

Coordinated by Urszula A. Rzeszut, WS Atkins Polska, Urszula.Rzeszut@wsatkins.com.pl

Session A1 Strategic Environmental Assessment (SEA) in Africa

Topic chairs: Michelle Audouin, CSIR, MAudouin@csir.co.za; Keith Wiseman, City of Cape Town, Keith.Wiseman@capetown.gov.za

The purpose of this session will be to investigate how SEA can be developed in Africa to more effectively contribute to addressing current problems and to meeting the vision set by Africa's leaders for the future of the continent. The session will focus on the following key issues:

- What role can SEA perform in addressing the key concerns in Africa such as widespread poverty?
- What broad approach to SEA is most appropriate to decision-making processes in Africa?
- What type of policy and legal frameworks would most effectively facilitate the implementation of SEA in the various countries of Africa?

The workshop will be divided into two 90-minute sessions. The first session will comprise the presentation of papers followed by questions and discussion on each paper. Key issues and questions for discussion will be identified. The second session will be a round-table discussion aimed at elaborating the issues and questions raised during papers session and the questions listed above. We hope to clarify challenges and opportunities from Africa that are relevant to the broader conference theme.

Workshop A1.1

Up-scaling Environmental Assessment Tools and Approaches in the Context of the New Partnership for Africa's Development (NEPAD)- Challenges and Opportunities. Ebenizário Chonguça

SEA in Yemen and Djibouti. Michel André Bouchard, Rachid Nafti

Developing Country Readiness for Acceding to UNECE SEA Protocol: Kenya as a case study. Vincent Onyango

SEA in South Africa. Keith Wiseman, Michelle Audouin

Workshop A1.2

Facilitators: Michelle Audouin, CSIR, and Keith Wiseman, City of Cape Town

This workshop will comprise a roundtable discussion aimed at addressing the key issues raised during the presentation of the papers and the questions listed above.

Session A1 abstracts (in order of presentation):

Up-scaling the Environmental Assessment Tools and Approaches in the Context of the New Partnership for Africa Development (NEPAD) – challenges and opportunities
Ebenizário Chonguça, The World Conservation Union, Regional Office for Southern Africa

The African continent is currently experiencing a vibrant socio-economic transformation fueled by the New Partnership for Africa's Development (NEPAD). The NEPAD adopted by the African Heads of States and Governments is an initiative aiming at addressing the pressing demands for rapid economic growth to respond to the fundamental need for eradicating poverty and elevate its people's living standards to acceptable levels of livelihoods. It entails "... placing the African countries, both indi-

vidually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic.”

Prevailing trends in Africa economic development, however, illustrate the high dependence on its natural capital. Development initiatives implemented so far have often resulted in decreased social returns of growth and high levels of unrealized and misused production potential of the natural resource base. The deteriorating terms of trade and high debt burdens are compounded by severe and escalating costs of natural resources degradation (cf. Warford, 1989). It is also found that the stock of renewable resources is rarely considered in a systematic and comprehensive way at the macro-economic levels where major strategic planning decisions are made.

Therefore, comprehensive development planning mechanisms intended to increase the level of understanding between the complex and interwoven biophysical, economic and socio-cultural elements of the landscape in the context of natural resources use and development planning are greatly needed (cf. Naveh and Lieberman, 1984). These development planning mechanisms are generally placed in a framework of an environmental assessment (EA) approaches. EA basically corresponds to an analytical procedure designed to ensure that the best development alternative is selected (cf. Chonguiça, 1995).

Overall, African countries are making remarkable developments towards recognizing and acting upon the organic links between environment and development. The development and consolidation of the required policy and legislation frameworks has been recognized as one of the critical factors for such an approach to development planning. However, in spite of the myriad of specific developments related to EA and management, a number of constraints are still preventing the improved effectiveness of EA practices. The NEPAD process, for example, will foster the need for regional economic integration with a multitude of investment initiatives that might be trans-boundary in nature or within the realms of new continental development policy frameworks. Prevailing EA practices in Africa are generally hampered by the recognized general limitation to effectively consider the combined environmental effects of multiple specific development initiatives, as well as trans-boundary impacts of regional development initiatives. This reinforces the need to re-evaluate the effectiveness of current EA systems and operational procedures. EA practitioners in Africa are, therefore, called upon to lead the way forward in improving the effectiveness of existing EA tools under the new emerging challenges.

SEA in Yemen and Djibouti

Michel André Bouchard, Rachid Nafti, CITET, michel.a.bouchard@cogeo.com, michel.a.bouchard@citet.nat.tn

While most developing countries have set national objectives for sustainable development, processes for integrating those objectives into their policies, plans and programmes, and the capacity to develop and adopt strategic environmental planning, are still lacking. Furthermore, these criteria are not always systematically taken into consideration or equally shared and supported by various environmental authorities, sectoral ministries, NGOs and the public. Strategic Environmental Assessment (SEA) has been examined as a way to achieve these goals of sustainable development and poverty alleviation in Yemen and Djibouti. The initiative consisted of assessing the needs for undertaking SEAs in development decisions, providing SEA awareness/training workshops using country-specific examples and engaging decision makers on SEA concepts for in country long-term capacity building initiatives. Assessment of SEA capacity was done for a number of priority sectors in the two countries, including Roads, Urban Water and Sanitation, and Municipal Development. The national training sessions, conducted in Arab, English and French served as outreach campaigns to involve various stakeholders in the SEA process. Discussions on how to adapt the principles of SEA in developing countries with various degrees of development of EIA processes, including leapfrogging into SEA will be discussed, based on lessons learned in this initiative.

Developing Country Readiness for Acceding to UNECE SEA Protocol: Kenya as a Case Study

Vincent Onyango, Brandenburg University of Technology, vin_onyango@yahoo.com

Kenya enacted an EIA framework in 2000 when it legislated the Environmental Management and Coordination Act of 1999. However, the urgent needs for suitable strategic decisions to manage the pressures for environmental protection and sustainable development have meant that a tool like SEA is ever more needed. Even though some SEA-type elements, legal and institutional frameworks that could support SEA are already in place, this article examines what preparations Kenya needs to

make in order to be able to effectively accede to the UNECE protocol on SEA. The current legislative and institutional framework for potential acceding to SEA is examined, with special attention to what has to be put in place before the country can be ready to accede. Kenya's para-SEA conceptual, methodological, procedural and legislative elements are analyzed and compared with UNECE's SEA protocol, with particular attention to compatibility and potential ease of accession. Challenges that could delay the process are also examined with Kenyan-context solutions suggested.

Acceding to the UNECE SEA protocol is a significant opportunity for having a "global-wise" harmonized SEA framework that is buttressed in international recognition politically, legislatively and methodologically.

Development and Practice of SEA in South Africa

Keith Wiseman, City of Cape Town, kwiseman@cmc.gov.za, keith.wiseman@capetown.gov.za; Michelle Audouin, CSIR, maudouin@csir.co.za

In this paper, the development and practice of SEA in South Africa will be described and evaluated. The paper will include an identification of the key challenges to the future development of SEA in the country.

Session A2 Legal and Policy Frameworks for SEA in Asia

Topic chairs: Kūchiro Hayash, Mitsubishi Research Institute, Inc., maruhaya@mri.co.jp; Young-il Song, Korea Environment Institute, yisong@kei.re.kr; Elvis Au, Hong Kong Special Administrative Region Government, elvis_au@hk.super.net

Several Asian countries have already introduced national levels of SEA systems, for example, in Hong Kong, Korea and Japan. More and more Asian countries have been introducing and revising their SEA systems. However, there is weak collaboration in the Asian region on implementation and establishment of SEA systems.

To establish a better SEA system in each country, information exchange, human exchange, sharing of experiences and discussion of lessons learned on good SEA within Asian countries must be contributed to the development of good national SEA systems. Through the discussion of the IAIA SEA conference, information exchange and discussion of good SEAs will be made.

The following key issues are raised for IAIA SEA conference in Prague as discussion topics:

- What are the key characteristics and major challenges of national and local SEA systems in Asia?
- What are the similarities and differences of Asian national and local SEA systems and what are key success factors for an effective SEA system in Asia?
- What are the lessons learned from an Asian Country's experiences?
- What are the key priorities in improving the effectiveness of SEA in Asia?
- Is there a need or possibility for future cooperation on SEA in the Asian region?

Workshop A2.1 National Experiences of SEA in Asia

Topic chair: Kūchiro Hayash, Mitsubishi Research Institute, Inc

Main topic: What are the key characteristics and major challenges of national and local SEA systems in Asia?

A New EIA Era in China: Implementation of Strategic Environmental Assessment in China. Xu He, Yu Cong-Rong, Zhang Hui

"Environmental Assessment Storm" in China. Kaiyi Zhou

Promoting Good Strategic Environmental Assessment (SEA) Practices through Hong Kong's SEA Manual. Hon meng Wong, Elvis Au

SEA Movement in Japan. Sachihiko Harashina, Yuko Furugori, Takashi Shimizutani

Workshop A2.2 Comparative Analysis of SEA Systems and Experiences in Asia

Topic chair: Elvis Au, Hong Kong Special Administrative Region

Main topic: What are the similarities and differences of Asian national and local SEA systems and what are key success factors for an effective SEA system in Asia?

Perspectives on the Implementation of Strategic Environmental Assessment in Korea. Young-Il Song, Seong-Cheol Seo, Hyun-Woo Lee, Young-Joon Lee, Sang Wook Han

EIA Experience and Prospects for SEA in Turkey. Sule Günes

Cross-Country Comparison of EIA Legislation, SEA Requirement and Practice in East and South-east Asian Countries. Jian Xie

Strategic Environmental Assessment in Developing Countries: A Tool to Achieve Sustainable Development. Habib M. Alshuwaikhat

Workshop A2.3 Better Cooperation in Asia (Free Discussion)

Topic chair: Young-Il Song

Sustainability Appraisal of the Yunnan Sustainable Development Action Plan. Steven Smith

Free Discussion. Main topic: Better Cooperation in Asia

- What are the lessons learned from an Asian Country's experiences?
- What are the key priorities in improving the effectiveness of SEA in Asia?
- Is there a need or possibility for future cooperation on SEA in the Asian region?

