

Impact assessment and policy learning in the European Commission

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Abstract

Governance for sustainable development requires policy coherence and Environmental Policy Integration, which are being hindered by difficulties coordinating the two separate impact assessment processes being conducted in the European Commission. One of them, the Commission-wide Impact Assessment process, looks primarily at EU-internal impacts, whereas the other one, Sustainability Impact Assessment (SIA) in DG Trade, looks outward to other countries and intergovernmental organizations. Ideally, the two processes should complement one another, especially as the two are set to continue being done in parallel. The paper uses a case study of the reform of the European sugar regime under a World Trade Organization ruling to demonstrate how the two impact assessment processes could better complement one another. Feedback from the experience had with existing trade agreements could then promote policy learning and inform the negotiations on new agreements. The number of new bilateral and Regional Trade Agreements is expected to continue rising, thus increasing the importance of the Commission-wide Impact Assessment process required for them.

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1. Introduction

This paper gives an account of how the current state-of-the-art Sustainability Impact Assessment (SIA) of trade measures and the newer Commission-wide Impact Assessment have evolved in the EU. Today the insight has prevailed that decision making should be *evidence-based* and *participatory*, and all new initiatives in the work plan of the Commission are subject to *ex ante* impact assessment as intended to provide both benefits.

Since the revelations of the Brundtland Commission in the Eighties and the Rio Earth Summit in 1992, the idea of integrating or reconciling the three pillars of sustain-

ability arose and henceforth a process known as “Integrated Impact Assessment” came into practice. The European Commission has used “Integrated Impact Assessment” (IIA) in roughly the same way as it was described in the theory of Norman Lee (2006). IIA is “integrated” in the sense that many sectors and dimensions of sustainability are included, as are regulatory aspects.¹ However, in EC practice, IIA later became called simply IA, as is apparent in this 2006 document (EC, 2006j).

¹ EC, 2004, p.7. Two applications of the term “Integrated Assessment” fall outside the scope of this paper: UNEP’s work in developing countries (Abaza and Hamwey, 2001; Abaza and Baranzini, 2002) and the Integrated Assessment used in the field of climate research (Parson and Fisher-Vanden, 1997).

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Today, there are five main assessment frameworks related to sustainability in the EU:

- 1 Environmental Impact Assessment (EIA) implemented by the Member States (EC, 2006f);
- 2 Strategic Environmental Assessment (SEA), a complement to EIA and implemented by the Member States as well;
- 3 Sustainability Impact Assessment (SIA) used by DG Trade to assess trade negotiations.
- 4 The EU Impact Assessment system, implemented by the European Commission and reflecting the idea of (I)IA as described above, hereinafter referred to as “Commission-wide IA”;
- 5 Integrated Sustainability Assessment/Transition Management (ISA/TM), new processes being researched for use in the future focusing on the conflict between long-term and short-term thinking in political decision-making.

This paper focuses on Items 3 and 4 of these five frameworks, Trade SIA and the Commission-wide IA system, and highlights their differences and potential synergies. Trade SIA is an older, much more comprehensive process, which continues to exist in parallel with the newer Commission-wide IA.

Since these two impact assessment processes comprise parts of a political process, not a scientific methodology, no generally binding definitions exist.

Trade SIA is described as “an ongoing and continuous process. It analyses the development of a policy action that has already been approved (mandate given by the Council to the Commission): it is a tool for evaluating *how an action should be taken*. In Trade SIA, the process itself is a key part of the tool. A Trade SIA provides a tool for use throughout the trade negotiation of an agreement (*ex ante*) and throughout its implementation (*ex post*). Trade SIA uses Computable General Equilibrium (CGE), global trade analysis project (GTAP), case studies, causal chain analysis; and expert analysis. 80% of impacts studied in an SIA are *outside the EU*.”²

The Commission-wide IA is characterized by four “key steps” as follows: “1. First of all, the problem needs to be identified and defined in terms of its extent and those most affected. 2. On the basis of the problem definition, a set of objectives designed to tackle the problem should be established. 3. Once the objectives are set, there should be a systematic screening of options –

including non-regulatory approaches – to assess their potential in meeting the set objectives. This results in the selection of a smaller number of options to be examined in greater detail for their potential impact. 4. Each of the selected options is then examined for its potential impacts, in an integrated and balanced manner, across the economic, social and environmental dimension.” (EC, 2005g, p. 3, Footnote 1).

