Netherlands Commission for Environmental Assessment

Netherlands (The)

SEA profile

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Contact & history

Country contact on SEA

The Ministry of Infrastructure and the Environment is the responsible authority for SEA.

The Dutch knowledge centre InfoMil, part of the ministry, is the primary source of information and best practices in matters of EIA/SEA and other environmental legislation and policies in The Netherlands.

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Country's planning system

There are various laws and regulations with respect to plans (such as the national waste management plan, the dike reinforcement plan, etc.). The Spatial Planning Act serves at the basis for most plans in the Netherlands. The Spatial Planning Act regulates how spatial plans in the Netherlands are developed and modified.

The central government, the provinces and the municipalities all have the authority to draw up spatial plans. An important tool in this is the zoning plan, which is also legally binding. The guiding idea in this process is to have decentralised planning when possible, and centralised planning when required. Under the current law, provinces and municipalities have more responsibilities than under the old law. The zoning procedure takes 26 weeks. The central government and the provinces can set up frameworks in which the municipalities can operate, including so-called ?proactive instructions?.

The municipality, the province and the central government draw up a structure vision. In this document, the central government describes where building is allowed, where green spaces must maintained and who has the decision making powers. In this regard, the central government establishes few constraints and places the responsibility for the spatial planning with the provinces and municipalities. In their structure vision, provinces set out a strategic policy for the municipalities. A municipality may only deviate from this policy if there are good reasons for doing so. Municipalities can also decide to revise a structure vision (or a part thereof). The province will use its own structure vision to assess the municipality?s plans, just like the central government assesses the provinces? plan with its own structure vision. The structure visions are intentionally aligned with each other and serve as the starting point for zoning plans, integration plans and project decisions.

The Spatial Planning Act requires that spatial plans are drawn up digitally in accordance with national agreements and standards.

History of SEA

In 1987, the EIA tool was officially introduced in the Netherlands (the Environmental Management Act.) In the EIA Decree (part of the Act), not only projects, but also certain plans and programmes are specified which are subject to the procedure laid down in the Act. These include national plans for waste management, electricity generation, water supply and regional land use plans for the location of major new housing, industrial or recreational areas. Therefore, although not literally mentioned, it is a general understanding that 'SEA' was implemented in 1987.

Transposition of the SEA Directive (2001/42/EG)

The European SEA directive was transposed by amending the Environmental Management Act from 1987 on 28 September 2006 and by amending the relevant regulatory provisions of the EIA Decree.

Modernisation of the EA in the Netherlands

On 1 July 2010, the Dutch EA legislation was modernised as a result of a change in the Environmental Management Act. The objective of this modernisation process is to enable customisation by means of fewer and simpler yet more consistent rules that nevertheless remain focused on the environmental objective. A number of additional requirements with respect to the European directive on projects (referred to as ?gold-plating?) were eliminated.

For all **plans** and **complex projects** subject to EA the so-called **full-fledged** EA procedure must be followed.

Legal framework for SEA

Framework/Enabling law

Environmental Impact Assessment (EIA) is established in law in Chapter 7 of the Dutch Environmental Management Act (EMA) (article 7.1 to article 7.42). The existence, function and working method of an independent Commission Environmental Assessment (NCEA) is set out in section 2.2 of the EMA (article 2.17 to 2.24). Section 14.2 of the EMA (article 14.4a to 14.16) provides for the coordination for drawing

up an environmental impact assessment (EIA)

Approving authority of enabling law

Parliament

First national detailed SEA regulation

SEA procedures are laid down in the Environmental Assessment Decree (latest amendment 2010). The EA Decree (Chapter 7 of Environmental Management Act) is based on EU directive 1985 (EIA) and later amendments on EU (SEA) directive 2001).

Recent updates and additions to the SEA legislation

The Environmental Assessment Modernisation Bill, 1 July 2010.

The Dutch Environmental Assessment legislation has recently been revised.

? A simplified procedure for projects (EIA) with limited environmental repercussions. (see EIA profile)

? A full fledged procedure for complex projects (EIA), and for plans, programmes and policies (SEA)

Note that ?simplified? does not necessarily stand for ?easy?, as minimum requirements are in place. The type of permitting procedure determines whether the simplified or the full fledged procedure applies to a project. For SEAs the full fledged procedure is always required.

