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Sustainable development 'outside' the European Union: What role for impact assessment?

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**Sustainable Development 'outside'
the European Union:
What Role for Impact Assessment?**

by

Camilla Adelle, Julia Hertin and Andrew Jordan

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**SUSTAINABLE DEVELOPMENT 'OUTSIDE' THE EUROPEAN UNION:
WHAT ROLE FOR IMPACT ASSESSMENT?**

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Abstract

Sustainable development is a cross-cutting issue par excellence that necessitates a very high degree of policy coordination. This is especially true considering that the European Union's 2001 Sustainable Development Strategy demands that all European Union (EU) policies actively support the sustainable development of other countries, particularly those in the developing world. In order to fulfil this ambitious obligation, the EU has pledged to consider the impacts that all new policies have within and outside the EU as part of a new Impact Assessment (IA) regime. This paper aims to evaluate how well the new IA regime has helped address the 'external' dimensions of sustainability through the analysis of potential effects of EU policies on non-EU countries. It finds that the IA procedure does not currently function as an effective instrument for the implementation of the Union's commitment to promoting sustainability in the developing world. Other coordination mechanisms need to be considered given the horizontal and vertical complexity of this challenge.

Key words: policy coordination; European Union; networks; impact assessment; sustainable development; developing countries.

1. INTRODUCTION

Sustainable development is a quintessentially cross-cutting issue that necessitates a high degree of policy coordination. It certainly does not fit neatly into any of the established remits of individual sectors or agencies. Sustainable development is, of course, now a fundamental goal of the European Union (EU) (Jordan, 2005). This includes certain social, environmental and economic objectives within the Union, but also makes it necessary to take into account the effect of EU policies on the ability of other countries to develop sustainably. The EU Sustainable Development Strategy recognises this obligation and demands that all EU policies “must actively support efforts by other countries – particularly those in the developing world – to achieve development that is more sustainable” (COM (2001) 264, 9). The EU has argued that it is “well placed to assume a leading role in the pursuit of global sustainable development” (ibid. 6).

This link between the external and the internal dimensions of sustainability represents a hugely ambitious policy objective, which sets the EU apart from other broadly comparable political entities such as the United States (US) (Vogel, 2005). The EU has made numerous, if not always successful, attempts to address internal environmental issues such as pollution and biodiversity loss, as well as problems such as climate change and ozone depletion that have global consequences (Coffey and Baldock, 2003; Jordan, 2005). However, there is a third facet of policy making, where internal EU policies (e.g. the Common Agricultural policy or the Common Fisheries Policy) have impacts on third countries (Oxfam, 2002a; Borrell and Hubbard, 2000; Sporrang et al., 2002; Kaczynski and Fluharty, 2002; WWF, 2003) that, until recently, has received much less political and scholarly attention. It is clear, however, that the two are closely linked: if sustainable development within the EU involves ‘exporting’ problems to other areas then, by definition, it is not genuinely sustainable in an intra- or inter-generational sense. This line of thinking was certainly uppermost in the mind of the then EU Environment Commissioner, Margot Wallstrom (2003), when she warned that “our credibility will suffer if unsustainable trends [in the EU] persist, or if our policies have detrimental impacts outside the EU, in particular on the development opportunities of the poorest countries.”

Any such ‘detrimental impacts’ could, one might imagine, easily conflict with various pledges (e.g. to integrate developing countries into the world economy and halve extreme poverty in the world by 2015), that the EU has recently made under the Johannesburg Plan of Implementation and in its own Sustainable Development Strategy (COM (2002) 82) and related documents (e.g. COM (2003) 829). These impacts could also clash with the EU’s development policy. This policy, although not given legal status until the Maastricht Treaty in 1992, is operationally one of the oldest policies of the EU dating back to the late 1950s (Lister, 1997). Its overarching objective is poverty reduction (COM(2000) 212) and, crucially, the Maastricht Treaty also stated that all community policies that are likely to affect developing countries, should take account the objectives of the EU’s development policy. Through its development policy, the EU has continued its often historically strong, if rather adhoc, relationship with many developing countries (Holland, 2002). The most significant of the EU’s trade and aid relationships is with the group of African, Caribbean and Pacific countries (ACP). Together with its member states, the EU is the largest aid donor in the world, providing 55% of the global Official Development Assistance (COM (2000) 212).

There is an emerging literature on what the EU has done to address the sustainability challenge within its own borders (Bomberg, 2004; Baker et al., 1997; Jordan and O’Riordan, 2004; Lafferty, 2004), or through linked initiatives such as those concerning environmental policy integration (Lenschow, 2002; Jordan and Schout, 2006; Jordan et al., 2006). Other scholars have also begun to document the EU’s input to sustainability policy making at the international level (Lightfoot and Burchell, 2004; Oberthur, 1999; Sbragia, 2005). However, the literature on the outside or ‘external’ dimensions of sustainability remains rather sparse

(but see, Coffey and Baldock (2003), and Amalric and Stocchetti (2001)). There is, we shall argue, considerable potential to extend these insights and link them to the emerging literature on the coordination of the EU (Jordan and Schout, 2006).

Achieving better policy coordination represents a persistent challenge for all political systems (Jennings and Crane, 1994), but a high degree of institutional complexity and fragmentation mean that the EU “has an even greater problem than most political systems” (Peters 2001, 84). Although sectorization is a feature of all policy making systems (Peters, 1998), “the extent and nature of these problems in Brussels is of a different order” (Peters and Wright 2001, 158). The EU currently employs three main network-based coordinating mechanisms to overcome these in pursuit of sustainable development. The first, which was inaugurated in 1998, is the Cardiff Process, through which the various sectoral formations of the Council of Ministers are supposed to develop their own integration strategies to give effect to environmental integration and sustainable development in their respective policy areas (see also Hertin and Berkhout, 2003). The development of new strategies has, however, all but ceased and the future of the initiative remains highly uncertain (Jordan and Schout, 2006). A recent Commission review concluded that the process had “failed to deliver fully on expectations” (COM (2004) 394, 31).