Facilitated discussion

Wrap-up of Session A2

Session A2 abstracts (in order of presentation):

A New EIA Era in China: Implementation of Strategic Environmental Assessment in China

Xu He, Yu Cong-Rong, Zhang Hui. Nankai University, seacenter@nankai.edu.cn

The implementation of environmental impact assessment (EIA) in China started in the 1980s. In the past two decades, the practice focused mainly on construction projects. Relative provisions for EIA requirements can be found in the Law on Environmental Protection in general and some specialized laws or ordinances on water and air pollution prevention and control. Regulation on Management of EIA on Construction Projects has been used for this purpose. The Law of People's Republic of China on Environmental Impact Assessment (EIA Law) was approved by the top legislature on October 28, 2002. In the new law, the content about strategic environmental assessment (SEA) is introduced for the first time. To date, only a relatively small number of countries and international organizations have made formal provision for SEA. These frameworks vary, sometimes substantially, and indicate the flexible adaptation of SEA to different levels and types of decision-making. Through this new EIA Law, EIA for plans or programmes is a type of strategic environmental assessment (SEA) where the concept of SEA is for the first time being advocated by the State at this level. The paper puts emphasis on the analysis of SEA in the new EIA Law. The paper firstly introduces the development of SEA system in China, and then systemically analyzes SEA implementation in China since new law, based on any case analysis, the paper points out some new problems for carrying out effective SEA in the future in China.

"Environmental Assessment Storm" in China

Kaiyi Zhou, Imperial College, kaiyi.zhou@imperial.ac.uk

The Environmental Assessment "Storm" (EA Storm, a major crackdown on enforcement by SEPA) which happened in early 2005, highlighted many practical problems of environmental assessment that have existed for a long time in China. They are:

1. Administrative and institutional structure in EA practice
2. The ultimate objective of EA

3. The form and the contents of EA practices
4. Legal foundation and enforcement approaches of EA practices
5. The role of the public in EA practices
6. What is SEA and what are its characteristics?

Although the new EIA Law of China came into force on 1 September 2003, the problems identified above are still there. The EA Storm makes very clear that under the current so-called “dual-leadership” system, without administrative and legal support, high quality EA guidance, and a silent public, EA practices in China are only for doing environmental assessment not for helping to achieve sustainable development.

Good EA practice must be oriented by sustainable development. It should be supported by legislation and high quality guidance; carried out by an independent agency in a healthy legal environment; the public should be the “third” party and allowed to make comments. SEA is not simply “big scale” EIA, but should be treated as a major instrument for helping to achieve sustainable development.

Promoting Good Strategic Environmental Assessment (SEA) Practices through Hong Kong’s SEA Manual

Hon meng Wong, Elvis Au, Environmental Protection Department, Hong Kong Special Administrative Region Government, hmwong@epd.gov.hk, elvis_au@epd.gov.hk

Hong Kong has been actively promoting the application of SEA since the 1980s. With more SEAs being carried out for a wider range of policy and planning proposals, the Environmental Protection Department of the HKSAR published a SEA Manual in November 2004. This Manual aims to be a practical reference and a user-friendly guidance on the SEA process, with solid real examples to demonstrate how various SEA techniques and principles could be applied to different types of policy formulation, as well as programme and planning decision making. The Hong Kong SEA Manual is now uploaded onto the department’s website for use by SEA practitioners and researchers in universities in Hong Kong as well as other international users who are able to connect to the Internet.

This presentation aims to lay out the rationale behind the publication of the Hong Kong SEA Manual and to show how it could be applied to various types of initiatives. More importantly, the main factors behind a successful SEA will also be brought out for further discussion and debate.

Through illustration with real examples of SEAs in Hong Kong, the presentation will also bring out the essence of the SEA evolution, system and practice in use in Hong Kong.

SEA Movement in Japan

Sachihiko Harashina, Yuko Furugori, Takashi Shimizutani, Tokyo Institute of Technology, sahara@depe.titech.ac.jp

We consider that Strategic Environmental Assessment (SEA) is the key policy measure for creating a sustainable society. But it is not easy to introduce an SEA system into a country, especially where transparency of decision-making is insufficient. It requires advanced information disclosure and citizen participation. Alternative plans or policies for mitigating environmental impacts should be considered in the early stage of the decision-making process. Japanese government implemented new EIA system in 1999 by the EIA Act and the government has been examining to introduce a SEA system into Japan. But it is very hard to have a SEA system soon because of the very competitive situation of Ministries in Japan. There is almost no SEA system on the national level except international cooperation by Japan International Cooperation Agency (JICA). Although, the situation is better in local governments as they could take more comprehensive approach than the national government.

A survey was conducted on the state-of-the-art of SEA in major local governments, as those have a bigger possibility of introducing SEA systems than the national government. There are 47 prefectures and 12 big cities in Japan. All of them have their own local EIA ordinances. Some of these are conducting studies for making SEA systems. The survey was conducted 2001-2002. We will conduct another survey in mid-2005 to see how the situation of SEA in Japan has been changing during this period. Most active autonomies such as Kawasaki, Tokyo, Saitama and Mie made legislative quasi SEA systems before the first survey. Since then, Saitama Prefecture has created the first SEA guideline in local governments, then

Tokyo Metropolis introduced program EIA in its EIA system. JICA revised its EIA guideline and introduced SEA concept in 2004. We would like to provide information about the current situation of SEA in Japan based on these two original surveys and other related materials.

Perspectives on the Implementation of Strategic Environmental Assessment in Korea

Young-Il Song, Seong-Cheol Seo, Hyun-Woo Lee, Young-Joon Lee. Korea Environment Institute (KEI). www.kei.re.kr; Sang-Wook Han, Kwangwoon University

In Korea, similar to the Strategic Environmental Assessment (SEA), the Prior Environmental Review System (PERS) was introduced to overcome the limitations of the Environmental Impact Assessment (EIA), through review of the environmental impacts on major policy and administrative actions in the early stage of decision making process.

Since its introduction in 1993, the PERS has consolidated its legal basis by an amendment of the “Framework Act on Environmental Policy” (FAEP) in 1999 and 2003, and has been applied to some of the major administrative plans and programs ever since. However, problems still remain with the PERS, such as 1) a limited range of the target area, 2) the lack of capacity in collecting stakeholders’ opinions and 3) inappropriate timing for execution. Due to these limitations, the results of the execution of PERS were insufficient to comply with its objective of establishing an organized system for optimal planning and development procedures. Meanwhile, the importance of the precautionary environmental management policies has been emphasized continuously in Korea after 1990s, due to increasingly complex and diverse environmental problems. Particularly, social demand on implementation of the SEA has grown rapidly. In order to meet the demand, the government has established its policy direction for implementation of the SEA by enhancing the objectivity and expertise of the PERS and a number of researches on improvement of the PERS have been conducted. In the research, the problems associated with current PERS had been analyzed in order to check out if it fully sustains certain SEA principles and performance criteria. The methods to enhance the PERS had been proposed through the research.

Based on the results of research, redesigning of the current PERS is under processing by the government. On behalf of redesigning, “Framework Act on Environment Policy”(FAEP) had been amended in 2004 and it was approved by the National Assembly in May 2005.

This paper reviews the policy direction for implementation of the SEA such as following and perspectives for implementing systematic and efficient environmental assessment through integration of the PERS and the EIA.

- Regulatory bases for consolidation of PERS toward SEA
- Subjects to be assessed
- Public involvement
- Timing of PERS execution
- Role assignment of PERS and EIA

EIA Experience and Prospects for SEA in Turkey

Sule Günes, Middle East Technical University, gunes@metu.edu.tr

Turkey integrated EIA in national environmental policies since 1990s. The legislative basis of EIA is article 10 of the 1983 Environmental Act and the subsequent by-law which was enacted in 1993. The 1993 by-law was amended multiple times and following the merge of Ministry of Environment with the Ministry of Forestry, the last version of EIA by-law was issued in 2003. Administrative structure was also harmonised in line with this development and one of the directorates of the Ministry of Environment (and Forestry) was mandated with the EIA applications in Turkey. Aware of the fact that EIA falls short in considering environmental dimension to more comprehensive policies, plans and programmes, Turkey is now in the process of preparing SEA legislation. A draft bylaw is prepared to catch up with the 27.06.2001 (2001/42/EC) SEA Directive at European Union level. Meanwhile, two SEA pilot projects were made for Canakkale and Oymapinar/Antalya regions. The purpose of this presentation is to provide a general and a critical view on the scope, extent, methodology used, division of responsibility among public and private sectors and the lessons learned from EIA and SEA practices in Turkey.

Cross-Country Comparison of EIA Legislation, SEA Requirement and Practice in East and Southeast Asian Countries

Jian Xie, *The World Bank*, jxie@worldbank.org, www.worldbank.org/leapenvironment

Many countries in East and Southeast Asia are undertaking policy reforms, which have significant impacts on their natural environment. Strategic environment assessment (SEA) has been viewed as an important tool for analyzing and preventing the negative environmental impacts. Following the examples of the developed world, some Asian developing countries (e.g., China) have begun to revise their EIA regulations to include the requirements for SEA for development plans and programs. Some other Asian countries are considering doing the same thing to amend their EIA laws for requiring upstream environmental analysis. In the paper, cross-country analysis and comparison were conducted in 11 Asian countries and Hong Kong SAR (China). It first takes stock of the EIA regulations in these countries or regions. It then examines their requirements and potential for SEA and reviews SEA practice as well as the lessons learnt in the region. The paper helps improve the understanding of SEA and provide a basis for promoting SEA in the region.