Sector specific procedures/regulations

There are no sector specific procedures concerning SEA. Sector specific thresholds may be part of the EA screening criteria. For example specific criteria are in place concerning nuclear power facilities.

Guidelines

Guidance on carrying out an SEA in the Netherlands is put down in the 'Handreiking MER' (in Dutch)

Objective SEA

The objective of environmental assessment (EA) is to ensure that the environment is given full and proper consideration in the decision making process concerning activities with possible negative consequences on the environment.

In addition, EA has two related objectives:

- To promote transparency in decision making. On the basis of what information about the environment

are decisions taken and justified?

- To promote participation in the planning and decision making process.

Scope of SEA application

SEA is applied to specified plans, policies and programmes.

Exemptions from SEA application

Article 7.3 of the Environmental Management Act makes an exception for plans that relate exclusively to defending the country or to an emergency situation as referred to in the National Emergencies Coordination Act as well as plans that relate to the budget or finances of the government, the province, the municipality or a water board district. These plans are not subject to the EIA requirement.

SEA approach

SEA was an integral part of the 1987 Environmental Management Act. Not seperately mentioned, but implicitly part of the obligation of EIA for certain plans and programmes. The transposition of the EU SEA directive in 2006, seperated the EIA and SEA procedures.

In 2010 however, the Environmental Assessment Modernisation Bill, intergrated both procedures once again. The difference is not strictly on projects vs plans, but on the complexity of projects and plans. Whereby plans/policies always are defined as complex and therefore always require (if screened) the full fledged procedure. Projects either fall under the simplified procedure or the full-fledged procudure.

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SEA tiering with EIA

Combined assessments in Dutch legislation

Dutch legislation specifically accommodates three options for combined impact assessment procedures, one of which is the EIA/SEA combination (one form of tiering).

The detailed arrangements for combined environmental assessment are set out in Chapter 14 of the Dutch Environment Management Act. The chapter is titled ?Coordination?, and a large part is devoted to the required coordination between the authorities involved when different assessments are combined in one procedure. The chapter addresses both:

- coordination of specific steps in the EIA/SEA procedure (e.g. where does the general public submit their written comments on the assessment, who makes public announcements on the EIA/SEA, etc.)
- coordination of plan or project approval decision making, meaning coordination of separate decisions with regard to environmental permitting, project licensing, and/or plan (amendment) adoption.

When may EIA and SEA be combined?

Specifically for activities that require both EIA and SEA, the Dutch legislation states:

(article 14.4b) ?If, for an activity a (permitting) decision and plan revision decision are prepared at the same time, and the plan revision decisions is solely prepared to accommodate that activity within the plan, then one environmental assessment report shall be prepared?.

Note that the legislation explicitly emphasises that a plan revision should only apply to the activity that also requires the EIA. If the revision is more comprehensive, and includes other activities as well, the clause does not apply, and in principle, separate assessments will have to be carried out. It is possible to request a voluntary combined procedure in this case, but then the combined assessment will, of course, need to cover all the activities proposed.

The legislation further states that when EIA and SEA procedure are combined, the most comprehensive procedure is leading. This way essential requirements are not ?lost? when the procedures are combined.

Institutional setting for SEA

Central SEA authority

Ministry of Infrastructure and Environment

Mandate for exemption of SEA obligation

Parliament

(De)centralisation of SEA mandates

Decision-maiking takes place at national, regional and local level.

Initiator of the SEA

National, provincial or local authority.

SEA procedure

Establishing context

Overview SEA procedure

The full procedure for EIA of complex projects and SEA contains the following steps:

- EIA registration and screening
- Public announcement, public consultation and consultation of designated authorities

- Scoping
- Assessment
- Review (incl. publication of EIA report, public consultation, consultation of designated authorities and mandatory review advice of NCEA)
- Decision
- Evaluation

Screening requirement and authority

Screening is a required step in the EA act. In cooperation with relevant 'administrative bodies', the competent authority decides on the applicability of an SEA.

Screening process

Screening is a required step in the EA regulation. The competent authority decides on the applicability of an EA in cooperation with relevant administrative bodies.