Second, the EU Sustainable Development Strategy (COM (2001) 264), was developed in 2001. In 2002, an external dimension (COM (2002) 82) was subsequently added dealing with unsustainable trends in other parts of the world. In February 2005, the Commission announced a review of the strategy. This will “take into account the EU’s contribution to global sustainable development” (COM (2005) 37, 19), *inter alia* by addressing the external dimensions of the six unsustainable trends discussed in the initial strategy (COM (2005) 37; SEC (2005) 225). Meanwhile, in a related development, in 2002 the EU also adopted the Sixth Environmental Action Programme. This refers to the EU’s role in the wider world, but does not draw out the links between the external and internal dimension of environmental protection and/or sustainability. Unlike its predecessor, the development of more detailed targets and timetables has been devolved to a number of Thematic Strategies covering cross cutting issues such as soil and air quality. There is some evidence that the networks developing around these themes are grappling with the external dimension (ENDS, 2004), but the whole initiative has not yet born fruit.

How well are these mechanisms performing? Both the Cardiff and the Sustainable Development Strategy processes have been criticised for neglecting the external dimension of EU sustainable development (Fergusson et al., 2001; Opoku, 2003; Coffey and Baldock, 2003; Wilkinson et al., 2002). Therefore, most of the burden of work required to integrate the external dimension into everyday “micro-level sectoral decisions” (Peters and Wright, 2001, 159) is falling on the third network-based coordination mechanism, namely the European Commission’s Impact Assessment (IA) regime. As part of this regime (for a summary, see Wilkinson et al., 2004) all major new policy proposals issued by the Commission now have to undergo an evaluation process to identify “the likely positive and negative impacts of proposed policy actions, enabling informed political judgements to be made about the proposal and identify trade-offs in achieving competing objectives” (COM (2002) 276, 2). Unlike other forms of environmental appraisal commonly used at the policy level (such as Strategic Environmental Assistance (SEA)) and also at the project level (such as Environmental Impact assessment (EIA)), IA is an integrated form of assessment which subsumes all other ‘non’ environmental genres of assessment (the others include gender, business and regulatory impact assessment). It aims to assess policy proposals under a series of analytical steps, namely: problem identification; objectives; policy options; impacts; monitoring impacts of the proposal after implementation; stakeholder consultation; final policy choice. Crucially, the Commission’s advisory guidelines on how to compile an IA, which were initially published in 2002 (revised guidelines were published in 2005), state that impacts outside the EU should be included in the analysis (CEC, n.d., 18). Indeed, the

importance of the external dimension is emphasised on the very front page of the guidelines, which carry the following quote from the Sustainable Development Strategy: “careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU” (COM (2001) 264, 6).

If the EU is serious about promoting sustainable development beyond its own borders (and given the difficulties and or delays experienced by the other two mechanisms), there should, we contend, be some evidence that it is being actively taken up in the IA regime. In the remainder of this paper, we examine the extent to which the 41 IAs produced in 2003 and 2004¹ consider the external dimension. The next section situates our analysis within the wider literature on policy coordination in general and on networked forms of governance in particular. Then we outline the methods we used to evaluate the IAs and then set out our results. The final section brings together the theoretical and empirical analyses and discusses the policy implications of our analysis.

¹ This comprise the 21 extended IAs produced in 2003 and all 20 available in English on the Commission website up to the end of October 2004.

2. POLICY COORDINATION IN THE EU. BARRIERS TO COORDINATION

The EU political system has a number of unique characteristics that render it inherently difficult to coordinate. First, the multi-level nature of EU governance “stretches considerably coordination requirements” as it must operate across many vertical levels of governance, as well as across many sectors and actors, including several EU institutions (Peters and Wright, 2001, 157).

Second, the constantly evolving nature of the EU has expanded the scope, variety and depth of its policy agenda. “Coordination was clearly much easier when the agenda was restricted to customs union, parts of energy policy, competition policy, agriculture and commercial policy” (Peters and Wright 2001, 159). The high level political pledge to ‘join up’ these and many more sectors in pursuit of more sustainable policy making, is in many ways the most recent (and most complex) stage in this ongoing process. Third, the EU is institutionally and procedurally complex and lacks a clearly defined separation of powers and responsibilities (Kohler-Koch and Eising, 1999). In addition, EU policy processes are relatively open, involving a multiplicity of actors that include representatives of regional and local authorities, as well as a host of lobbyists (Kassim, 2003). The relationship between many of these actors is non-hierarchical, hence the EU’s growing interest in pursuing more network-based forms of governance (i.e. coordinated steering) (Schout and Jordan, 2005; COM (2001) 428).

Finally, “Brussels is a highly fragmented [policy] universe” (Peters and Wright, 2001, 159). Intra and inter-institutional interactions often take place in a complex system of permanent and ad hoc committees and subcommittees. To complicate the situation still further, many of the actors involved are internally differentiated, have their own working practices, procedures and culture, exercise varying degrees of power, and command different resources (Kassim, 2003). We see this reflected in the differential uptake and application of policy appraisal. Thus the Commission, which is the guardian and primary implementer of the EU’s IA scheme, utilises it, but the Council and the European Parliament do not formally appraise the Commission’s policy proposals or their own individual policy interventions. Moreover, some member states (e.g. France, the Netherlands and the UK) have their own environmental policy appraisal systems, but most of the rest do not (Jacob and Volkery, 2004).