Strategic Environmental Assessment in Developing Countries: A Tool to Achieve Sustainable Development

Habib M. Alshuwaihat, *King Fahd University of Petroleum & Minerals*, habibms@kfupm.edu.sa

The current trend of industrialization and urbanization in developing nations has a huge impact on anthropogenic and natural ecosystems. Pollution sources increase with the expansion of cities and cause contamination of water, air and soil. The absence of urban environmental planning and management strategies has resulted in greater concern for future urban development. This paper advocates the adoption of strategic environmental assessment (SEA) as a means to achieve sustainable development in developing countries. It investigates project-level environmental impact assessment (EIA) and its limitations. The exploration of SEA and its features are addressed. The effective implementation of SEA can create a roadmap for sustainable development. In many developing countries, the lack of transparency and accountability, and ineffective public participation in the development of the policy, plan and program (PPP) would be mitigated by the SEA process. Moreover, the proactive and broadly based characteristics of SEA would benefit the institutional development of the PPP process, which is rarely experienced in many developing countries. The paper also explores the prospects for SEA and its guiding principles in developing countries. Finally, the paper calls for a coordinated effort between all government, non-government and international organizations involved with PPPs to enable developing countries to pursue a path of sustainable development through the development and application of strategic environmental assessment.

Sustainability Appraisal of the Yunnan Sustainable Development Action Plan

Steven Smith, *Scott Wilson*, Steve.Smith@scottwilson.com

In early 2004, the Yunnan Provincial Government (YPG) began work on preparing the Yunnan Sustainable Development Action Plan (YSDAP). The Yunnan Environmental Development Programme (YEDP) supported the development of YSDAP. YEDP is an ongoing partnership between YPG and the UK Department for International Development (DFID) and aims to promote environmentally sustainable, pro-poor development throughout Yunnan Province. As part of its support, YEDP assisted YPG in undertaking a Sustainability Appraisal (SA) of YSDAP. The aim of the SA was to identify and evaluate the economic, social and environmental implications of YSDAP and to recommend measures to strengthen its sustainability performance.

This paper will describe the SA process undertaken, the outcomes of the process and the issues and problems encountered. The paper will also discuss YEDP's actions to further promote SA in Yunnan Province. In particular, these include the preparation of guidelines on undertaking SA of Provincial plans. Importantly, this guidance takes into account the requirements of China's new law on Environmental Impact Assessment (EIA) which provides for the Strategic Environmental Assessment (SEA) of various plans.

Session A3 Legal and Policy Framework for SEA in Australia and New Zealand

Topic chair: John Ashe, John Ashe & Associates, john.ashe@netspeed.com.au

This session aims to develop an up-to-date understanding of the current state of SEA in Australia, and New Zealand, including:

- Current developments and strengths and weaknesses of the SEA legislative and policy regimes in these two countries
- Lesson to be learnt from experience in applying SEA in different jurisdictions
- Issues relating to the application of SEA in a federal system (Australia)
- The use of strategic assessments by Environmental Commissioners

Workshop A3.1 Introduction to session A3

Topic chair: John Ashe, John Ashe & Associates, Administrative Appeals Tribunal Australian Capital Territory

Australian Experience with Strategic Assessment—What You're Likely to Get Out of it Determines What You Put into It. Gerard Early

Strategic Environmental Assessment and Protected Areas Management in the Sub-Antarctic: Are Some Areas Better Protected than Others? Simon Marsden

Workshop A3.2

Is there a role for SEA in Queensland? Rachel Brazier

Strategic Audits—Walking the Talk. Ian McPhail

Sustaining Sustainability: NZ experience under the Resource Management Act in a Post-Earth Summit World. Morgan Williams

Workshop A3.3

Overview of SEA in New Zealand Current Issues and Prospects. Jenny Dixon

SEA in New Zealand-Developing on Two Tracks. Martin Ward

SEA Analysis of New Zealand Land Transport Strategies. Martin Ward, Tony Bernard.

Wrap-up of Session A3

Session A3 abstracts (in order of presentation):

SEA at the Federal Level in Australia

Gerard Early, Department of the Environment and Heritage, gerard.early@deh.gov.au

Australian Government environmental law provides a statutory regime of strategic environmental assessment. The regime provides for discretionary strategic assessment of the impacts of actions under a policy, plan or program as well as compulsory strategic assessment of fisheries managed by the Australian Government or requiring Australian Government export approval.

The commentary will consider the strengths and weaknesses of the Australian legislation and the lessons to be learned from, and distinctions drawn between, the discretionary and compulsory approaches. It will draw on experience with the series of strategic assessments of Australian fisheries as well as two other major strategic assessments - one of Australian offshore oil and gas exploration and the other of major military exercises.

SEA of Fisheries and Marine Environments in Australia and the Australian External Territories—Issues and Anomalies

Simon Marsden, University of South Australia, Simon.Marsden@unisa.edu.au

This paper focuses upon the anomalies that occur when SEA is required for some strategic proposals but not for others. S 147 of the Environment Protection and Biodiversity Conservation Act 1999 requires SEA to be applied to all Commonwealth of Australia managed fisheries by mid-2005, in particular to the management plans that are prepared for each. S 146 of the same Act can be applied to a range of strategic proposals; to date however, application of s 146 has been extremely limited. The Heard Island and McDonald Islands (HIMI) Fishery Management Plan is of particular interest because while it has been subject to a strategic assessment, a new draft HIMI Marine Reserve Management Plan (which applies to the terrestrial and surrounding marine environment) has not. While the two Management Plans are regulated by different legislative provisions (s 147 is mandatory for the fisheries plan, s 146 is discretionary for the marine reserve plan), the logic is open to question. If SEA is designed to improve environmental protection, the only reasonable conclusion is that some areas are better protected than others.

Is There a Role for SEA in Queensland?

Rachel Brazier, Arup, rachel.brazier@arup.com.au

The introduction of a performance based planning framework for Queensland (the Integrated Planning Act, 1997) heralded a new era for planners, government, developers and the community. With sustainability clearly on its agenda, it had potential to become a major driver for sustainable development. However, it has evolved as a framework for streamlining approval rather than a framework for integrated decision making, and has been criticised for a range of shortcomings.

The Integrated Planning Act is one of a number of legislative tools governing environmental impact assessment (EIA) processes in Queensland. Numerous problems with EIA in Queensland have been identified, including timing, referral agency coordination, skill base of assessment managers, intent of proponents and purpose (project specific impact minimisation).

SEA-type assessments are being used in Queensland, under Federal legislation and other non-statutory processes. This broadly applies to projects of national interest, or those that cross state or international boundaries. At the State level, SEA could provide opportunity to embed sustainability deeper in state policies and local authority plans, as evidenced by examples in other Australian States. Other benefits may include consideration of alternatives and environmental effects of decisions before a policy, planning scheme or development configuration is fixed. SEA could also bring greater transparency and community involvement to the development process, in time for the input to have real meaning. This shift to include strategic considerations in environmental assessment, planning and development decisions may need to come from a change in perception and practice across the industry, not a change in State legislation or policy.

Strategic Audits—Walking the Talk

Ian McPhail, Victorian Commissioner for Environmental Sustainability, ian.pcphail@ces.vic.gov.au

In Victoria, Australia, the state government requires the principal government departments to produce accredited EMS along the lines of ISO 14001. Introduced in 2003, these EMS cover CBD offices only. They are subject to compliance audit by independent auditors appointed by the departments, but the total effort is then considered by the Commissioner of Environmental Sustainability in a strategic audit. The first of these strategic audits was completed by the statutory date of January 31, 2005, and tabled some months later in the state Parliament. The report revealed the obvious: that it is easier to talk than walk, and that at all levels government agencies are as conflicted as other organisations in their approach to environmentally sustainable behaviour.

Sustaining Sustainability; NZ Experiences under the Resource Management Act in a Post-Earth Summit World

Morgan Williams, New Zealand

While the NZ RMA incorporates the concept of sustainable management, 14 years of implementation has revealed limitations in delivery of the concept.

This contribution will draw on several PCE studies that have examined the management of resources (e.g., water and landscapes) from the perspective of institutional and policy effectiveness at advancing sustainable development in all its complexities. The studies include, *Creating our future; Sustainable development for NZ* (2002); *Managing change in paradise; SD in peri-urban areas* (2001); *Ageing pipes and murky water; Urban water system issues for the 21st century* (2000) and, *Growing for good; Intensive farming, sustainability and NZ's environment* (2004).

The discussion will include a focus on the management of cumulative effects and the importance of SEA in this context.

An Overview of SEA in New Zealand: Current Issues and Prospects

Jenny Dixon, University of Auckland, j.dixon@auckland.ac.nz

This presentation will give a brief overview of the legal and policy framework in SEA that operates in New Zealand both formally and informally. New legislative and policy changes will be outlined in respect of the opportunities offered for the enhanced practice of SEA. The presentation will reflect on the SEA framework and future prospects.

SEA in New Zealand – Developing on Two Tracks

Martin Ward, Independent Environmental Advisor, martinward@xtra.co.nz; A. Dalziel, A. Wilkie

Recent research and analysis of SEA applications in New Zealand is revealing a sharpening focus on two different areas of practice, one in community and environmental planning and the other in public policy development in both central and local government. In both cases new legislation has played an important role in shaping and sharpening the need for SEA. In neither instance has an explicit mandate for SEA arrived.

The Resource Management Act, the principle planning statute, includes some elements of SEA although does not specifically provide for SEA as such (Dixon, 2005). However it is not always easy to discern what might be identified as SEA in practice, as opposed from environmental planning. For example, the Act provides for an integrated approach to environmental management which achieves some of the aspirations and outcomes of SEA. Similarly it provides for what can be characterized as a more narrow form of policy environmental assessment through the requirement for what is known as section 32 reporting, an evaluation of the costs and benefits of proposed policies (Dixon, 2003, Memon 2004).

New responsibilities under the Local Government Act 2003 which require councils to seek and respond to outcomes identified by the community can be described as an extension of the integrated planning / SEA approach. The Act has an explicit sustainable development framework setting out in its purpose a requirement to “promote” the social, economic, environmental and cultural well being of communities, in the present and for the future.