To know if an EA is required, there are two lists, (C- and D-list) with specific activities and thresholds.

? Part C contains activities, plans and projects for which an EA is mandatory.

? Part D contains activities and projects for which a judgement whether EA is required is needed. This means that on a case-by-case basis a judgement must be obtained first on whether an EA is required or not. This judgement depends on the seriousness of the negative effects on the environment and the sensitivity of the affected environment.If a threshold is reached, an SEA is mandatory without prior judgement.

To be more specific:

1. The ?plans? column in the C/D list contain the relevant plans per activity. These are plans that possibly create the frameworks for a project, as included in column 4, and can therefore be subject to SEA requirements.

There are three possible outcomes:

? a. The plan is immediately subject to an SEA, because it creates a framework for activities subject to project EIA requirements (C list) or activities subject to project EIA review requirements (D list).

? b. The plan creates a framework for activities that are from the D-list but are under the threshold. If there are still reasons to draw up an EIA for activities, then the plan is still subject to SEA. If there are no reasons for this, there is no SEA.

? c. The activity or activities or the plan and/or project in question are not referred to in the EIA Decree: there is no SEA requirement.

2. A plan for which a suitable review (in the context of the Nature Conservation Act 1998) is required due to the activity or activities contained therein is subject to SEA requirements.

Timeline Screening

No timeline

Identification of stakeholders

During the first step of the SEA procedure, the competent authority identifies advisors and policy departments suitable to participate in drafting the Terms of Reference of the SEA report.

Implementing the SEA

Scoping process

The following steps are required:

? Public notification (the official go-ahead);

? Possibility of submitting perspectives on the proposal and the scope and detail level of the investigation to be performed;

? Consulting advisors and administrative bodies about the scope and detail level of the investigation to be performed.

These steps ensure that the scope of the content of the investigation to be performed is discussed in the preliminary stages in some manner. In any case, the competent authority must consult advisors and the administrative bodies involved about their wishes with respect to the scope and the detail level. Furthermore, in practice, the perspectives submitted relate at least in part to the question of what must be investigated in this regard.

Participation in scoping

The plan, for which an SEA is required, is public at an early stage. In this publication, dates and places are mentioned where the public is invited to submit their view.

Outcome of scoping

(Report with) Term of Reference for SEA required.

Baseline data

No specific requirements for data collection. However, there is a requirement for information on baseline data in the SEA report. The detail level of the information must be aligned with the detail level of the plan.

Alternatives

It is necessary to describe relevant alternatives in the SEA report. Furthermore a motivation why these alternatives are described.

Assessment/mitigation of effects

There are no specific methods required for assessment and mitigation of impacts as part of SEA. However, an SEA report requires information (a chapter) on mitigating measures.

Institutional analysis

The institutional setting for implementation is not analysed. There is no explicit attention for the identification of opportunities to strengthen environmental constituencies.

Content of SEA report

1. Objective
2. Proposed activity & alternatives
3. Relevant plans & projects
4. Current situation & autonomous development
5. Effects
6. Comparison
7. Mitigating & compensating measures
8. Gaps in information
9. Summary

SEA review

The **full-fledged procedure** contains the legal requirement for the NCEA to review the SEA report. The competent authority submits the SEA report to the NCEA for this purpose, after which the NCEA elaborates what is called a ?review recommendation?. This is done by a working group that the NCEA creates for every separate plan or project. Such a working group contains specialists with expertise in the specific fields relevant to the plan or project in question. The working group issues an independent opinion on the SEA. A basic principle in this regard is the definition of scope and detail level that you have set out in the preliminary stages. However, the NCEA also especially checks whether the environmental information needed for the decision is present. This means that the NCEA also examines the quality of the content (whether it is correct, complete, sufficiently recent, balanced, etc.).

The NCEA evaluates the SEA and draws up a draft recommendation. In practice, this means that the NCEA will often pose questions to the competent authority or the initiator. The answers to these questions can be used in the review, in which case it is important that any additional information is published (for example, together with the decision).

Participation in review

Compare document for EIA: regulates master procedure, safety net in 7.11 of the Environmental Management Act.

Timeline review

Depends on full-fledged procedure. Usually six weeks. If perspectives are included in the recommendation process, then three additional weeks.