The attribute “Commission-wide”, as applied by DG Trade to the newer process, means that *each of the DGs in the Commission* has to systematically assess the effects of measures that it proposes in the Commission’s work plan; this does not imply that all DGs must participate. DG Trade is the only DG that has its own impact assessment process *in addition to* the Commission-wide process.

Fig. 1 places the two types of impact assessment discussed in this article in a broader context of policy-oriented assessment methods related to environment, sustainability or regulation. The regulatory aspect (right part of Fig. 1) needs some additional explanation. Regulatory Impact Assessment (RIA) aims “to improve regulatory quality, reduce regulatory burden and increase the transparency of law-making” (IVM, 2006). Prior to 2002 the Commission experimented with Business Impact Assessment (BIA), a later-discontinued forerunner to RIA. Many ideas still survived in the BIA that industry interests had prepared for the Commission in the 2005 debate on chemicals regulation (REACH) (EEB, 2005, Annex 4).

As shown in Fig. 1, the Commission-wide IA integrates not only the three pillars of sustainability, but also RIA. The “better regulation” goal is supposed to be embedded in the assessment of proposed regulatory actions concerning the economic, social or environmental dimension of sustainability.

For completeness, we have added at the bottom of Fig. 1 some impact assessment approaches that are not part of the current methodology used by the Commission. However, from a scientific point of view, such methodologies could also be valid candidates for an even “more integrated” approach. For instance, the assessment of the environmental impacts of proposed regulatory actions could include Life-Cycle Assessment (LCA, see e.g. Hischier et al., 2005) or Technology Assessment (e.g. Hilty et al., 2004, 2006) wherever the regulation has an influence on technological development and the life cycles of products.

1.1. A historical view

In the Eighties impact assessment was typically applied to projects on the national level, and concentrated

² Personal communication dated 6.6.06 from Robin Ratchford, Deputy Head of Unit F3, DG Trade, European Commission.

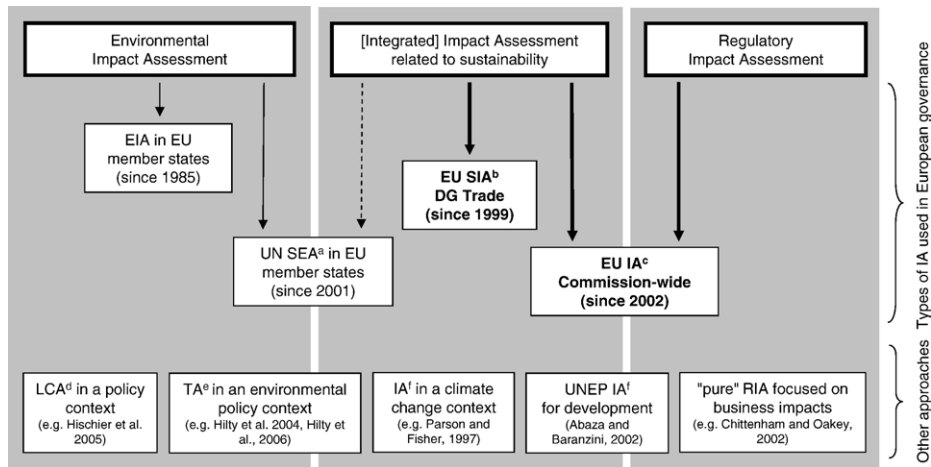


Fig. 1. A typology of impact assessment approaches related to environment, sustainability, and regulation. a) Strategic Environmental Assessment, b) Sustainability Impact Assessment, c) Impact Assessment, d) Life Cycle Assessment, e) Technology Assessment, f) Integrated Assessment. This article focuses on EU DG Trade SIA and EU IA (bold).