A long history of para-SEA at central government level (Ward et al, 2002) continues with publications from the Office of the Parliamentary Commission for the Environment. Also at central government level the Land Transport Management Act 2003 requires national and regional land transport strategies, programmes and plans to identify and respond to social and environmental objectives as well as safety and economic areas. This establishes a general requirement for a SEA approach.

In the public health area, Health Impact Assessment at the policy level is written in to the government's New Zealand Health Strategy 2000 as a specific objective. This is supported by a practice guide manual on HIA for policy makers prepared by the Public Health Advisory Committee in 2002 which has been revised and reprinted this year.

This paper describes the two contrasting areas of SEA practice and examines the influence of the new legislation.

SEA Analysis of New Zealand Regional Land Transport Strategies

Martin Ward, Independent environmental advisor and researcher, martinward@xtra.co.nz

Tony Brennand, Greater Wellington Regional Council, tony.brennand@gw.govt.nz

Over the last decade, strategic environment assessment (SEA) has gained increasing international recognition as a means of ensuring environmental impacts are considered in transport policy and plan making.

To date, experience of SEA in New Zealand has been limited. However, recent changes to New Zealand's transport planning framework provide the opportunity to develop a more systematic approach for SEA.

With the introduction of the New Zealand Transport Strategy (NZTS) and the Land Transport Management Act 2003 (LTMA), the obligations on transport planning agencies to address the environmental impacts associated with transport have been strengthened. The strategies and plans transport agencies are required to prepare must now take into account environmental sustainability and contribute to a sustainable land transport system. SEA has the potential to provide a valuable means of delivering on these obligations.

The regional land transport strategy (RLTS) preparation process has been identified by researchers as a potential entry point for SEA in New Zealand. RLTSs are mandatory and provide a key means of setting transport policy at a regional level. Using the Canterbury, Waikato and Wellington regions as case studies, researchers examined RLTS development with a view to identifying opportunities for SEA use in RLTS preparation.

Results demonstrate a RLTS prepared in compliance with the requirements of the New Zealand Transport Strategy and the new legislation meets SEA criteria falling within the para-SEA model of Sadler and Dalal-Clayton. It also found that the SEA methodology is a useful model for transport policy development for objectives other than environmental.

This paper is based on research reported in Ward, Sadler and Wilson, 2005, which describes the new legislation and the RLTS preparation process with reference to the Greater Wellington Regional Land Transport Strategy 1999-2004.

Session A4 Legal and Policy Framework for SEA in the Newly Independent States

Topic chairs: Aleg Cherp, Central European University, cherpa@ceu.hu; Henrieta Martonakova, UNDP Regional Center for Europe and CIS, henrieta.martonakova@undp.org

Most of the Newly Independent States (NIS) of the former Soviet Union have formal systems providing for environmental evaluation of strategic activities which include State Environmental Review (SER) procedures. However, the SER systems rarely conform to internationally accepted SEA principles. Many NIS will now need to reform these systems in line with the UNECE Kiev SEA Protocol (2003). This is a great challenge given traditionally technocratic, sectoralized and non-participatory approaches to EA in the NIS.

The proposed section will consider various approaches and practical experiences of overcoming these challenges. In particular, the section will discuss SEA legal models appropriate for the NIS, approaches to fostering understanding and acceptance of SEA among environmental, health and sectoral authorities as well as NGOs and the general public, training experts in SEA and strategic planning, creating networks of SEA stakeholders, initiating SEA research and last, but not the least, ensuring continuous learning from both domestic and international SEA experience.

We will seek to answer the following questions:

- What are the current trends and challenges in reforming the SER system to meet international SEA requirements?
- What are the critical activities and audiences for SEA capacity development in the NIS?
- What are the lessons learned from practical applications of SEA?
- What is the role of public participation in SEA and can it be effectively applied in the current settings in the NIS?

Workshop A4.1 Practical Experience of SEA in the NIS

- Presentations of participants
- Presentation of position paper by A. Cherp and H. Martonakova

- Short comments and statements
- Presentation of papers

SEA of National Tourism Development Programme in Belarus. I. Chulba

Pilot Project on Implementation of Strategic Environmental Assessment on a Regional Level in Ukraine. D. Palekhov, M. Schmidt, A. Shapar

Public Participation Experience in SEA in Russia. N. Kovalev

Public Participation in the SEA of Master Plan of Yerevan City in Armenia. S. Ayvazyan

Workshop A4.2 Towards Integration of SEA in Environmental Assessment and Planning Systems in the NIS

Capacity Building Needs Assessment for Implementing the UNECE SEA Protocol in the Selected EECCA Countries. A. Jurkeviciute, J. Dusik, H. Martonakova

Ukrainian SEA System Development: Key Issues, Needs and Drawbacks. O. Borysova, Y. Varyvoda

Adopting New Regional SEA Legislation in Russia. P. Agakhanyants

Panel discussion: "How to reform SER systems in the NIS in line with international SEA principles?"

Developing session's conclusions and recommendations

Session A4 abstracts (in order of presentation):

SEA Experience in Belarus

Igor Tchoulba, UNDP Regional Project on SEA, Belarus, tchoulbai@yahoo.co.uk

Mikhail Kalinin, Institute on Water Resources, Belarus

Irina Zastenskaya, Institute of Hygiene, Belarus

Sergey Kuchmel, Radiation and Ecological Reserve, Belarus

Valentin Yatsukhlo, Belarusian State University, Belarus

Elena Logynova, Belarusian State University, Belarus

Victoria Misiuchenka, Ecological University, Belarus

Ludmila Ivashechkina, Ministry of Environmental, Belarus

Alexandre Gnedov, NGO "Ecoproject," Belarus

Irina Sukhy, NGO "Ecohome," Belarus

Belarus inherited from its Soviet past strong planning system. The majority of new projects in the country, including those with potential significant adverse consequences for the environment and human health, are the result of implementation of a national or sectoral programme or plan. Application of SEA that is a tool that allows identification of potential environmental threats and effective way of dealing with them at the early stages of planning process will promote good governance and sustainable development in Belarus.

To promote SEA among the main stakeholders and to test and demonstrate opportunities for practical application of the UNECE SEA Protocol in Belarus, taking into account its public participation and consultation requirements, the UNDP Bratislava in close co-operation with the Regional Environmental Centre for Central and Eastern Europe (REC) has launched a pilot SEA in Belarus. The National Programme for Tourism Development in Belarus has been chosen as a subject of the ex-ante SEA pilot.

Though the pilot is to be finished in August 2005 and main conclusions are to be made, some first lessons have been learned. The current planning process in Belarus should be modified to allow sufficient SEA, including public participation and consultations with the environmental and health authorities. Effective SEA application requires close co-operation between SEA and planning teams and timely access of SEA experts to materials to be evaluated. National experts acting in the field of environmental assessment need to be educated and trained in the SEA approaches and techniques.

Pilot Project on Implementation of Strategic Environmental Assessment on a Regional Level in Ukraine

Dmytro Palekhov, Michael Schmidt, Brandenburg University of Technology, palekdmy@tu-cottbus.de; Arkadi Shapar, National Academy of Sciences of Ukraine, Institute of Nature Management & Ecology Problems

This paper presents an international project which concerns the benefits and constraints of SEA implementation on a regional planning and administration level, for example the Dnepropetrovsk region, Ukraine, according to the aims of the Kiev SEA Protocol. The project is represented by Germany - Saxon Ministry of the Environment and Agriculture, Brandenburg University of Technology, and Ukraine - Dnepropetrovsk regional authorities, Institute of Nature Management & Ecology Problems. The project is now in a development stage.

Administrative reforms, which are being conducted in Ukraine, are greatly focused on issues of regional development. Elaboration of regional development strategies, which would consider environmental interests above all, must become the main task of regional planning process. "Proactive" environmental protection is becoming of great importance.

During the project realization, the potential of SEA as a new instrument for regional planning is to be evaluated. As no comprehensive regional development plans exist in Ukraine so far, one of the main objectives is to develop a model regional plan for the Dnepropetrovsk region, which could be used as a future example for other regions. SEA will be used as a decision-making tool during the elaboration of this plan. Problems of public involvement are also to be addressed.

Case Studies of Strategic Environmental Assessment in Russia

Nicole Kovalev, Technical University Berlin, kovalev@ile.tu-berlin.de

Since 1988, the Russian Federation has required that laws, plans, programs and technologies undergo an environmental assessment. However, there are major uncertainties nationally regarding the contents of such assessments. Approaches for the methodological distinction and delimitation from the usual Environmental Impact Assessments for projects have not been fully developed to date. As a result, only a few Strategic Environmental Assessments have been conducted. How the results of such assessments are to be used has also not been completely settled. Nevertheless, there are several examples of SEAs studied in an investigation project, which are presented herein: The environmental reviews of the management program for the lowering of the water level in the Krasnodarskoye Reservoir in 1991, of the Municipal Forest Law in the oblast of Irkutsk, adopted in 2002-2003, and of the zoning proposal for the Lake Baikal world natural Heritage Area, submitted in 2004. These examples show the current possibilities and limits of the SEA in Russia. However, they also show interesting methodological approaches for meeting the complex requirements of the SEA.

Public Participation in the SEA of Master Plan of Yerevan City in Armenia

Sona Ayvazyan, Center for Regional Development/Transparency International Armenia, sona@transparency.am

Public participation in the SEA process plays a critical role not only in the monitoring of the environmental effects of plans/programs/policies, but also in stipulating more cautious enforcement of those by the relevant authorities.

During transition to a market economy, many cities and towns in Armenia experienced extensive violations of the existing urban development plans and policies, which contributed to the environmental degradation of those areas as well as to social frustration. As a matter of fact, the concerned public was not able to monitor and constructively react to breaches due to the lack of access to information on the content of respective plans and policies.

Public participation efforts, proposed within the UNDP/REC SEA Pilot Project in Armenia which focuses on the Master Plan of Yerevan City, anticipate awareness-raising of the concerned public on the content of this plan, in order to build up benchmarks for monitoring of implementation of this as well as other related documents. It is assumed that more informed public can better observe the enforcement and environmental impact and more adequately respond to problems.