Informing and influencing decision-making

SEA and planning decision-making

The EIA procedure is connected to the procedure that must be followed for the plan or project in question. This means that plans or projects must primarily comply with the requirements of the ?full-fledged procedure? or the ?simplified procedure?. These requirements are set down in very diverse laws and regulations. This depends on the type of plan or project and the administrative body that is authorised for the preparation or adoption of these, i.e. the competent authority.

Recommendations for decision-making

When the competent authority publishes the SEA report, anyone can submit their views, on the SEA report as well as the plan itself. Furthermore, it is a mandatory requirement that the NCEA reviews the SEA report.

When taking decisions, the competent authority should take into account all impacts on the environment and what the role of the SEA report has been.

Justification of decision

The plan includes an explanation of how account was taken of / what was considered with respect to (article 7.14 of the Environmental Management Act):

? The possible consequences for the environment described in the SEA report;

? The alternatives described in the SEA report

? The perspectives submitted with respect to the SEA report;

? The required recommendations issued by the NCEA;

? Any major negative cross-border environmental consequences and the outcome of the consultations on this with the administrative bodies in the other country concerned.

Monitoring

Monitoring requirement

After adopting a plan subject to SEA the competent authority concerned must evaluate the actual environmental consequences resulting from the performance of the plan. The time periods for the start of the investigation and the way in which this will be performed will have already been determined for the plan or project.

Evaluation requirement

Not the actual SEA rapport or procedure, but the plan for which the SEA is made, is subject to evaluation.

Please note, that although the specific article in the EIA Decree (7.39 for SEA) does not mention this procedure, the intention of parliament has been that this evaluation could also serve as a learning mechanism for carrying out environmental assessment and improve the quality.

SEA practice

Year of first SEA

1982

Annual no. of SEAs

36 SEA advisory reviews

(95 advisory reviews on EIA and combined EIA/SEA).

Central SEA database

There is no central SEA database, however, the Netherlands Commission for Environmental Assessment (NCEA) compiled a database with SEA (and EIAs) cases where advice by the NCEA was mandatory or voluntary requested (please view ?procedure? to learn more about the role of the NCEA). Since the NCEA is not a mandatory party in all EIAs, the database does not contain all EIAs carried out in the Netherlands.

Practice reviews

Verheem R. & Schijf B. (2014). Part II: 25 Years of SEA in the Netherlands: learning from research and practice. In *Strategic Environmental Assessment Effectiveness: Learning from Experience in China and the Netherlands*. Appraisal Center for Environment and Engineering, Ministry of Environmenal Protection of China and Netherlands Commission for Environmental Assessment.

Case studies

There are several cases on SEA in the Netherlands.

A view in English:

• SEA and the structure vision in Amsterdam

• SEA for spatial planning in province Overijssel

• SEA in longterm structural designplanning

Effective SEA systems and case studies, six case studies from the Netherlands 2003.

This document was prepared for the Ministry of Environment and the Mitsubishi Research Institute Inc. (MIRI), Japan by Hayashi and Sadler, supported by Verheem (NCEA), Dusik and Tomlinson. The purpose of the report is to show the nature of SEA, the merits of SEA and the elements of SEA referring to several good experiences in European countries. This link refers to 6 cases from the Netherlands, prepared by Rob Verheem.

- National spatial plan for the West of the Netherlands - Deltametropole (p. 39)

- Second national plan on mineral resources (p. 48)

- North Holland South spatial strategy plan (p. 57)

- National waste management plan 2002 (p. 66)

- Policy plan for the supply of drinking water and industrial water (p. 78)

- National plan on the production of electricity (p.85). And a website from the NCEA with more cases in Dutch.

Professional bodies

Association of Environmental Professionals (VVM)

Capacity development

SEA (and EIA) is part of different curricula at University and Polytechnic. Both Dutch and internetnational schools.

VU- Amsterdam

IHE

ITC

Utrecht

Non-governmental SEA guidance

The NCEA has published various case studies, cahiers and factsheets on SEA related themes and discussions. Most of them are in Dutch.

SEA links

Links to laws/regulation

Wet milieubeheer (Environmental Act)

Chapters in the Environmental Act with special attention to chapter 7 on Environmental Assessment.