



## **BUSINESSEUROPE voting recommendations for the Environmental Impact Assessment Directive (2012/0297(COD))**

### On the EP ENVI Committee amendments

BUSINESSEUROPE calls for clear environmental planning rules to push ahead with industrial infrastructure projects. Therefore it is very much concerned that a number of amendments would lead to considerable delays, increase administrative costs and greater chances of legal uncertainties. BUSINESSEUROPE is of the opinion that:

- **Screening procedure and information to be provided (Art. 4, new Annex II.A and Annex III)**

The screening procedure is designed to assess if projects listed in Annex II will have to perform an EIA. The information to be provided by the developer for the screening of the project should not be extended. It will not improve the quality of the environment and highly increase costs even for companies that in the end will not be subject to an EIA. BUSINESSEUROPE supports all amendments that maintain the original screening procedure and information to be provided.

Support: amendments 193, 200, 204, 205, 206, 207, 478, 479, 484, 485, 486, 487, 488, 489, 492, 494, 495, 496, 500, 501, 506, 507, 511, 512, 516, 520, 522, 523, 525, 528, 535, 536, 537, 538, 539, 540, and 541

Reject: amendments 54, 55, 56, 480, 481, 482, 483, 508, 509, 510, 531 and 532

- **Scoping procedure (Art. 5.2)**

The scoping procedure provides the possibility for the developer to engage with the authorities to define the scope of an EIA. It should stay as a voluntary procedure. Many industries have sufficient competences to decide on the elements of information to be provided for the environmental report.

Support: amendments 248, 249, 250, 251, 252, 253, 254, and 255

Reject: amendments 257, 258 and 259

- **New environmental report (Art. 3 and Annex IV)**

The automatic extension to global environmental aspects such as biodiversity, climate change, disasters or even their combination with the cumulative effects of other projects and activities suffer from a lack of legal definition and will produce legal uncertainties.

In addition, the data from Annex IV should not be extended because of costs and time impact.

Support: amendments 166 168, 171, 172, 184, 185, 186, 564, 565, 570, 571, 574 and 576

Reject: amendments 176 and 177

- **Baseline scenario and alternatives (Art. 5, Art. 8 and Annex IV)**

The assessment of the future evolution of the state of the environment without implementation of the project – baseline scenario - is unrealistic. In addition, it will increase the number of appeals to the detriment of the legal certainty of the projects.

BUSINESSEUROPE rejects the obligation to present alternatives – instead of just assessing alternatives – on the basis of a baseline scenario.



Assigning the right to determine alternatives to the competent authority would affect the freedom of enterprises.

Support: amendments 234, 236, 241, 242, 268, 269, 270, 271, 272, 358, 359, 360, 552, 554, 555, 556, 557, 559, 560, 580, 582, 588 and 589

Reject: amendments 25, 26, 165, 274, 553 and 558

- **Timeline of the EIA-process (Art. 4, Art. 6 and Art 8)**

The definition of prompt timelines for different actions of competent authorities, not only partially, but also for the whole procedure has the potential to reduce the duration of the EIA-process. However, where Member States law provides for integrating the EIA consent procedure with other consent procedures, timelines must be adapted according to the specific requirements of these joint procedures.

Support: amendments 219, 231, 341, 342, 344, 391, 392, 393, 395, 398, 399 and 400

Reject: amendments 24, 42 and 224

- **Accredited experts (Art. 5.3)**

The proposal for accredited experts is just an unnecessary administrative burden. As far as a developer has the expertise required, he must be allowed to prepare the environmental report himself.

The notion of independent expert is also against this principle.

Support: amendments 28, 287, 288, 289, 290, 291, 295, 296, 300, 301, 302, 303, 305, 306, 308, 309, 311, 312, 313, 324, 235 and 326

Reject: amendments 29, 30, 31, 292, 297, 304, 307 and 410

- **“Up to date” information (Art. 8.4)**

The proposal to ask the competent authority to verify whether the information in the environmental report is up to date before deciding on a development consent is inadequate. It is particularly difficult in an authorisation process lasting one year or more to have “up to date” information. Sufficient time flexibility should be left for the developer.

Support: amendments 404, 405, 406 and 407

Reject: amendments 43, 408 and 409

- **Monitoring and compensation measure (Art. 1 and Art. 8)**

The existing EIA Directive is limited to procedural requirements in advance of a decision on the substance, without providing substantive obligations itself. BUSINESSEUROPE is explicitly against the introduction of substantive additional legal requirements such as mitigation and compensation or monitoring adoption measures. The decision if and to which extend monitoring and/or compensation measures related to environmental effects of a project may be necessary should be based on the specific law (Waste, Industrial Emissions, Water, etc.).

Support: amendments, 369, 372, 376, 377, 378, 379, 380, 383, 384, 385, 387, and 390.

Reject: amendments 40, 41, 117, 136, 349, 350, 351, 381, 382, 386, 408, 409 and 410

- **Retroactive application of the revised EIA Directive (Art. 3)**

The Commission’s proposal stipulates that obligations under the new directive shall apply also to projects for which the request for development consent was introduced before its entry into force. BUSINESSEUROPE rejects this provision which contradicts



basic principles of law, such as non-retroactivity and legal certainty. This will lead to the repetition of procedural steps and consequently to delays as well as increased costs and efforts both for the project developer and the competent authority.

Support: amendments 98, 445, 446, 447, 448, 449, 450, 451 and 452

- **One stop shop (Art. 2)**

The proposal obliges the establishment of coordinated or joint procedures to integrate different assessment procedures under EIA and other EU legislations and the appointment of one competent authority to facilitate the permitting of other consent procedures. BUSINESSEUROPE supports this innovation that will reduce administrative burdens and increase environmental legislation implementation and efficiency.

Support: amendments 18 and 124

- **Extended delegated powers to the Commission (new Art. 12a and 12b)**

The Commission should not be empowered to adopt delegated acts adapting the Annexes II.A, III and IV. The decision on projects to be subject to an EIA must continue to be decided by amending the EIA Directive through the ordinary legislative procedure. Extending these delegated powers would not enable the provision of a stable and predictable regulatory framework on which developers and investors' confidence relies.

Support: amendments 436, 437, 438, 439, 440 and 441

- **Shale gas (Annex I)**

Long authorization procedures or mandatory environmental impact assessments already for exploratory drillings, necessary to assess the potential of shale gas reserves, are disproportionate and misleading. At the stage of the commercial exploitation of shale gas through hydraulic fracking, an environmental impact assessment could constitute a possible amendment to the existing regulatory framework.

Support: amendments 458, 459, 460 and 461

Reject: amendments 50, 462, 463 and 464