.</td>
<td>3. Define a plan’s objectives so narrowly that reasonable competing alternatives are excluded.</td>
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<td>4. Assess alternatives against a meaningful baseline, including adequate data on existing biodiversity.</td>
<td>4. Engineer the baseline and assessment of alternatives to justify consenting the preferred plan without changes.</td>
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<tr>
<td>5. Use the process and findings to revise the plan so that environmental impacts are avoided, minimised or mitigated, resulting in no net loss of biodiversity.</td>
<td>5. Use the process and findings to justify losses of biodiversity or failures to avoid, minimise or mitigate impacts.</td>
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<tr>
<td>6. Ensure proper assessment of cumulative impacts is undertaken.</td>
<td>6. Overlook cumulative impacts arising from plans - they will not be properly addressed in later EIAs.</td>
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<tr>
<td><strong>IA</strong></td>
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<tr>
<td>1. Define policy objectives in terms of EU-level sustainable development priorities.</td>
<td>1. Define objectives for a policy and then treat sustainable development as</td>
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<tr>
<td>2. Approach IA as an opportunity to integrate environmental (including biodiversity) considerations more fully into policy development and facilitate cross DG working – start early and ensure ongoing dialogue between policy-makers, the IA authors and stakeholders.</td>
<td>2. Approach IA as an exercise in justifying policies developed with little concern for environmental limits and biodiversity - do not appoint IA authors for this purpose.</td>
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<tr>
<td>3. Follow IA guidelines fully, and go beyond the minimum requirements where this will help avoid major significant impacts.</td>
<td>3. Miss out assessment steps in the IA guidelines.</td>
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<tr>
<td>4. Consult biodiversity and environmental NGOs, including BirdLife, and authorities in defining policy options and selecting assessment methodologies.</td>
<td>4. Define options with no clear differences in terms of likely environmental impacts, or rely on assessment methodologies simply because they are familiar or simple to apply.</td>
</tr>
<tr>
<td>5. Proactively seek options that have positive attributes in social, economic and environmental terms simultaneously.</td>
<td>5. Use positive economic or social impacts as a justification for failure to avoid, minimise or offset biodiversity and other environmental impacts.</td>
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<tr>
<td>6. Take biodiversity and other environmental impacts seriously in refining and selecting the preferred option. Make real efforts to find necessary data and quantify environmental and biodiversity impacts wherever possible.</td>
<td>6. Use climate impacts as a proxy for all environmental impacts, or overlook impacts simply because they have not been quantified or data is lacking.</td>
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