

# New SEA-legislation in Flanders.

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# Ambitions & major objectives of the decree of 18 December 2002:

- \* comprehensive legal framework for reporting-instruments: EIA, SEA, safety
- \* complete transposition of EU- and international requirements
- \* quality improvement of EIA-practice and decision making & introduction of SEA
- \* improved consultation, publicity and participation

# 1. A comprehensive and clear legal framework for EIA

- \* chapter < Decree concerning the General Provisions on Environmental Policy
- \* formalization of present informal approaches, e.g.: scoping, quality control
- \* more legal security for proponent: appeal opportunity
- \* clear basis for executive orders

## 2. Transposition of EU-and international requirements

- Espoo-convention: EIA in a transboundary context
- Aarhus-convention
- Seveso-directive
- EIA-Directives 85/337/EEC & 97/11/EC
- SEA-Directive 2001/42/EC

### 3. Quality improvement of the EIA/SEA-practice: efficiency and effectiveness (1)

- \* general: formalisation & flexibility
- \* clear procedural steps and terms
- \* SEA/EIA-screening requirement and exemption opportunity
- \* SEA/EIA-methodology & EIS-contents : issue of alternatives
- \* opportunity of tuning in to other impact assessment reporting requirements

### 3. Quality improvement of the EIA-practice: efficiency and effectiveness (2)

- \* introduction of SEA for certain plans and programs
- \* relation project-EIA – SEA (plan-EIA)
- \* quality assurance
- \* taking into account of EIS-outcome in decision making

# 4. Consultation, publicity and participation

- \* in the phase of the notification:
  - > publicity and public consultation
- \* with respect to the scoping issue
- \* consultation between SEA/EIA-consultants and competent authority (environment administration)
  - > specific (methodological) directives

# Major Procedural Steps of SEA

- Notification : proponent to authority
- Consultation and public participation
- Scoping decision
- Drafting of the report
- Submission and quality control of the report
- (Dis)Approval of the report by authority



# Some particularities

- A. EIA-screening requirement
- B. Exemption
- C. Quality assurance
- D. Appeal opportunity

# A. EIA-screening requirement

- **plans/programs:** SEA-obligation (list EU-directive)
  - -> other: judgement (significant environmental impacts)
  - -> integration track: SEA < decision making procedure
- **projects:** EIA-obligation (list annex I EU-directive)
  - -> other: judgement (significant environmental impacts)

## B. Exemption : only after screening judgement (1)

- plans/programs: if not on the list of the EU-directive and no significant environmental impacts expected
  - -> no significant environmental impacts because small area/local level or minor change to p/p
  - -> previous SEA about quasi-identical p/p and new SEA might not offer any additional relevant information on significant environmental impacts

## B. Exemption : only after screening judgement (2)

- projects which are not on the mandatory list (annex I of the EIA-Directive & others):
  - -> previous SEA on plan to which project belongs or project-EIA about quasi-identical project and new project-EIA might not offer any additional relevant information on significant environmental impacts
  - -> no significant environmental impacts and project-EIA might not offer any additional value

## C. Quality assurance

- Recognition of consultants
- EIA/SEA-guidance
- Evaluation and monitoring
- Advisory (Appeal) Commission

## D. Appeal (Advisory committee)

- Opportunity at administrative level for the following cases:
- project EIA-screening decision is positive
- EIS-contents or specific methodological requirements
- disapproval of SEA-report - or project-EIS
- advice is binding if unanimously

# Status

- Decree has been published 13 February 2003
- Scope of application of both SEA and project-EIA remains politically sensitive
- Executive orders (regulations) are (almost) ready.....

# SEA in Flanders: first experiences

- mobility issues
- spatial planning



# Spatial planning in Flanders in a nutshell

- Three levels: region/province/municipality
- Each level has two types of instruments:
  - a spatial structure plan
  - a spatial implementation plan

# A Spatial Structure plan

- Is a policy document about future spatial developments
- Not the framework for refusing or granting a building permit
- It contains three parts:
  - a binding, an indicative and an informative part

# A spatial implementation plan

- Is a land-use plan that is a basis for granting or refusing building permits
- It contains:
  - a graphic plan
  - planning regulations
  - the legal and factual information
  - the relation with the spatial structure plan(s)
  - a list of existing regulations which are contradictory and will be abolished

# Why a regional spatial implementation plan ?

- Preparation of a spatial implementation plan (SIP) to:
  - implement the regional structure plan
  - implement another plan
  - implement other legislation

# SEA - when?

- During the preparation of the plan which precedes the SIP
- During the preparatory stage of the SIP

# Some experiences

- It is not yet mandatory
- A first experience with a SIP for a railway track
- A pilot project regarding the delimitation of the sea ports

# SEA and a railway track

SIP for a railway track

EIA for the project



SEA for the SIP

# SEA for the sea ports

A draft strategic plan for each sea port (no overall plan)

Discussions +

SEA +

Final strategic plan approved by the government



•SIP Other instruments



# SEA for regional mobility plan: observations (1)

- the detailed research for the SEA has been highly inspired by EIA-methodology which is too limited
- there was an undeniable lack of exhaustive, interdisciplinary cooperation and interaction amongst the SEA-team (which existed of a consortium of mostly academics whose work has been done by juniors without intensive supervision)

# SEA for regional mobility plan: observations (2)

- lack of (useful) data, or willingness (“drive”) to provide/collect them
- problems to quantify/qualify and come to clear scientifically acceptable conclusions
- tendency of planners to “control” the SEA-work (fear that the SEA may lead to undesirable political reactions)

# SEA for regional mobility plan: observations (3)

*lack of transparency and communication in general*

*According to me the most difficult process-issue in the future will be how SEA-elements will be integrated in existing and new planning procedures in a sense that SEA should/will break open the traditional (sectoral) closed-door planning culture.*

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