2.1 Mechanisms of Coordination

The sprawling literature on governance normally distinguishes between three dominant modes of coordination - hierarchy, markets and networks (Peters, 1998; Peters and Pierre, 2003) – each of which can be pursued via a number of more specific coordination mechanisms. Coordination through top down hierarchical mechanisms such as regulation and management by objectives is not in keeping with the new ethos of governance in the EU, which stresses the importance of societal participation, stakeholder involvement and more decentralised policy making (Schout and Jordan, 2005; Lenschow, 2005). The use of market-based instruments is also not yet a viable option at EU level (at least for environmental coordination) because of continuing member state opposition to mechanisms such as environmental taxation (Lenschow, 2002). Therefore, the EU is in many ways driven to rely more and more upon what are increasingly referred to as ‘new’ modes of coordination (Lenschow, 2005) such as ‘new’ environmental policy instruments (notably voluntary agreements and eco-labels), ‘open’ methods like the Cardiff process, and the various stakeholder interaction processes which are feeding into the development of the Thematic Strategies under the Sixth Environmental Action Programme.²

² For example, the thematic strategy on soil is being developed by an Advisory Forum supported by five Working Groups, comprising member state and EU officials, and representatives of civil society. There is also

In their ideal form, networks are held together by trust, solidarity and consensus. It has been suggested that “networks are more likely to achieve coordination between conflicting interests than either hierarchies or markets” (Peters and Pierre, 2003, 595). In fact, Peters (2003) goes as far as to suggest that they may be “the only real option” in procedurally complex, fluid, multi level and multi polar systems such as the EU. The IA regime seeks to offer a networked-based solution to the EU’s coordination problems by encouraging actors from different sectors to share information³ about the possible side effects of new policies. In time, the transfer of information may allow networks to flourish by building up sufficient levels of trust and solidarity between sectors and actors. Improving coordination is not, of course, the IA regime’s only task. By formalising consultation and generating a clearer audit trail, the Commission would also like the IA regime to make a positive contribution to the transparency of the EU’s regulatory processes (COM (2002) 276). As it also seeks to open up and reveal policy trade offs to non-governmental organisations, it accords with the EU’s wider governance strategy (Peters, 2003).

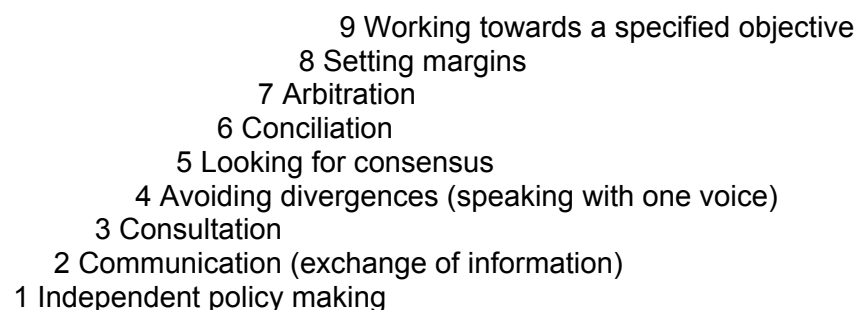
an electronic library and discussion forum known as Soil CIRCA. Roughly similar arrangements exist for the other strategies.

³ Peters (2003, 28) refers to this as coordination via information, but for our purposes the mode through which it operates is essentially a network based one.

2.2 Impact Assessment as a Networked Mechanism of Coordination

The EU is often said to be replete with policy networks (e.g. Peterson, 1997, 17). But as coordinating mechanisms, the “effectiveness of networks depends on the ability and willingness of a variety of organisational actors, public and private, to work together” (Metcalf, 2000, 828). The degree of coordination achieved by these actors can be measured on a coordination scale (Figure 1) (Metcalf, 1994), which incorporates different levels of coordination. One of the lowest levels of coordination (level two) on this scale is “information exchange” (Metcalf, 1994). At higher levels, actors seek to achieve consensus among themselves. When this is not possible, an honest broker is brought into arbitrate. The very highest level is the development of a joint strategy which all actors pledge to implement. The scale is a Guttman scale, which means that each of the coordination levels must be based on the previous levels.

Figure 1: The meaning of coordination

- 
- 9 Working towards a specified objective
 - 8 Setting margins
 - 7 Arbitration
 - 6 Conciliation
 - 5 Looking for consensus
 - 4 Avoiding divergences (speaking with one voice)
 - 3 Consultation
 - 2 Communication (exchange of information)
 - 1 Independent policy making

Source: Metcalf (1994)

The implicit assumption is that a networked-based mechanism like IA will promote the necessary information exchange between interested parties (or, in our case, sectors) and that this will be the bedrock on which higher levels of coordination are built. If we follow the logic of the Metcalf scale, if there is insufficient exchange at this low level, coordination at higher levels can easily stall. As Metcalf (2000, 831) himself notes, “higher levels of coordination function badly and become overloaded if there is a lack of confidence in the reliability of lower levels”. Crucially, without information exchange, there is no adequate platform on which to discuss and negotiate any conflicts of interest, and thus manage policy incoherence. In the next section, we begin to investigate just how well the IA regime enables this exchange of information to occur specifically with respect to ‘external’ impacts.

3. METHODS OF ANALYSIS

In our research we employed a content test approach, which is an ex-ante test (i.e. undertaken before the proposed policies have been carried out) of the material contained in each IA. Thus, we reviewed each IA to determine whether the information it contained was of sufficient quality and scope (Harrington and Morgenstern, 2004). This approach seemed to be the most practical since it is too early to evaluate the final outcomes of the policies that have been subjected to an IA. In addition, we also employed an extensive approach (i.e. we looked at a large sample of IAs), rather than undertaking a detailed evaluation of a few IAs, as used in recent analyses of SEA (Fischer, 2002), Regulatory Impact Assessments (Hahn et al., 2000) and EIA (Lee et al., 1999). Essentially, our approach involves the use of a set of criteria to determine whether an IA contains certain items. The advantage of an extensive approach is that it is more reproducible than a detailed critique by experts, although it is relatively superficial (Hahn et al., 2000).