on purely environmental factors in the EIA process involving land use planning, where wetlands were threatened by settlement sprawl, for example. Theoretical approaches were applied to questions about causes and effects in nature, the economy and the policy community (see [Cashmore et al., 2004](#)). As a complement to EIA, in the Nineties a newer form of assessment called Strategic Environmental Assessment (SEA) came into practice with the aid of a convention administered by the United Nations Economic Commission for Europe, which was strongly represented in Central and Eastern Europe ([Cherp, 2001](#)). SEA was applied to certain plans and programmes on a level considered more strategic or political or higher in terms of multilevel governance than the mere land use planning level had been. Holger Dahlmann has advocated expanding SEA into a new form, namely Analytical Strategic Environmental Assessment (ANSEA) with better decision-support features ([Dahlmann et al., 2004](#); [Santarius et al., 2004](#)).

SEA may be seen as a logical transition to the later impact assessment processes applied to policies. The label “environmental” is misleading because SEA began to look at higher-level linkages and helped to make the transition from environmental to the more comprehensive sustainability criteria.³ Dalal-Clayton and Sadler

assert that “the development and implementation of SEA systems and elements represent the most striking trend in impact assessment during the past decade” ([Dalal-Clayton and Sadler, 2005](#), p. 357). That may be true for the field of international development cooperation, where SEA is used primarily (the use of EIA in developing countries is described in [Appiah-Opoku \(2001\)](#)), but not in the field of contemporary European governance, with which this paper is concerned. By any measure, the transition from using purely environmental criteria to using sustainability criteria (described in [George, 1999](#)) was an important step.

1.2. The relevance of current impact assessment procedures to sustainable development

Based on this historical perspective on the older IA processes, we will deal in greater detail only with the Commission-wide IA and the Trade SIA processes, both of which have recently gained higher profiles in the European Commission than EIA and SEA ever did.

In an attempt to operationalize the strategy-supporting function of impact assessment, the European Council has made the Commission-wide IA process into an officially mandated link between the Sustainable Development Strategy (EU SDS) and daily policy-making activities. In 2005 under the Austrian Presidency a renewed version of the SDS was put on one central document and approved ([EC, 2006h](#)). The renewed version includes a passage stipulating that in future every 2 years the Council will monitor implementation of the SDS. One major tool with which the SDS is to be implemented is through impact assessment.

³ One group of researchers sees SEA as “complementing EIA” ([Blöbel et al., 2005](#), p.4, Note 1), while another group emphasizes the differences between EIA and SEA ([Sheate et al., 2005](#)). The development of the SEA Directive is described by members of DG Environment leading from the “Green Stars” system to policy integration under the Cardiff Process through Environmental Action Programmes (EAPs) to the SDS, SIAs and Business Impact Assessments by [Feldmann et al. \(2001\)](#).

At the same time, the Commission-wide IA is supposed to support the Lisbon Agenda, an overarching set of competitiveness goals. Thus, there is a potential conflict between the aims of sustainability and those of regulatory leanness. This potential conflict is latent in the words chosen when Commission-wide IA is literally said to involve “two important political considerations”, namely “to consider the effects of policy proposals in their economic, social and environmental dimensions [sustainability] and to simplify and improve the regulatory environment” (EC, 2006i).

Aware of the potential conflict, the Institute for European Environmental Policy (IEEP) complains: “The Commission’s new Impact Assessment (IA) system has been promoted as the major instrument for operationalising the EU SDS, to support evidence based and participatory policy making. However, the system builds on Regulatory Impact Analysis and environmental assessment, the former traditionally focusing on identifying and minimising regulatory burdens on industry, while the latter has had the environment as a principal concern. The bringing together of these two separate approaches has not been entirely successful, and environmental considerations have often been marginalised by impact assessment systems that are supposedly integrated” (IEEP, 2005, p. 6). Likewise Opoku and Jordan (2004, p. 21) fear that “the whole IA system may be neglecting sustainable development issues.”