It's important to highlight the necessity for capacity building of the non-governmental organizations in monitoring and participation in policy implementation processes.

Capacity Building Needs Assessment for Implementing the UNECE SEA Protocol in the Selected EECCA Countries

Ausra Jurkeviciute, *The Regional Environmental Center for Central and Eastern Europe*, AJurkeviciute@rec.org; Jiri Dusik, *The Regional Environmental Centre for Central and Eastern Europe*, JDusik@rec.org; Henrieta Martonakova, *Europe and the CIS Bratislava Regional Centre*, henrieta.martonakova@undp.org

Implementation of the UNECE SEA Protocol requirements by the countries that are just starting to formulate their national EA legal frameworks and to collect experience in assessment of certain plans and programmes will be a long process. To date, four countries in the EECCA region have signed the Protocol. By this they have demonstrated an intent not only to improve their decision making process in terms of taking into account environment including health effects, but also to promote transparent and participatory decision making.

Capacity development (CD) for SEA is abilities and qualification of SEA stakeholders enabling them to initiate, organize, undertake, take part in, influence, and follow the results of decisions presented in plans, programmes, strategies and legislation in various fields and environmental assessment of those strategic initiatives. Many countries do not have sufficient resources to implement comprehensive CD programs. SEA CD needs assessment involving various stakeholders is one of the most cost-effective tools leading to design and implementation of efficient and effective CD for SEA.

The paper will present the framework for SEA CD needs' assessment, which has been developed for the UNDP-REC project on "Capacity Development Needs Assessment for the UNECE SEA Protocol." It will investigate CD needs' assessment importance, advantages as well as key issues in CD programme design.

Following the proposed framework, CD needs' assessment was undertaken as the first stage of the above mentioned project in 5 EECCA countries in 2004. The paper will present the results of the needs' assessment and initial experience in the region drawn from the implementation of the project.

Ukrainian SEA System Development: Key Issues, Needs and Drawbacks

Olena Borysova, *National Academy of Municipal Economy*, borysova@velton.kharkov.ua; Evgenia Varyvoda, *Kharkiv National Karazin University*, yarostchuk@yahoo.com

Since its independence, Ukraine has been doing a lot in attempt to harmonize national environmental legislation, environmental management and environmental assessment systems with the European ones. In particular, the UNECE SEA Protocol to the Espoo Convention has been signed at the Ministerial Conference "Environment for Europe" in Kiev (May, 2003). However, practice shows that subscription and ratification of new environmentally sound documents does not necessarily ensure their successful implementation.

Therefore, it is essential to study possibilities for capacity development for the SEA Protocol implementation on the national level. The research has been accomplished in the frame of UNDP/REC Pilot SEA project. The aim of the paper is to analyze Ukrainian system of environmental assessment, to study capacity of this system for introduction of the SEA Protocol, to describe the obstacles concerned with adaptation of the national legislative system, in particular, lack of consistency in methodology, weaknesses of terminological apparatus, underdeveloped practice of public participation and consultations. Recommendations for the further activity on successful introduction of the SEA Protocol and procedure into the national system of environmental assessment in the framework of acting legislation have been proposed.

Adopting New Regional SEA Legislation in Russia

Polina Agakhanyants, *Technical University Berlin, Institute of Landscape Architecture and Environmental Planning*, aga-polina@yandex.ru

Russian legislation contains formal requirements for SEA in two administrative procedures and assessment of environmental impacts and environmental review. In practice both procedures usually neglected, especially for legal acts. Major reason is that there is no order of laws passing through assessment. To fill this gap, a draft law of "Order of preparation of laws, programs and legal acts which can have negative environmental consequences" has been prepared in Murmansk by a group of NGOs.

The draft law includes the following mechanisms:

- Screening procedure for proposed legal acts
- Assessment of environmental impacts to be conducted for selected legal acts
- Informing public and NGOs to in the course of impact assessment
- Public discussion in the course of impact assessment
- Obligation of state authorities to pay for state environmental review

Screening is based upon combined “black list,” “expert decision” and “public request” approaches. In the black list approach, nine key areas of legal regulation have been outlined which are of potential significant impact on environment and public health. The Murmansk draft law is now in the process of adoption by a regional Parliament.

Session A5 Legal and Policy Framework for SEA in Europe

Topic chairs: Ursula Platzer, Federal Ministry of Agriculture, Forestry, Environment and Water Management, Ursula.Platzer@lebensministerium.at; David Aspinwall, European Commission, DG Environment, David.Aspinwall@cec.eu.int

The workshops will concentrate on the legal and policy framework in Europe for SEA. The main driving force for SEA in Europe is Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the Effects of certain plans and programmes on the environment (SEA Directive). The SEA Directive is an important tool at EU level for integrating environmental considerations into programmes and plans. The SEA Directive was to be implemented by the Member States by 21 July 2004.

The aim of the session will be to give an overview of the implementation of the Directive, its linked legal and policy frameworks and related problems concerning its effectiveness, practical examples of ways of applying its requirements, methodological and procedural issues based on practical examples, and lessons learned. Closely related to the legislation and policy framework is the issue of administrative systems and practices. Therefore, we would also like to discuss how administrative structures can positively and/or negatively influence the effectiveness of the implementation of the Directive and what influence authorities have on the practical effectiveness of SEA.

Each of the three workshops is dedicated to one of the following topics:

- Overview of the implementation of the SEA Directive
- Testing SEA in practice, two practical examples
- Future of SEA in Europe

In each workshop one keynote speaker will give a presentation (20 min). The presentations should end with clear recommendations on aspects which seem to be relevant for the issues presented. After the presentations an intensive discussion is planned. The discussion in the workshop will follow partly the World Café method and therefore, small table discussions are offered (three to four participants at each table). The method enables active participation of all participants. In the discussion rounds, specific questions will be discussed for about 30 minutes. The results of the table discussions will be reported back to the working group.

Workshop A5.1 Overview of the Implementation of the SEA Directive

Keynote Speaker: Ulla-Riitta Soveri, Ministry of the Environment, Finland. ulla-riitta.soveri@ymparisto.fi

The presentation covers the following issues:

- Overview of the transposition of the Directive
- Principal legal solutions as well as the relationship to other legislation (e.g., amended EIA act)
- The influence of administrative systems on transposing the Directive

- Scope of application
- Necessity of additional help (e. g., guidance or training)
- Summary of main problems and challenges

Table discussion: What were the main problems in implementing and how did you overcome them?

Workshop A5.2 Testing SEA in Practice: Two Practical Examples

Keynote speaker: Dr. Kerstin Arbter, Strategic Environmental Assessment, Consulting & Research, Austria, office@arbter.at

Between 1997 and 2004, seven SEA pilot projects were carried out in Austria to test the SEA Directive in planning practice. Our first SEA approaches stuck closer to the Directive's requirements. We gained valuable methodological experience. But we also learned that procedural issues are at least as important for effective SEAs as methodological ones. Therefore, after four pilot SEAs, we developed a new approach – the SEA Round Table. This is a participative approach trying to (1) fully integrate the planning and the SEA process and (2) to actively involve the interest groups concerned throughout the whole process, from defining aims to choosing the planning solution. This new approach increased the effectiveness of SEA distinctly. Especially the SEA for the Viennese waste management plan showed how SEA (1) increases the quality of the plan, (2) can be used as an instrument to reconcile various interests concerned, (3) fosters the plan's implementation and (4) contributes to a better environment by solving problems at their roots. The SEA Round Table approach goes beyond the Directive's requirements in some aspects, and our experience is promising.

Table discussion: Does SEA make a difference? What needs to be done to enhance the integration of the environment into plans and programs?

Workshop A5.3 Future of SEA in Europe

Keynote speaker: Jan Jaap de Boer, Ministry of Housing, Spatial Planning and the Environment, The Netherlands, Janjaap.deBoer@minvrom.nl

The presentation focuses on the question how will SEA develop and how should SEA develop. The following questions and theses will be discussed:

- What is the effect of the Directive on the SEA development in Europe?
- Will EIA and SEA grow together in one instrument with a wide application field: from project to policy?
- Different ways of using SEA: prediction of environmental effects or achieving environmental objectives
- What are the implications for SEA of changing priorities in environmental policy?
- Will SEA turn into SA?
- How is the environmental (policy) field developing in reaction to developments outside?
- How will and should the instrument SEA develop?
- Should we focus more on the decision-making?
- How will SEA affect planning procedures and administrative structures?

Table discussion: What should SEA look like in 10 years?

Session wrap-up

Session A5 abstracts (in order of presentation)

The Role of the Consultee in Shaping the SEA Process

Lucia Susani, Environment Policy - Risk and Forecasting, Environment Agency, lucia.susani@environment-agency.gov.uk

The Environment Agency of England and Wales is identified in UK SEA legislation as one of the statutory bodies, to be consulted by plan and programme makers at various stages of the SEA process.

This consultative role will result in our exposure to every SEA prepared in England and Wales — an excellent opportunity to guide, monitor and influence the SEA process.

SEA legislation requires us to be consulted at screening, during scoping, and on the Environmental Report. Our most strategic input will be during scoping, when we can provide a clear steer on the proposed SEA approach for a given plan or programme.

Our scoping consultation responses consider whether the proposed SEA approach satisfies the EU Directive (and UK legislation) requirements, whether additional or alternative SEA objectives are needed to address the issues covered by the Directive (and in particular any specific Environment Agency concern), and whether plan/programme alternatives are realistic and meaningful.

The consultation responses are logged on a dedicated internal database. Review of this database will provide an indication of the consistency of our responses, and of their usefulness in better shaping the SEA process. The quality of the SEAs reviewed, hence the effectiveness of Directive implementation to date, will also be indirectly evident.

How is Environmental Assessment Dealt with Since New Rules of SEA Were Introduced in Comprehensive Planning in Sweden?