The criteria used in this study are taken from the Commission's own Guidelines on IA. As noted above, these explicitly underline the importance of considering 'external impacts' (CEC, n.d., 24). To evaluate the extent to which the IAs produced have complied with this requirement, an evaluation framework was developed (see Figure 2.). Criteria 1-7 are based on the 'best practice' instructions for IA content given in the IA Guidelines, such as "problem identification: has the consideration of the initial issue or problem in the policy area taken into account any relevant external considerations?". In this study, 'external' is interpreted widely to encompass all developing countries. Criteria 8 and 9 are based on criteria used by Fergusson et al. (2001) in a somewhat similar evaluation of the Cardiff integration strategies (e.g. "has adequate consideration been given to relevant international agreements?"). Each IA was allocated a score for each of the nine criteria ranging from 0 (the criteria had not been addressed at all) to 4 (the criteria had been addressed fully). The scoring method is presented in more detail in Figure 3. Forty one IAs from the trial period of 2003/4 were evaluated in this manner and the scores aggregated into an overall score of the extent to which the external dimension was considered. Finally, although our evaluation methods inevitably involves an element of subjectivity, by explicating our criteria and scoring methods we hope to make our judgments as transparent as possible.

Figure 2: Criteria used for the evaluation of Impact Assessments

1. Problem Identification: has the consideration of the initial issue or problem in the policy area taken into account any relevant external considerations?
2. Objectives of the proposal: does the objective of the policy take into account external considerations?
3. Policy option: has an adequate range of policies been considered including those which would ameliorate any deleterious external impacts?
4. Policy impacts: have the external social, economic and environmental impacts on countries outside of the EU been considered?
5. Monitoring: do the plans for monitoring the potential impacts of the policy include monitoring any external impacts?
6. Stakeholder consultation: have developing countries, development NGOs or DG Development been consulted where this would be relevant? Where any views obtained during this consultation taken into account in the policy proposal?
7. Preferred policy choice: did the consideration of external impacts influence the final choice of preferred policy?
8. Reference to international policy agenda: were relevant international agreements considered, such as the Kyoto Protocol and the Johannesburg Plan of Implementation?
9. Reference to EU external dimension documents: were relevant documents considered which discuss the EU's position on external impacts and goals?

Figure 3: Scoring Allocation for Evaluation Criteria

0. No mention: the criterion has not been addressed at all i.e. the external dimension has not even been mentioned.
1. Little attention: the criterion has been mentioned in passing only. The majority of issues remain untouched.
2. Unsatisfactory: the criterion has been addressed to some extent but in an unsatisfactory manner i.e. using selective logic or entirely ignoring many significant issues.
3. Satisfactory: the criterion has been well addressed, i.e. using sound logic and most significant areas discussed, but there are still some omissions or inadequacies.
4. Good: the criteria has been addressed well and extensively with no important tasks left incomplete.

4. AN EVALUATION OF THE CONTENT OF THE IMPACT ASSESSMENTS

In general, the degree of consideration given to the external dimension was extremely low (see Figure 4), although in the majority of cases (31), it is unlikely⁴ that, if adopted, they would have significant external impacts. Of these 31, eighteen⁵ IAs did not make any reference at all to the external dimension. The other 13,⁶ only make minimal references to the external dimension, with scores of five or below (out of a potential maximum score of 36). Only four⁷ of these 13 explicitly gave the lack of any external impacts as a reason for not undertaking this element of the assessment. Five⁸ IAs were conducted on policies that had some significant external impacts. All these five received low scores, ranging from 18 (for the IA on the Kyoto Project Based Instruments- see below), to six (for the IA on REACH). The remaining five IAs were conducted on policies which were felt to have highly significant external impacts. Three⁹ of these were conducted on external EU policies and so necessarily scored highly (i.e. scores of 29-31) as they focused on countries outside the EU. The two¹⁰ IAs which were conducted on internal policies with significant external impacts scored relatively low (namely, 13 for the IA on the reform of the tobacco regime, and 19 for the IA on the reform of the sugar regime) considering the potentially high significance of their likely external impacts. It is not possible in this paper to describe precisely the details of the consideration of the external dimension in all the 41 IAs. However, the next section looks at three IAs in which the external dimension is most clearly explained, namely: the IA on the reform of the sugar regime; the IA on legislation regarding instruments involved in implementing the Kyoto Protocol; and the IA on the reform of the tobacco regime.

⁴ Although, one might argue that a properly produced IA would demonstrate that the possibility of external impacts had at least been considered.

⁵ Namely: Sex Discrimination (SEC (2003) 1213), Unfair Commercial Practices (SEC (2003) 724), Electricity Supply (SEC (2003) 1364), Safe and Intelligent Vehicles (SEC (2003) 963), Ground Water (SEC (2003) 1086), Digital Broadcasting (SEC (2003) 992), Employment Strategy (CEC, 2003), Internal Market (SEC (2004) 21), Equal Opportunities (SEC (2004) 482), Environmental Standards (SEC (2004) 206), Fisheries Agency (SEC (2004) 448), eEurope (SEC (2004) 608), Capital Adequacy (SEC (2004) 921), Media (SEC (2004) 955), Digital TV (SEC (2004) 1028), Agricultural Fund (SEC (2004) 931), Financing Natura (SEC (2004) 770), Reinsurance (SEC (2004) 443).

⁶ Namely: Batteries (SEC (2003) 1343), Sole Stocks (SEC (2003) 1480), Hake Stocks (SEC (2003) 1481), Immigration (SEC (2003) 694), Energy Networks (SEC (2003) 1369), Transport Network (SEC (2003) 1060), Design Protection (SEC (2004) 1097), Culture (SEC (2004) 954), Environmental Health (SEC (2004) 729), INSPIRE (SEC (2004) 980), Community Rail (SEC (2004) 236), Criminal Proceedings (SEC (2004) 491), Refugee Fund (SEC (2004) 161).