The quest for sustainable development requires policy coherence in governance. However governments are run by human beings who often follow divergent incentives as described in public-choice theory. Thus the rhetoric in the Commission’s claim to be pursuing the goals enshrined in the SDS is often not reflected in practice. While it is true that sustainability thinking must pervade all policymaking, and hence the competencies of all DGs – just as was the case before it when Environmental Policy Integration (EPI) was the buzzword – the different ways that sustainability has historically been taken up by DG Trade and later by the other DGs are in some aspects contradictory.

In particular, although DG Trade was first to relate an IA process to sustainability, the explicit referencing of an IA process to the SDS was not accomplished until later by the Commission-wide IA process. This contradiction remains unresolved, and the lack of success experienced by the later process in referencing its IA to the SDS is not encouraging DG Trade to follow suite. Thus the two processes continue performing their respective experiments with the only link between them apparently under-resourced, even as research projects are launched by DG Research to conceive of alternatives.

2. Evolution of impact assessment in contemporary European governance

Undertaking impact assessment in connection with sustainable development is a very challenging task. If this paper takes a critical stance of the European Commission’s achievements, it is not because DGs are not *trying to do* better, but rather because the challenge is so great as regards the complexity both of the object (sustainable development) as well as the subject (the Commission). The Commission-funded research project “Sustainability A-Test” is currently comparing both the existing and emerging tools for sustainable development related assessments, which it has provisionally classified into eight groups covering physical and monetary assessment tools through to stakeholder analysis and modeling tools (IVM, 2006).

Likewise, the Commission itself along with its constituent DGs and the other Brussels based institutions comprise complex communities to manage and coordinate. Besides appreciating the multilevel governance structures the Commission has to cope with, we must make a second key observation to the effect that DGs demonstrate persistently divergent orientations. For instance Aggarwal and Fogarty (2004) characterize the stereotypes of DG External Relations as being “strategic”, whereas DG Trade comes across as “liberalizing” and DG Agriculture as “protectionist”, while DG Development proves itself to be “altruistic” (p. 227). Lightfoot and Burchell similarly gather that “DG Trade is identified as favouring free market liberalism over sustainable development, whilst DG Agriculture is identified as not fully sharing the sustainable development norm” (Lightfoot and Burchell, 2005, p. 83). If an issue of SD involves all four DGs mentioned, as many issues do, coordinating the policy networks involved is a huge challenge.

2.1. How European Commission impact assessment began in DG Trade

Why should the field of trade policy rank as prominently in a sustainability context as it does with DG Trade acting as the founder of SIA in the Commission? Again, some historical perspective will be given to clarify the context. International trade policy and the EU itself are intimately related in that the EU was created on the very principle of economic integration during which its member states paid a political price (transfer of partial sovereignty) for expected economic benefits (growth, jobs). Thus ever since the founding of the European Coal and Steel Community in 1952 has the EU been built on a foundation of trade liberalization.

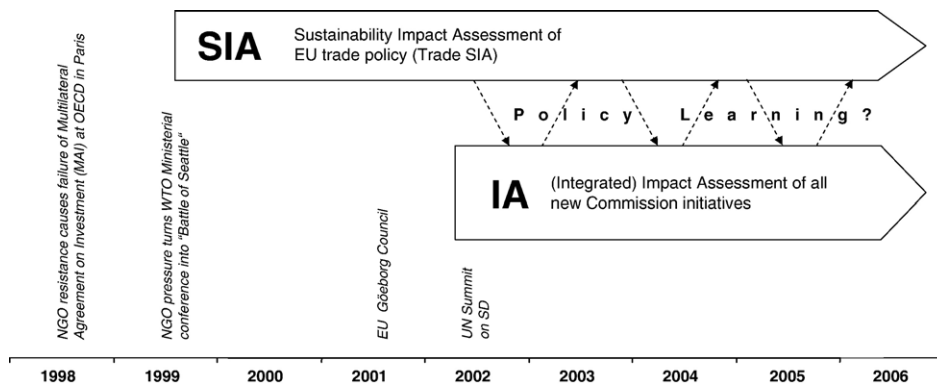


Fig. 2. Parallel development of two Impact Assessment processes in the European Commission in relation to important political events.

