



Netherlands Commission for
Environmental Assessment

Part 3: Independence

The Netherlands Commission for Environmental Assessment (NCEA) is an independent advisory body of experts established by law in 1987. The international department was established in 1993. One of the main tasks of the international department is providing independent advice on ESIA and SEA at the request of an authority in a selected number of low- and middle-income countries. The **purpose of this guidance** is to describe how the NCEA works and how it secures its independent position. This guide consists of three parts:

- 1) Description of the NCEA's approach.
- 2) Conditions under which the NCEA can start issuing advice.
- 3) Protocol securing the independent position of the NCEA.

Part 3. Protocol independence

This protocol describes how the independent position of NCEA working group members – experts, chair and technical secretary – is secured.

1. The NCEA

The Netherlands Commission for Environmental Assessment (NCEA) provides advice on ESIA's or SEA's at the request of an authority. This protocol provides information on how the independent position of NCEA working groups is secured.

A tailor-made working group is assembled for each advice and consists of a chair, experts and is supported by a technical secretary. The working group provides advice on behalf of the NCEA. The chair and experts jointly determine the content of the advice that is written by the technical secretary.

For the advice of the NCEA to be perceived as independent, it is of the utmost importance that the appointed experts, the chair and technical secretary, are considered independent. This means they cannot have any personal or private interest in the plan or project related to the SEA or ESIA in question.

2. Experts of the working group

Experts are not staff members of the NCEA. They are selected by the chair and technical secretary and assigned by the NCEA's director after a thorough screening of their independence. To ensure the independence of the experts, the following screening mechanisms have been put in place:

- Screening by the technical secretary; when an expert is approached for a specific advisory assignment, the technical secretary will enquire about possible conflicts of interest of the expert.
- Screening by the potential expert; the potential expert is expected to carry out a thorough check of his/her independence. Previous and current personal and professional ties to the project or plan through their employer, colleagues, partner/spouse/children, place of residence, other consulting/advisory positions, etc. should be considered and disclosed.
- Screening by the requesting authority: the requesting authority will be notified of the selected experts and will be given the opportunity to present arguments of possible (perceived) conflict of interest of these experts. If there is any reasonable doubt about the independence of an expert, the NCEA will reconsider the assignment of this expert. The NCEA's secretariat will take the final decision when this situation arises.
- Screening by the expert: in the event that an expert develops a personal or professional interest in a project or plan during the advisory process, or in between the scoping phase and the review phase, the expert should immediately report this to the technical secretary. In such cases, the expert can no longer be part of the advisory process and will be replaced.
- If there is any discussion about whether there is or may be a conflict of interest in the case of the chair, expert or technical secretary, the basic principle is, "when in doubt, don't do it." Someone else will then be appointed.

3. Chair and Technical secretaries

For the chair of the working groups and the technical secretaries and (co-readers/quality controllers), the same independence requirements apply as for experts. Furthermore, their additional positions and employment history are described on the NCEA's website.

4. Examples of conflict of interest

Based on the NCEA's experiences in recent years, here are some concrete examples of (potential) conflicts of interest:

- An ecology expert works at a large consultancy firm. The traffic department of this consultancy firm delivers the traffic calculations for the ESIA report to be reviewed.
- The organisation where the expert is employed, submitted a proposal less than one year ago to perform (part of) the work for the ESIA under consideration (but did not win the tender).
- During the scoping phase, the expert's employer submits a tender and is awarded the contract to perform the ESIA.
- A previous employer of the expert/chair (less than five years ago) is the initiator or competent authority for the ESIA. The five-year term is used as a rule of thumb in situations where previous employment history plays a role.
- In a previous assignment (less than five years ago) the expert advised on a plan, which now forms the basis of the SEA.
- As a self-employed consultant, the expert regularly works for the consultancy firm writing the ESIA report, the initiator, or the competent authority.
- The expert's/ chair's/technical secretary's partner works for the project initiator.
- The project or plan is directly related to an (additional) position that the chair or technical secretary currently holds.
- There may be (an appearance of) involvement because of the private situation (partner, child) or a private contact of the expert/chair/technical secretary with a stakeholder.