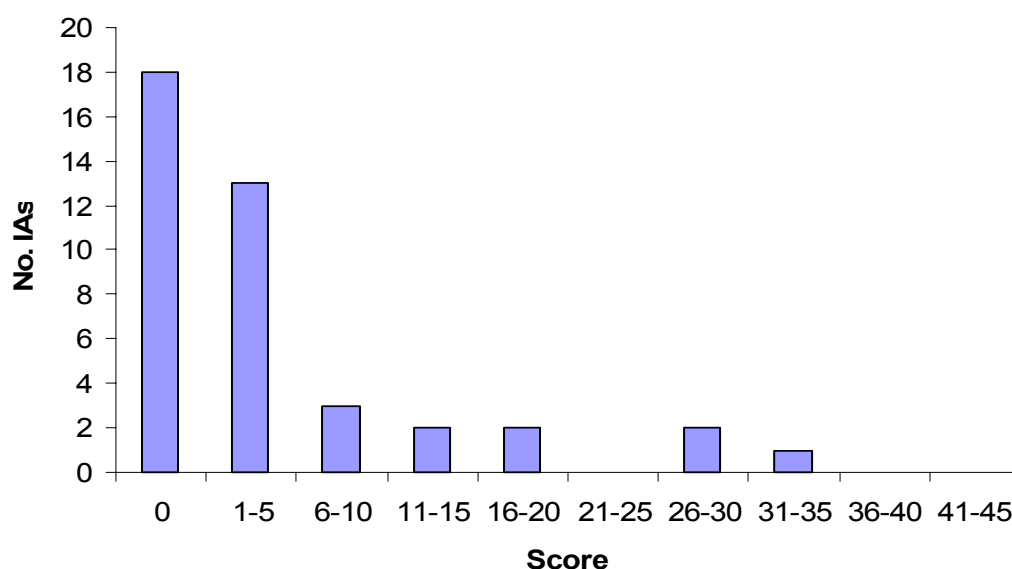
⁷ Batteries (SEC (2003) 1343), Sole Stocks (SEC (2003) 1480), Hake Stocks (SEC (2003) 1481), Immigration (SEC (2003) 694).

⁸ Kyoto Project Based Instruments (SEC (2003) 785), Tourism (SEC (2003) 1295), REACH (SEC (2003) 1171/3), Youth (SEC (2004) 940), Life Long Learning (SEC (2004) 971).

⁹ (Human Rights) (SEC (2003) 1170), Mediterranean (SEC (2003) 1110), Importing Timber (SEC (2004) 977).

¹⁰ Reform of the Sugar Regime (SEC (2003) 1022) and Reform of the Tobacco Regime (SEC (2003) 1023).

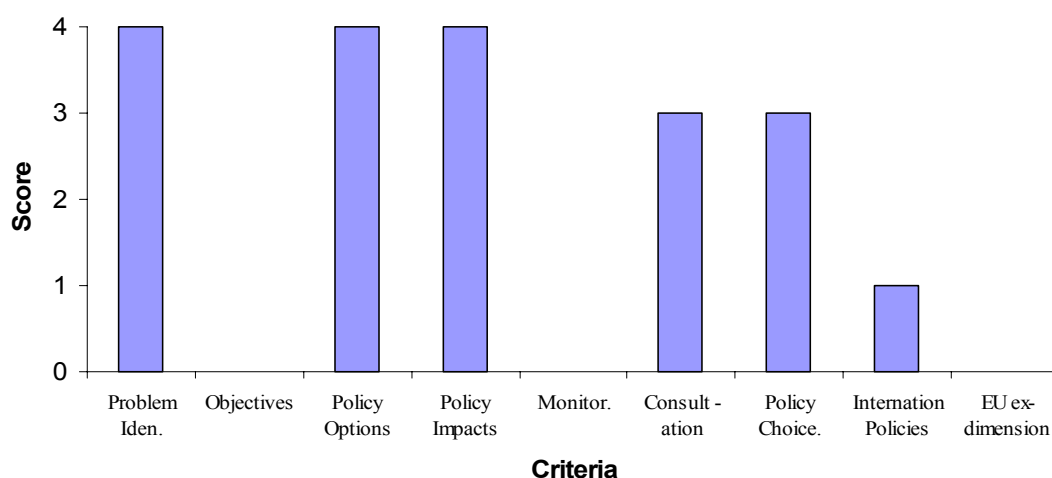
Figure 4: The Distribution of Scores for the IAs



4.1 IA on the Reform of the Sugar Regime

Of the more ‘internally’ focused EU policies, this IA (SEC (2003) 1022) contained the most full and explicit consideration of the external dimension (total score of 19; see Figure 5.). The problem identification part criticises the current sugar regime for distorting the global sugar market by subsidising the export of surplus EU sugar production (SEC (2003) 1022, 12). It also notes that only a few African Caribbean and Pacific (ACP) countries are benefiting from zero-duty and guaranteed-price quotas to the EU under the Sugar Protocol (SEC (2003) 1022, 10). By contrast, the objectives of the policy options are “directly inspired by the objectives in the most recent reforms of the Common Agricultural Policy”, which is very inward looking (SEC (2003) 1022, 14). Therefore, the objectives of the proposed policy do not appear to consider the negative impact on developing countries. Instead, the stated objective is to make the “[EU] sector competitive and able to stand up to international competition” (SEC (2003) 1022, 14).