Ann Åkerskog, Swedish University of Agricultural Sciences (SLU), ann.akerskog@pul.slu.se

The SEA Directive (Directive 2001/42/EC) is now implemented into Swedish law. Since last summer, planners in some Swedish communities have started new comprehensive planning processes. These planners are obliged to follow the new law and regulations about assessing environmental impacts in comprehensive planning. How are they getting on with the new rules? Is there a great difference from what has been done before in Swedish comprehensive planning when it comes to environmental assessment? Four local communities, which have ongoing comprehensive planning processes, were chosen to give answers about their current practice. The persons in charge of the SEA were interviewed about the pros and cons of the new rules. Half structured and explorative interviews were used in this case study to get a rich material. The answers given are discussed in this paper.

Session A6 Legal and Policy Framework for SEA in Latin America

Topic chairs: Virginia Alzina, Interamerican Development Bank, virginiaa@iadb.org; Izabella Teixeira, LIMA/COPPE/UFRJ, imtbella@lima.coppe.ufrj.br

This session presents a general view of the use of the SEA in Latin American countries by analyzing the evolution of Environmental Assessment instruments in the region. Emphasis will be given to recent SEA initiatives promoted by multilateral organizations, trying to identify relevant aspects for its application and to discuss key steps to promote the environmental assessment of policies, plans and programs in these countries.

The session has three workshops addressing the recent developments on strategic environmental assessment in Latin American countries, focusing on the evolution of environmental assessment policy instruments in the region. Emphasis will be given to the recent experiences of SEA, as it has been practiced in several Latin American countries, and the agenda for future advances on the assessment of policies, plans and programs. Participants are encouraged to present their institutional and personal experiences in SEA.

Workshop A6.1 SEA in LAC: A General View and Examples of SEA Application at National Level

Guest speaker presentation: "SEA, a New Tool to Deal with the Urban Sprawl in Catalonia" by Jordi Cañas, Director of Environmental and Sustainability Policy, Generalitat de Catalunya

Recent Experiences on SEA in Chile. J. Solari

Introduction of SEA in Bolivia. I. Steinhauer

Wrap-up of Workshop A6.1: conclusions and recommendations

Workshop A6.2 SEA in LAC: Examples of the Tourism Sector

Innovative Approaches to SEA in DC: SEA of the Honduran Tourism Sector. J. Quintero, B. Brakarz

The Brazilian Government Initiatives with SEA in Tourism Development Planning Programs. Suzana Dieckmann

Wrap-up of Workshop A6.2: conclusions and recommendations

Workshop A6.3 SEA in LAC: Examples of the Infrastructure Sector

Guest speaker presentation: Spanish Experience of SEA Applied to the Infrastructure and Transportation National Strategic Plan. Carlos Real, Spanish Environmental Ministry

Applying SEA to Regional Infrastructure Initiatives in LAC. V. Alzina

SD: connections between Baseline sustainable zoning and SEA. M.P. Souza, M. Abdon, I. Oliveira

Wrap-up of Workshop A6.3: conclusions and recommendations

Session A6 abstracts (in order of presentation)

Recent Experiences on SEA in Chile

Jaime Solari, SGA, jsolari@sga-ltda.cl

This paper provides a summary of recent experiences on SEA in Chile that are being carried out by the author. First, a brief description of the current legal and institutional environmental background regarding SEA in Chile is made.

The Plan for Public Transport Modernization of Santiago (Transantiago) is being evaluated under a SEA. The methodology has been an adaptation of the UK Department of Transport Guidance for SEA of Transport Plans and Programs and is being done with the assistance of an UK SEA specialist company.

Also under an SEA is the Programme for the Urban Development and Recovery of Valparaiso. This is an old port in the coast of Chile whose downtown area has been declared a UNESCO world heritage site. The Programme is financed by the InterAmerican Development Bank and the SEA is being done as one of the requisites of the loan.

Finally, a SEA of a Mining Business Plan done for a mining company is presented. This SEA aimed at analyzing the environmental sustainability of alternative business plans over a 20 year scenario. The plans were analyzed following a modified European Union Directive methodology. Several environmental constraints were identified with different levels of sensitivity and management plans were devised and costed to cope with them. SEA proved to be a most useful tool to anticipate critical environmental variables and to design more sustainable development plans for a mining company.

Introduction of SEA in Bolivia

Ineke Steinhauer, Netherlands Commission for Environmental Impact Assessment, Isteinhauer@eia.nl

The Bolivian Ministry of Sustainable Development has identified the introduction and development of Strategic Environmental Assessment (SEA) in Bolivia as a priority issue. On request of the Ministry, the Netherlands Commission for Environmental Impact Assessment contributes to this introduction through, amongst others, the undertaking of pilot SEAs. These are designed as a joint activity of the Commission and the Bolivian EIA authorities, mobilising their expertise in the practice of impact assessment and providing a possibility for 'training-on-the-job' in SEA.

MDS has selected Puerto Busch as the first SEA pilot: a harbour and railway line planned primarily for the export of soya and iron ore. This harbour is of great strategic importance because it offers Bolivia a sovereign access to the sea. The whole region has been designated as a priority area for economic growth, but as a vulnerable wetland (the Pantanal) it has a protected area status. The Ministry carries out an SEA to provide a comprehensive picture of all the plans and the relations between them, which should lead to a long-term development plan.

A second pilot SEA is Salar de Uyuni, a salt lake with valuable mineral resources and high potentials for tourism. The purpose of this pilot is to assess strategies for the exploitation of mineral resources in mutual relationship with strategic plans for tourism development in Uyuni and its surroundings, taking into account that the Salar de Uyuni is an area with unique natural values. This can result in a long-term vision for regional development.

Innovative Approaches to SEA in Developing Countries: Strategic Environmental Assessment of the Honduran Tourism Sector

Juan D. Quintero, The World Bank, Latin America & Caribbean Region, Environmentally and Socially Sustainable Development, jquintero@worldbank.org

This pilot SEA developed a unique methodology to provide the Honduran Institute of Tourism (Instituto Hondureño de Turismo —IHT) with the necessary framework to ensure the long-term environmental and social sustainability of its tourism strategy. Currently, tourism is the third biggest sector in the Honduran economy as a share of GDP. The Government of Honduras aims to make the country the number one destination in Central America by the year 2021, implying an annual growth of eighteen percent in the influx of international visitors. The SEA aimed to integrate the environmental, social, and economic analyses and implications of the government's tourism strategy, and recommend alternatives for ensuring sustainable tourism development that safeguards the natural environment, achieves economic growth, promotes income and employment generation and ensures community sharing of benefits. The methodology adopted is aligned with the realities and needs of the country, and sought to maximize the value-added use of SEAs as a highly useful tool to inform policy formulation.

The methodology emphasized the process to be as important as the products generated, adopting a highly participatory and iterative process, involving rapid consultations with stakeholders. A strategy analysis paper provided the basis for raising issue-specific papers, analyzed issues, linkages, impacts, and externalities, and developed growth scenarios which projected alternative tourism growth scenarios - accelerated, moderate, and slower trends - for the short, medium, and long terms in strategic areas of the country. Environmental, socio-economic, and policy/institutional papers strategically addressed the issues considered most critical to each respective area, examine in detail specific sector challenges, and outline policy options. Finally, environmental guidelines for tourism development will ensure the environmental and social sustainability of the strategy and provide a basis for future draft legislation. Key recommendations stemming from the SEA are already under implementation.

The Brazilian Government Initiatives with SEA in Tourism Development Planning Programs

Suzana Dieckmann, Ministério do Turismo do Brasil, suzanadieckmann@turismo.gov.br

Since the end of the 1990s, The Ministry of the Tourism of Brazil has been working on the conception and implementation of tourism regional programs focusing on sustainable development and life quality improvement of the resident populations within the tourism impact areas.

The challenges faced in implementation of the Northeast program, stemming from the diverse nature of tourism impact to institutional, environmental, cultural, social, and economic sectors: coupled with the difficulty in identifying focal solutions, emphasizes the need for due diligence during the planning phase of these programs as well as a system of checks and balances once underway. The SEA is an extremely important tool for planning tourism programs, as one of its objectives is the integration of natural and social aspects, focusing on the cumulative and synergic impacts of policies, plans and programs.

These initiatives of the Ministry of the Tourism, in the actual stage of development, aims the SEA as planning instrument in pilot areas in the regions of their programs or at the conceptual phase of new programs. Furthermore, the institutional relationship between the Ministry of Tourism and the Ministry of Environment are defining methodological lines for the application SEA of the tourist activity and their social economic impacts, mainly bringing poverty alleviations and social inclusion. The presentation intends to demonstrate these government initiatives applying SEA to tourism sector planning.

Applying Strategic Environmental Assessment to Regional Infrastructure Initiatives in Latin America

Virginia Alzina, Inter-American Development Bank, virginiaa@iadb.org

Integrated infrastructure development is a priority for Latin American Region. This implies not only the improvement of physical infrastructure but also the integration of logistic platforms to harmonize and integrate markets, improvement of information systems and cross-border regulation, the development of information and communication technology, the promotion of multimode transportation, the improvement and harmonization of regulation in air, multimode and maritime transportation and other actions in logistics services. These activities call for a thorough incorporation of social and environmental considerations, as well as a coordinated and targeted strategy to include civil society and interest groups.

There are important examples of Regional Infrastructure Initiatives taking place at the moment in Latin America. The presentation will analyze how these Regional Infrastructure Initiatives seeks to improve coordination of the participating countries' infrastructure development plans, modernize their regulatory frameworks and harmonize their policies for key sectors: i.e., transportation, energy, telecommunications... The presentation will analyze key features of SEA arrangements that have been established in countries participating in these Regional Infrastructure Initiatives, and the methodologies being used.

Sustainable Development: Connections Between Baseline Sustainable Zoning and SEA

Marcelo Pereira de Souza; Myrian Abdon, Isabel Silva Dutra de Oliveira, Universidade de São Paulo, mps@sc.usp.br

International development agencies such as World Bank and Inter-American Development Bank have been promoting SEA in Latin America. Universities and some environmental government agencies aim to implement SEA in these countries considering the social and economic conjuncture and the legal institutional procedure towards other needs of SEA to make it obtain the status of Decision Making Process.