Now after only a few decades, however, despite the solid foundation of trade liberalization described above, “trade policy is affecting Europeans in a more direct manner than ever before, as the nature of what is now considered as ‘trade’ ... has changed dramatically” (Meunier, 2005, p.20). In 1999 trade liberalization, as part of a globalization perceived as being pursued by the WTO, the World Bank and the OECD was likewise identified as being problematical by Non-Governmental Organizations (NGOs), who voiced their opposition to any further pursuit of it. It was in response to such protests that the European Commission instituted a process of *ex ante* Sustainability Impact Assessments (SIAs) of all new measures proposed in its international trade negotiations. The current trade SIA programme has a budget of more than EUR 2,700,000 over 4 years (Friends of the Earth, 2006).

SIA included a public consultation component called the Civil Society Dialogue (CSD), which was likely to please the NGOs, as it offered them an opportunity for participation in decision-making. However, instead of rejoicing, they have continued to regard it only ambivalently ever since it was offered to them 6 years ago. As the private sector is considered part of civil society, business lobbyists have access to these deliberations too, where they sit side-by-side with the NGOs across from representatives from DGs.

It would go beyond the scope of this paper to analyse the evolution of civil society views on trade policy, while a thorough study of them has just been done elsewhere.⁴ Therefore we shall merely recount here the

⁴ See on this the study done by Slob and Smakman (2006). The first author has participated in the CSD in collaboration with the Sustainable Europe Research Institute, Vienna, www.wsis.ethz.ch/seri.htm.

original purpose of beginning to do SIAs of trade measures; it was to allay resistance from civil society through a concession made by the European Trade Commissioner at the time, 1999, Pascal Lamy, in the political environment described below. Generally international trade policy is a “policy area that frequently sparks suspicions of illegitimacy” (Knigge, 2005, p. 2). This attempt has been only partially successful; SIAs are still often perceived by civil society merely as “green wash, or as a superfluous bureaucratic exercise” (FERN, 2000). The other IA process, the Commission-wide one, was begun for a reason quite different from that for SIA, namely pressure from the Council, which had not only sustainability in mind but also an impulse to cut back regulation.

A timeline of how European Commission IA began as “Trade SIA” is given in Fig. 2; EIA was later included in SIA. The Trade SIA with its consultations was set up soon after the failure of the Multilateral Agreement on Investment (MAI) in 1998, a debacle which convinced the Commission of the need for civil society integration (Woolcock, 2005, p. 244).

Lamy promoted the introduction of SIA and what was to become the Civil Society Dialogue as a means of defusing such protest.⁵ The urgent need for some change in strategy on the part of WTO negotiators is reflected in the fact that, shortly beforehand in 1999, the attempt to start a “Millennium Round” of trade talks had ended instead in the so-called “Battle of Seattle”.

The role of trade needs clarification: is it a means to something else or an end in itself? Clive George from IARC recently challenged those present at a DG Trade conference to consider whether “instead of an

⁵ As per Craig Robertson, representative of the Secretariat General, personal communication 20.6.06.

environment chapter in a trade agreement, we need a trade chapter in a sustainable development agreement.”⁶ In the same vein comes a suggestion by Nobel-Prize winner Joseph Stiglitz, who has said that instead of Sustainable Development (SD), the overall objective of the Doha Development Agenda negotiations is to be a “collectively agreed global social welfare function”. Stiglitz also proposes global public goods as an objective of trade negotiations (Stiglitz, 1999, Stiglitz and Charlton, 2004, 2005).

There are strong links between trade policy and SD revealing where transitions toward SD are possible and permissible. At a very basic level, trade is civilization’s response to the geography of different natural resource endowments. The question as to how much trade liberalization in which countries is compatible with SD has given rise to hotly contested economic theories outlined in books by Easterly (2001), Homer-Dixon (1999) and Barbier (2005).⁷