Figure 5: Impact Assessment on the Reform of the Sugar Regime: Evaluation of the consideration of effects on non-EU countries (4 = Good, 3 = satisfactory, 2 = unsatisfactory, 1 = little attention, 0 = no mention)



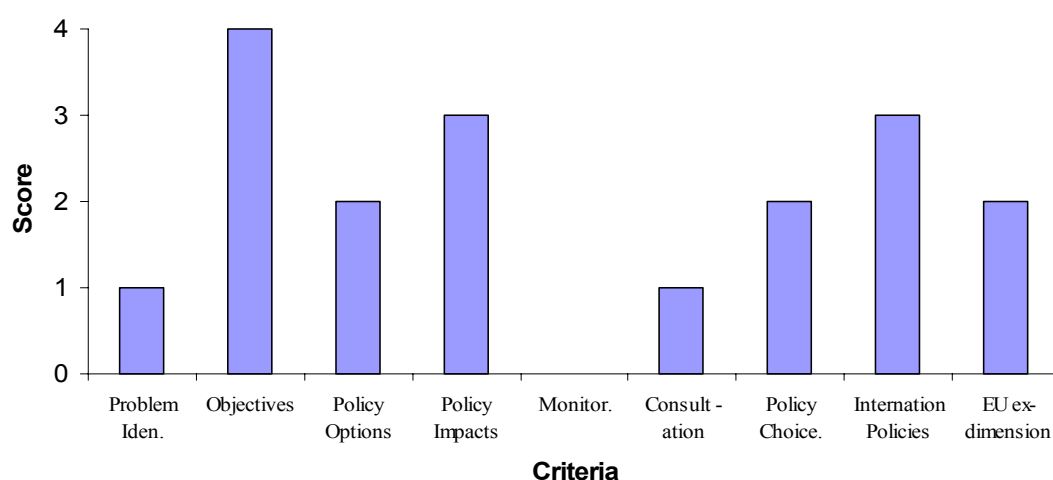
Four policy options were assessed, ranging from maintaining the status quo through to liberalising the sugar regime and even completely abolishing domestic price support for sugar beet. Therefore, policy options that are normally assumed to benefit developing countries (i.e. the reduction or elimination of subsidies and trade restrictions) appear to have been assessed. The impacts of all the options on non-EU countries were identified including the negative impact on the revenue of the ACP countries, which currently receive guaranteed-price quotas. However, although the IA notes the potential positive impact of liberalisation on the economy of non ACP developing countries (including Brazil), it does not fully explore them in detail.

This IA appears to have been developed with wide consultation. The steering group alone represented 14 different actor groups, including several DGs. Fair trade non-governmental Organisation (NGOs) and ACP countries appear to have been amply represented. However, non-ACP countries were not directly involved. The policy choices were measured both against the stated objectives, which did not contain any consideration for the external impact, but the contributions of consulted parties included ACP countries and development NGOs.

4.2 IA on Kyoto Project Based Instruments

This IA examines policy proposals to ‘link’ the Kyoto Protocol’s project-based mechanisms i.e. the Clean Development Mechanism (CDM) and Joint Implementation (JI) to the EU’s emissions trading scheme. Under this scheme, countries can ‘buy’ surplus emissions reductions from third countries to contribute to the achievement of their own emissions targets. The IA sets out the problem of climate change in general global terms but notes that poor people generally will be the most affected (total score of 18; see Figure 6.). However, the potential impact of climate change on developing countries is not explicitly discussed.

Figure 6: Impact Assessment on Kyoto Project based Instruments: Evaluation of the consideration of effects on non-EU countries (4 = Good, 3 = satisfactory, 2 = unsatisfactory, 1 = little attention, 0 = no mention)



By contrast, the policy objectives explicitly consider the external dimension as they include “contributing to global sustainable development by reducing global emissions of greenhouse gases” (SEC (2003) 785, 12) and the “transfer of climate friendly technologies and enhancement of capacity on climate change mitigation and adaptation” (SEC (2003) 785, 12). One of the more ‘specific objectives’ is to “encourage environmental policy integration and promote the EU Sustainable Development Strategy into external EC policies” (SEC (2003) 785, 13). However, the policy options which are reviewed are firmly geared towards reducing the economic cost (to the EU) of complying with the Kyoto targets, rather than maximising the effective transfer of climate change technologies and/or helping developing countries adapt to climate change.¹¹

Only positive impacts on non-EU countries are anticipated in the IA, including “the transfer of clean technologies supporting sustainable development objectives for the benefit of third countries” (SEC (2003) 785, 17). More broadly, the IA claims that the “proposal should positively contribute to the greening of Foreign Direct Investment and create synergies with other objectives such as poverty alleviation and the promotion of access to affordable clean energy” (SEC (2003) 785, 17). Other positive impacts include creating employment in host countries, cleaner air and fewer negative health impacts (SEC (2003) 785, 26).

The preferred policy choice involves modifying an existing Directive so that CDM and JI are linked to the EU’s internal emissions trading scheme. This is an improvement on the ‘no-

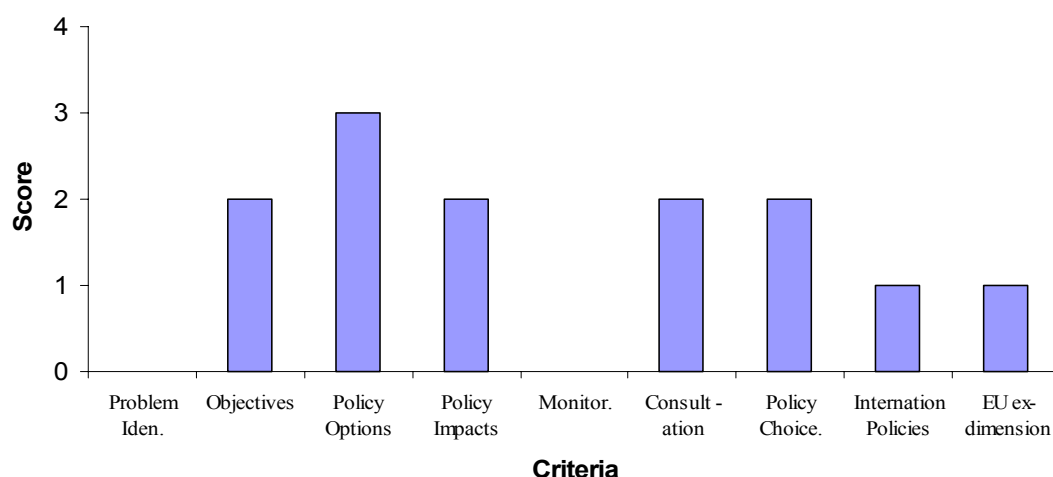
¹¹ The schemes are expected to be concentrated in areas such as Russia and the Ukraine. Other areas, such as Africa, are neglected (SEC (2003) 785, 27).