Brazil, where the law is the unique way to obligate something, does not have any law or regulation referring to an obligation to present SEA for any kind of PPP. However, the international trend does not get success, because the SEA presented does not have public participation or a systematic approval framework.

Baseline sustainable zoning (BSZ) and SEA, new instruments added to the Environmental National Policy as tools and regular procedures to improve sustainability in Brazil, can offer to decision makers, at the earliest time, the environmental information for better strategic actions. A case study—the Pantanal Region, Brazil—illustrates the use of the baseline sustainable zoning, its possible connection with SEA, what could be different and the future perspectives with its use.

Session A7A Legal and Policy Frameworks for SEA in Canada

Topic chair: Gérald Aubry, CEAA, gerald.aubry@ceaa-acee.gc.ca

The presentation by the Government of Canada for the Canada-USA session will be a verbal presentation with visual aids involving the Government of Canada organizations listed below. The presentation will consist of two, one and one half hour sessions (A7.A and A7.B), back to back, ending with a question and answer period after each section. The presentation will be coordinated by CEAA. CEAA will perform the role of moderator throughout the presentation.

Presenters will include:

Canadian Federal Government

Canadian Environmental Assessment Agency (CEAA)

Office of the Commissioner of Environment and Sustainable Development (CESD)

Agriculture and Agri-Food Canada (AAFC)

Transport Canada (TC)

Foreign Affairs Canada (FAC)

Independent Presenter

Merrell-Ann Phare, B.A., LL.B., LL.M

Workshops A7A.1 and A7A.2

The workshops will open with an introduction by Irene Gendron (CEAA) outlining the goals of the workshops, and introducing the members of the Canadian Delegation.

SEA in Canada, Institutional Framework, Technical Guidelines and Future Direction

Gerald Aubry (CEAA)

The first section of the presentation will cover an overview of the Canadian government system and SEA in Canada, including the difference between project assessment and strategic environmental assessment. This section will go on to detail the purpose of SEA, including the framework provided for EAs under the federal Cabinet Directive on strategic environmental assessment (the Directive). The process of SEA has been in Canada for close to 20 years, the first Directive on SEA was put in place in 1990. Throughout the past 20 years many changes have been made to the application of SEA in Canada. This section will outline the Cabinet Directive on SEA along with its mandate and general findings from reviews on the application of SEA, by the federal government. In Canada there are no legal requirements for an SEA to be completed. However, the Directive provides clear guidance on when an SEA should be completed. This section will outline when it is appropriate to complete an SEA and will also outline the objects and guiding principles of SEA. The technical guidelines for undertaking EAs are outlined in the Directive. This section will cover what type of answers an SEA should provide to decision makers along with the two step process for an SEA. The process is determined by the expected environmental impact. This section will outline the challenges faced by SEA and possible future directions to be examined.

SEA Audit for Implementation

Gerorge Stuetz (CESD)

The presentation will address how the directive is being applied within key departments within the federal government of Canada and the main factors that adversely affect its implementation. In addition, the presentation will address some of the best practices observed.

Departmental Experience

Kathy Wilson (AAFC)

Agriculture and Agri-Food Canada (AAFC) will present an overview of the department's process for SEA which includes AAFC's Framework for SEA. The presentation will include a general overview of the framework, and specifically how the department is working with its key departmental stakeholders to deliver on its SEA requirements. AAFC will also highlight its guidance material and sign-off process with specific reference to its preliminary scan template, its methodology for detailed SEAs, and SEA public statements.

Overview of Internal SEA Process

Cara McCue (TC)

Transport Canada will provide an overview of its internal SEA process and present a summary of an SEA undertaken for a Canadian transportation project.

SEA in a Trade Context

Rachel McCormick (FAC)

This section will cover SEA in a trade context and the implication of it. Discussions related to impact assessment of trade began over a decade ago. Since then, national governments, non-governmental and multilateral organizations have completed assessments using a range of methods and processes. While it is widely accepted that impact assessment of trade can contribute to timely, strategic and coherent policy making, several important challenges remain. The Government of Canada's Framework for Environmental Assessment of Trade Negotiations in 1999 and initial assessment reports have been issued for four negotiations. Experience has shown that the Canadian process will continue to evolve as practitioners deal with limited data and modeling capacity during analysis, determine how consultations can be more effective, and strengthen the connection between impact assessment findings and policy making processes. Key elements to the continual evolution of the Canadian process include review of existing sources to determine how these could address current problems, purposeful information sharing and capacity building based on identified needs, and ongoing relationship building.

Indigenous People (independent presentation)

Merrell-Ann Phare

This presentation will review the challenges faced by indigenous peoples in their attempts to rely upon SEA to ensure that policy, program, and plan decisions do not infringe their rights, and the constraints faced by governments as they attempt to consider impacts on indigenous environment-based rights prior to policy, program and plan decisions. An analysis of the effectiveness of SEA in addressing certain legal and quasi-legal aspects of environmental impact decision-making will be presented.

Session wrap up

Irene Gendron

This section will conclude the presentation through a discussion of main themes with an opportunity for questions and answers involving all members of the Canadian Delegation.

Session A7A abstract:

Indigenous People (independent presentation)

Merrell-Ann Phare, Centre for Indigenous Environmental Resources, maphare@cier.ca

SEA assesses the potential environmental impacts of policies, plans, and programs. In many cases in Canada, indigenous peoples are the direct recipient of these policies, plans, and programmes, many of which can result in profound changes to their lands, environment, and consequently their communities. Recent decisions of the Supreme Court of Canada indicate that the government is also required to assess the impact of decisions they may make on indigenous rights (which are predominantly land- and water-related), as these rights are constitutionally-protected. These cases also indicate that the potentially affected indigenous peoples must be consulted by the government in that process; yet Canada's SEA Directive does not require the participation of indigenous peoples, nor any member of the public in the SEA process. This paper will review the challenges faced by indigenous peoples in their attempts to rely upon SEA to ensure that policy, program, and plan decisions do not infringe their rights, and the constraints faced by governments as they attempt to consider impacts on indigenous environment-based rights prior to policy, program and plan decisions. An analysis of the effectiveness of SEA in addressing certain legal and quasi-legal aspects of environmental impact decision-making will be presented.

Session A7B Legal and Policy Frameworks for SEA in the United States

Topic Leader: Ray Clark, The Clark Group, rayclark@clarkgroupllc.com

The United States Congress passed The National Environmental Policy Act (NEPA) in 1969 amid growing evidence that the federal government was having a significant effect, both directly and indirectly, on the human environment. The statute created a national environmental policy, a tool to implement that policy, and an oversight agency, the Council on Environmental Quality (CEQ) to ensure its implementation. The statute is a relatively simple law that intends as its basic premise to ensure that federal agencies take environmental considerations into account before decisions are made and before actions are taken. CEQ developed implementing regulations in 1978 that establish the basic procedures for agencies to follow. Agencies are then relatively free to develop their own approach to compliance as long as that approach is consistent with the CEQ regulations.

The law requires a detailed statement on all federal proposals that may have a significant effect on the quality of the human environment. It leaves CEQ to fill in the definitions and procedures and approve each agency's procedures which are crafted for that particular agency. The regulations state that all "policies, plans and programs" should be assessed for their environmental effect if these policies, plans or programs may have a significant effect on the quality of the human environment. While there are about 500 draft, final or supplemental Environmental Impact Statements (EIS) each year (and about 50,000 Environmental Assessments (EA)), it is rare that an agency prepares a Programmatic EIS and even rarer to find a Policy EIS. There has been a recent trend in the U.S. by some agencies to refute the position that NEPA requires an EA or EIS on programs, policies, or plans. However, there are good examples of the programmatic approach being used to the advantage of the agency in its decision-making.

The Bonneville Power Administration prepared an EIS on its Business Plan. It is, in the purest sense of the word, a Strategic EIS. However, it is not called such nor is it called programmatic. It assesses the very heart of the agency; its business practices. It addresses the environmental issues related to sale of electricity and the myriad issues associated with the sale. It has served as a decision-making analysis for nearly ten years. The senior leadership embraces the idea because it allows them to deal with issues that cover the horizon, the cost of NEPA compliance is reduced, and they are not faced with multiple EA/EIS each year.

The U.S-VISIT program was formed in 2003. The major requirement of the program is to enhance security for American citizens and visitors while facilitating legitimate travel and trade across U.S. borders. The mission is to help secure borders, facilitate the entry and exit process, and enhance the integrity of the immigration system while respecting the privacy of visitors. The program has been developing new technology to deploy at all 330 ports of entry across the U.S, but there was little shape to the technology for an extended period as the program managers and industry worked to develop a system. The Environmental Program Manager developed the idea of a "Strategic Environmental Appraisal" to identify the environmental resources and authorities for those resources long before a project or program was identified. The geographical boundary of these appraisals was the ecosystem. This approach was intended to identify a legitimate scientific boundary that would still provide flexibility to the Program in the deployment of its mission.

As the program has evolved over the past few years, a strategic plan was developed to assess how business process, technology and facilities can support the goals of the program. The program is now developing a blueprint for all the processes throughout the organization based on the framework established in the strategic plan. The environmental program manager is now evaluating a programmatic approach to capture the effects of all the processes associated with carrying out the program and to facilitate future evaluation and deployment of the program.

This session will address the overall trends in the legislative and executive branches of government and the way two agencies have used the Programmatic or strategic approach to improve decision-making and efficiency in the implementation of NEPA. The session will be coordinated by The Clark Group, a consortium of senior level officials who have operated at the highest levels of the U.S. Government.

The presentation by Ray Clark for the Canada-USA session will be a verbal presentation with visual aids involving two federal agency representatives with both policy and practical experience in assessing impacts of broad program initiatives. The presentation will consist of two 30 minute presentations and a 30 minute discussion period. The session will begin with an introduction by Ray Clark outlining the goals of the session, an introduction of the members of the panel and a brief overview of the U.S. environmental impact analysis system. Ray Clark will moderate the session.