change' option for developing countries, as it will encourage the transfer of technology etc. But it appears that this policy choice was made on what was perceived to be best for the EU, rather than the external countries. Finally, the only consultation linked to developing countries was via Directorate General (DG) Development. Developing countries or relevant NGOs do not appear to have been directly consulted.

4.3 IA on the Reform of the Tobacco Regime

It is expected that a fall in EU subsidies paid to grow tobacco in Europe would lead to an increase in production of this relatively profitable cash crop in developing countries (FAO 2003). However, the IA on the reform of the Tobacco Regime entirely ignores the external impacts on the economies of non-EU tobacco growing countries through market distortions (total score of 13; see Figure 7.). Rather, it focuses on the future livelihoods of tobacco farmers in Greece and Italy, as well as how best to accommodate tobacco within the framework of a reformed Common Agricultural Policy.

Figure 7: Impact Assessment on the Reform of the Tobacco Regime: Evaluation of the consideration of effects on non-EU countries (4 = Good, 3 = satisfactory, 2 = unsatisfactory, 1 = little attention, 0 = no mention)



While this IA touches on external dimensions, it is done in a vague and somewhat abstract manner. In particular, the stated objectives of the proposal are “to increase global coherence between the main policies of the Union” (SEC (2003) 1023, 20) i.e. achieving greater coherence between the Common Agricultural Policy and the EU’s Public Health Policy. However, a subsequent section also discusses “coherence with sustainable development objectives” (SEC (2003) 1023, 21) which it notes have an internal and an external dimension (SEC (2003) 1023, 22).

Two of the three policy options considered in this IA would benefit developing countries insofar as they reduce global trade distortions. However, in terms of potential impacts, the IA states that abolishing subsidies would lead to the modernisation of EU tobacco production and “as a consequence, restrain the scope for further imports of these varieties” (SEC (2003) 1023, 32). This scenario appears to contradict the FAO’s predictions (FAO, 2003). Finally, there appears to have been a general lack of consultation with developing country representatives and development NGOs, although DG Development was present in the steering group.

5. HOW FULLY IS THE EXTERNAL DIMENSION BEING CONSIDERED?

The limited consideration of the external dimension strongly suggests that the IA regime is not yet producing a full or consistent flow of information between sectoral actors in networks. The only three IAs to fully consider the external dimension were conducted on what are essentially external policies. None of the five IAs with some significant external impacts fully considered them in their assessment. In general, the problem identification section at the beginning of the IAs was particularly poorly tackled. This is an important framing section because it sets out the problem to be addressed by the proposal. If it neglects certain aspects, such as external impacts, then it is very difficult for them to be satisfactorily dealt in the rest of the assessment. The section on policy impacts was in general better performed, but frequently the references to external impacts in this section tend to be rather isolated from the rest of the analysis. If there are external policy impacts, it would be more logical to address them throughout the entirety of the IA in the same manner as internal considerations. There also appears to be a lack of explicit consultation with developing country representatives, development NGOs and in some cases even DG Development. Since the IA process is intended to facilitate information flow between actors in networks, wide consultation is an important element. Cross-sectoral spillovers (and any associated trade offs) may therefore not be recognised.

Our analysis of the failure to incorporate the external dimension is consistent with a number of other omissions that others have detected in the way the new IA regime is operating (Jacob et al. 2005). In a more wide-ranging analysis of all the IAs produced in 2003, Wilkinson et al. (2004) found that none faithfully followed all the Commission's internal guidelines. Crucially, the policy options considered "almost always fell within the competence of responsible DGs so that options tended to reflect only incremental changes in intensity or timescale from 'business as usual'" (ibid., 18). Wilkinson et al. also found that the range of impacts considered was rather limited, with the most attention given to economic impacts and little attention to issues of sustainable development. To that, we would like to add that sustainability tends to be interpreted even more narrowly to include the 'internal' situation in the EU 25 rather than the wider world.

Beyond this, there are some more generic weaknesses in the IA system, which appear to have inhibited the flow of information between sectoral actors. First, the system lacked transparency in its first two years of implementation. A list of the IAs to be undertaken in 2003 and 2004 as well as the actual IAs themselves, only appeared on the Secretariat General's website in August 2004. Although some IAs appeared on individual DG websites before this date, most were inaccessible. This lack of transparency has been described as being ironic "in view of the fact that one of the reasons for introducing the system was to increase public and stakeholder support for, and participation in, development of Community policies" (Wilkinson et al., 2004,9).

Second, as well as neglecting the external dimension of sustainability, the IA regime is arguably also neglecting the internal dimensions of sustainable development. For instance, of the 580 policy proposals listed in the Commission's 2003 Work Programme, only 43 were formally identified as requiring an IA. Similarly, of the more modest total of 273 policy proposals listed in the 2004 Work Programme, only 41 were identified as requiring an IA. Therefore, it is impossible to say how well the vast majority of proposals take into account either the internal or the external dimensions of sustainability. In the new IA Guideline issued by the Commission in 2005 (SEC (2005) 791) the screening of policies for IA has become public so improving the likelihood that policies with significant sustainable development impacts will undergo an IA. However, the Guidelines placed far greater emphasis on competitiveness and the Lisbon Agenda rather than sustainable development impacts so the scope for improved consideration of sustainability issues remains to be seen.