Presenters will include:

SEA in the U.S., institutional framework, technical guidelines and future direction. Ray Clark

A Strategic Approach to NEPA in the Post 9/11 U.S. Lisa Mahoney, Environmental Program Manager, Department of Homeland Security

The Lasting Benefits of a Programmatic Approach. Kathy Pierce, Environmental Program Manager, Bonneville Power Administration

Session wrap up (discussion of main themes with and discussion of ways to ensure that EIA does not become a paperwork exercise, diminishing its intrinsic value). Ray Clark

Session A7B abstracts (in order of presentation)

SEA in the U.S., Institutional Framework, Technical Guidelines and Future Direction

Ray Clark, The Clark Group, rayclark@clarkgrouppllc.com

The first section of the presentation will cover an overview of NEPA and the CEQ regulations, including the requirement to prepare assessments at the policy, program and project level. It will then discuss the practical application of this provision over the last 25 years, citing examples of broad assessments. Ray Clark will discuss the trend away from broad assessments in some federal

agencies and the move in other agencies to use a more strategic approach to assessments to reduce costs and time associated with the NEPA process. As in Canada, there are no legal requirements for an SEA to be completed. This section will outline the challenges faced by practitioners to ensure that EIA counts for more in decisionmaking, and the pressures to make EIA cost less within both the legislative and executive branches of government.

A Strategic Approach to NEPA in the Post 9/11 U.S.

Lisa Mahoney, Department of Homeland Security, lisa.mahoney@dhs.gov

The presentation will address how a new program within a new department that is addressing the facilitation of visitors and immigrants traveling to the U.S. is applying NEPA. She will discuss how the program has developed a “strategic environmental appraisal” on all the ports of entry and is developing a programmatic approach to new technology and the blueprint for the business practices of the entire program.

The Lasting Benefits of a Programmatic Approach

Kathy Pierce, Bonneville Power Administration

The Bonneville Power Administration is a federal agency under the U.S. Department of Energy and serves the Pacific Northwest through operating an extensive electricity transmission system and marketing wholesale electrical power at cost from federal dams, one non-federal nuclear plant and other nonfederal hydroelectric and wind energy generation facilities with goals of providing high reliability, low rates consistent with sound business principles, responsible environmental stewardship and accountability to the region. Kathy will discuss the decision made over 10 years ago to prepare an EIS on the “Business Plan” for BPA. The EIS was never called an SEA nor was it even called a “programmatic” EIS, but it had had the effect of being a strategic analysis that has had lasting benefits including lowering the cost of NEPA compliance, while increasing the commitment to environmental mitigation.

Session A9 Transboundary SEA

Topic chairs: Nicolas Bonvoisin, UN ECE, nicholas.bonvoisin@unece.org; John Horberry, john.horberry@ntlworld.com

This session will examine how SEA can address the transboundary impact of plans, programmes and, to a lesser extent, policies. Speakers will present their experiences in transboundary SEA and describe some of the key challenges. Session participants will be invited to discuss the practical problems of carrying out transboundary SEAs and to propose possible approaches.

Workshop A9.1

SEA in Binding Land Use Plan Procedures in Brandenburg (Germany), with Special Focus on Transboundary Consultation, Eike Albrecht

Transboundary EIA: Iberian Experiences. Rita Albergaria and Teresa Fidelis

Transboundary Water Monitoring and Data Exchange as a Basis for SEA. Rafiq Verdiyev

SEA as a Transboundary Watershed Management Tool. Merrell-Ann Phare

Transboundary SEA (Or Lack of It) in Decision-making on “BUK-BIJELA” Power Plant (case study). Maja Kostic-Mandic

Discussion

The four presentations will be followed by a brief brainstorming on transboundary SEA problems and approaches, with very brief interventions from participants. Participants will be invited to identify challenges and possible ways of overcoming difficulties. The speakers and topic chairs will serve as a panel, perhaps with one or two invited guests, and will then try to respond to these ideas.

The topic chairs will provide a summary of these discussions to all participants.

SEA in Binding Land Use Plan Procedures in Brandenburg/ Germany With Special Focus on Transboundary Consultation

Eike Albrecht, Brandenburg University of Technology of Cottbus, albrecht@tu-cottbus.de

Introduction. In respect to the planning procedure of German binding land use plans, the provisions of the European SEA-Directive were transposed into the German Federal Building Law in July 2004. The legislative decided to require an SEA for all binding land use plans, regardless of the respective effects on the environment. Therefore the step of screening whether an SEA is necessary or not has been dropped. In general, the requirements of the SEA Directive led only to a few changes in the binding land use plan procedure. In comparison to the former law, a separate environmental report is required, monitoring measures have to be planned and a transboundary information and consultation of the public and authorities have to be carried through, as far as effects on the transboundary environment are likely. The first two points obviously do not create any practical difficulties for the communal bodies which are competent by law for binding land use plan procedures. But there are hints that the transboundary information and consultation – where necessary – seems to be the weak point of the new SEA procedure in the German binding land use plan procedure, especially in regard to language problems and organisational difficulties.

Research Project. To find out what problems the communal bodies in Brandenburg, especially those which are situated close to the Polish border, are facing, a research project is actually in the process of being carried out. It is expected that the formal procedure of transboundary information and consultation is organised quite well, but that in practice, the participation of the public in particular takes place only in theory due to language and organisational problems. In this regard it probably makes a difference, if the respective planning communal body is part of and party in a so called Euroregion, like the Euroregion Spree-Neiße-Bober around Cottbus (Germany) and Zielona Gora (Poland) or not. In the case of being a member of such a Euroregion, there exist formal procedures of bilateral and inter-organisational cooperation which make it easier to organise the participation of the public in the respective neighbour state. If there is no such transboundary frame for cooperation, difficulties might be more serious. To clear the situation, in the coming week all communal bodies of Brandenburg get a questionnaire with questions about experiences in the transboundary information and consultation process. Unless the new German provisions are in force almost one year, it is likely that as first results, some problems, focal points, difficulties and experiences can be reported. Additionally hints from practitioners in communal bodies are expected how to improve or change the procedure of transboundary information and consultation. The research project will be evaluated until July and results can be reported in September.

Transboundary EIA: Iberian Experiences

Rita Albergaria, Teresa Fidelis; Universidade de Aveiro, ritaalbergaria@yahoo.com

Portugal and Spain share approximately 1.314 km of border, a potential conflict generator, because of access to shared resources, like water, but also a motive for transboundary cooperation, the ideal way of planning and developing common interest projects. The transboundary cooperation associated with Environment Impact Assessment (EIA) has been encouraged after the enactment of the Espoo Convention (1997). Legislation of European Union has made mandatory the consideration of transboundary impacts (97/11/CE Directive) and consequently Portugal (DL 69/2000) and Spain (Ley 6/2001) have approved related provisions. Other regulations were also adopted in order to adjust cooperation and information exchange between Portuguese and Spanish, namely the “European Convention of Transboundary Cooperation Portugal - Spain (1980)” and the “Convention on Cooperation for the Protection and Sustainable Use of the Waters of the Luso-Spanish Basins (1998)”. Entitled “Transboundary EIA: Iberian Experiences,” this paper aims to critically analyse legal and procedura weaknesses of bilateral cooperation, through the comparison of two case studies related to water management projects (Sela and Alqueva dams). The study aims to propose a “Good Practice” model for cooperation under transboundary environmental impact assessment processes. The model will focus on the ways of bilateral cooperation concerning EIA should occur, specifying phases of collaboration procedures for the identification and evaluation of transboundary impacts, models of public participation and related documentation.

SEA as a Transboundary Watershed Management Tool

Merrell-Ann Phare, Centre for Indigenous Environmental Resources, maphare@cier.ca

The Canada-U.S. border has numerous transboundary watersheds, including the Red River Basin of Manitoba, Minnesota, North Dakota, and South Dakota within the Hudson Bay watershed. The aquatic fauna of the Red River Basin is a result of “leakage” from the Missouri and Mississippi River watersheds over millennia, but the last hydraulic connection was over 8,000 years ago. Thus, the aquatic fauna of the three watersheds have some common species but others that are distinctly different. Any policy, program, or plan that creates a hydraulic connection now, such as those related to Devils Lake or the Garrison Diversion in North Dakota, could have potentially irrevocable environmental effects.

This watershed has a number of policy instruments regarding its management, including the Boundary Waters Treaty of 1909, and at least two U.S. Presidential Executive Orders. SEA, as a transboundary watershed management tool, was not utilised to assess previous or current plans for water supply, irrigation and drainage, and consequently, flood control initiatives, regarding Devils Lake and the Garrison Diversion. This paper will analyse the challenges and opportunities of SEA as a watershed management tool in this context, discuss its relationship to and implications for the effective use of existing policy instruments, and its ability to minimise political and legal transboundary water conflicts.

Transboundary SEA (Or Lack of It) in Decision-Making on “BUK-BIJELA” Power Plant (case study)

Maja Kostic-Mandic, University of Montenegro, majak@cg.yu

This case will be addressed from the perspective of the Republic of Montenegro in order to shed more light on decision-making on disposal of natural resources under special legal regime (both on the international and national level), in a transboundary context. Further more, several legal systems (those of Bosnia and Herzegovina and its entity Republika Srpska, State union Serbia and Montenegro and the Republic of Montenegro), all of them having respective SEA legislation either in force or being drafted at the time of decision-making, but none of them being a party to the Espoo convention, will also be dealt with. In addition, some other legal constraints in decision-making originating from ratification of the World Heritage Convention, as well as Montenegrin Constitution and its national legislation will be analyzed.

The focus will also be put on the decisive role of the growing public awareness regarding environmental issues and the effective public participation that in this particular case showed to be a mighty tool in influencing environmental decision-making, stressing that national government cannot afford to disregard the rule of law, or parallel with drafting laws in accordance with the EU standards take actions directly opposing it.