6. THEORETICAL REFLECTION AND CONCLUSIONS

Our evidence suggest that the EU IA regime is not yet generating the information exchange between sectoral actors needed to achieve even a low level of coordination on Metcalfe's (1994) scale. A successful IA procedure should entail thorough consultation and consideration of all possible perspectives from different sectors and, given recent political pledges, those 'external' to the EU as well. This would help to build on and deepen the inter-service consultation and stakeholder dialogue that is supposed to occur in relation to all new proposals and, by implication, ensure that coordination is lifted up to level two (information exchange). Having achieved this, higher levels of coordination such as consultation and/or feedback (levels three and four respectively) could then be sought.

Even though it is common practice within many organisations (including the EU) (Metcalfe, 2000, 832), to try and achieve greater coordination by producing grand coordination strategies, the scale emphasises that they will tend to be "be superficial and vulnerable to the disruption of unresolved conflicts and the emergence of unforeseen problems." Currently, the EU seems to be pursuing coordination through a combination of very low level mechanisms (information exchange i.e. such as IA) at the level of daily policy making and very high level mechanisms (strategies and central priorities i.e. the Sustainable Development Strategy). Our work suggests that there is currently a mis-match between the two in the sense that the strategic commitments (inter alia to address the 'external' dimensions of EU sustainability) are not being implemented by the low-level policy-making routines. Unless and until these two levels are reciprocally interconnected, the EU will struggle to put its internal and external sustainability commitments into effect. The view of the Secretariat General is that quality control can be adequately ensured through inter service consultation i.e. that any IA network will be self-steering. Nevertheless, this does not appear to be happening (Wilkinson et al., 2004). The IAs are, on the whole, produced within the same sectoral boundaries that have contributed to the present state of policy incoherence.

The IA regime is, admittedly, still rather new and some of the deficiencies with respect to the consideration of external impacts, as well as those weaknesses detected by others (Wilkinson et al., 2004; Jacob et al., 2005), could be dismissed as short term 'teething' problems. That said, those who have studied the use of networks as coordinating devices in the EU, would probably argue that more direct intervention will eventually be required to overcome the strongly sectorised pattern of policy making within the Commission (Metcalfe, 2000; Schout and Jordan, 2005). In a word, networks require active leadership (or 'management'), to compliment and reinforce any willingness shown by individual actors to coordinate amongst themselves.

Specific measures here might include: adding a much more explicit instructions to the guidelines to consider the external dimension (for example specifying that any external considerations should be considered in all the sections and not solely in the section on impacts); reinforcing the importance of consulting adequately with parties representing developing countries, including DGs and NGOs; clarifying which aspects of the guidelines are mandatory and which are discretionary; and allocating more resources (training, technical back up and, above all, time) to undertake IAs. However, the new IA Guidelines suggest that the Commission is not yet convinced that firm, central management is needed to increase the consideration of the external dimension. In fact, although a reference remains in the text to "identify likely impacts inside and outside the EU" (SEC (2005) 791, 28), the quote from the Sustainable Development Strategy which emphasised this intention on the title page of the original guidelines has been dropped. Perhaps tellingly, in its place there are quotes emphasising the promotion of competitiveness and proportionality (SEC (2005) 791,1).

Sustainable development is not, of course, entirely the Commission's responsibility. The EU is a complex system of multi-level environmental governance and other actors (namely the Council and the European Parliament) must also be fully supportive of sustainability initiatives (including the 'external' dimension), if they are to stand any chance of being implemented. If not, 'sustainable proposals' produced by the Commission risk being pulled apart by the different formations of the Council and sectoral committees of the European Parliament. Neither the Council nor the Parliament currently subject their interventions (which in some cases may radically alter the thrust of a proposal) to a formal assessment, although an extension of the IA regime to these institutions is being discussed.

To conclude, the EU has made an exemplary pledge to consider the 'external' dimension of sustainability when determining its internal policies. No other comparable political entity has made such an ambitious undertaking. However, evidence that this is being consistently translated into day to day policy making is difficult to find. One of the problems is that the pledge is short of implementing mechanisms. In advance of a fuller rolling out of the Sixth Environmental Action Programme and the Sustainable Development Strategy (both scheduled for 2005-6), a large part of the burden of work rests on the shoulders of the Commission's IA process. If suitably refocused and revised in some of the ways discussed above, this regime certainly has the potential to contribute more to the fulfilment of the EU's coordinating ambitions. However, as evidence continues to accumulate of the often highly superficial manner in which (sustainability) policy appraisal is used at the national level (Pearce, 1998; Russel and Jordan, 2003; Jacob et al., 2005), it would seem unwise to rely too heavily upon it. The coordination literature suggests that the more complex a coordination tasks (and sustainable development must count as an especially challenging case), the more coordination mechanisms should be used. Peters (1997), for example, describes an array of different mechanisms, only a few of which the EU has actively explored or implemented. These include inter alia: allocating a central coordinating role to the Commission's 'core executive'; nominating a 'super commissioner' or team of commissioners to oversee the delivery of sustainability; tying sustainability into budgetary processes; and creating and more actively managing cross sectoral coordinating networks such as that relating to IA. In 2001 the Commission published a White Paper on governance (COM (2001) 428), but four years on there appears to be little appetite in the EU for a thoroughgoing debate about what Jessop (2002) refers to as "meta-governance" – that is, the ground rules for choosing between different governing (i.e. co-ordination) mechanisms¹² – in order to make the necessary cross sectoral and inside/outside policy connections implied by the concept of sustainability.

¹² Jessop (2002, 6) defines this as "the judicious mixing of market, hierarchy, and networks to achieve the best possible outcomes from the viewpoint of those engaged."

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