The most serious environmental effects of trade are indirect, as trade magnifies unsustainable patterns of consumption and production (Brack, 2005). Under the right conditions trade promotes economic growth, potentially furthering human development. The basic trade/environment nexus has been accentuated since the 1990s as international negotiations on trade policy under the banner of globalization have been penetrating into diverse sectors that used to be considered domestic policy such as environmental protection and health standards, to name only two. When member states of the World Trade Organization (WTO) pass legislation in spheres such as these, which were once thought to be domestic matters, it must nowadays be WTO-compatible to avoid challenges of non-compliance from other WTO member states before the WTO’s powerful Dispute Settlement Mechanism (DSM). With the exceptions of national security (handled through the United Nations) and foreign investment (handled through arbitration tribunals), the DSM has jurisdiction for all disputes between any two WTO member states including environmental ones. However, it has thus far shied away from testing the applicability of Multilateral Environmental Agreements containing potentially controversial trade implications. This perceived intrusion by the WTO into matters formerly thought domestic has made trade liberalization a field considered appropriate for SIA (Dalal-Clayton and Sadler, 2005, pp. 164–165).

Since 1999 the EC has had Trade SIAs done of many of the new measures proposed in the sector of its international trade negotiations. The Impact Assessment Research Centre (IARC) at the University of Manchester has done Trade SIAs of proposed WTO multilateral trade negotiations and of the Euro-Mediterranean Free Trade Area. The former included in the first year sectoral studies on market access, environmental services and competition policy. In the second year IARC worked on agriculture, forestry and distribution services, and until mid-2006 on the Doha Development Agenda (IARC, 2006).

In general one can say that the completed Trade SIAs have usually revealed positive economic effects and negative environmental effects with the social factors proving hard to quantify. Conceivable corrective flanking measures were often limited because they would intrude on host-country sovereignty. Of course this problem would be solved if countries other than the EU and its member states would do SIAs also.

This paper intentionally does not address the key issue as to whether DG Trade really follows the advice generated by SIAs, because that issue would go beyond the scope of our analysis.

2.2. *The introduction of the Commission-wide IA*

In 2002 another type of impact assessment was introduced, the Commission-wide IA. This type of IA was to apply to all sectors of the Commission’s work in response to a mandate from the 2001 intergovernmental conference held in Gothenburg, where an (EU-) external dimension had been added to the SDS (European Presidency, 2001, and EC, 2005a).

The atmosphere was propitious for sustainable development rhetoric just before the Rio+ 10 anniversary in Johannesburg in 2002. It was then that the Commission at the Gothenburg Council launched this type of IA, which was very different from the Trade SIA; one “intended to integrate, reinforce, streamline and replace all the existing separate impact assessment mechanisms for Commission proposals”, as the Commission itself declared (EC, 2002, p.3). Ironically, this time the IA process was to have a deregulatory function aimed at creating the economic benefit of competitiveness, which some analysts judged to be even stronger than the reference to sustainability (Renda, 2006). The onset of this process, first officially called “Integrated Impact Assessment” (IIA), and later known simply as IA, is depicted in Fig. 2.

Renda sees the evolution of the tool of IA as follows: “Although the IIA model was initially rooted in sustainable development, it gradually became an important

⁶ Personal observation, March 21, 2006.

⁷ For the resource curse hypothesis see Homer-Dixon, for the factor endowment hypothesis see Barbier, 2005, p.3

tool to facilitate the achievement of the competitiveness goal set at the Lisbon Council” (Renda, 2006, p. 119). The Institute for European Environmental Policy (IEEP), London, was less appreciative in doubting whether the combination of regulatory impact analysis and environmental assessment had been successful (IEEP, 2005).

The history of the EU SDS endorsed by the Gothenburg Council (European Council, 2001) and implemented by the impact assessment process has been reported by Spangenberg (2003) and in the context of the current MATISSE Project by Turmpenny et al. (2005). See also Ruddy (2005) and EEB (2006).

As the European Commission announced in the opening lines of one of its seminal documents on the new IA process (EC, 2002), there was to be no contradiction between the renewal of the Lisbon Agenda (i.e. global competitiveness) and the Gothenburg Agenda (i.e. Environmental Policy Integration (EPI) and SD): “The Commission intends to launch impact assessment as a tool to improve the quality and coherence of the policy development process. It will contribute to an effective and efficient regulatory environment and further, to a more coherent implementation of the European strategy for Sustainable Development” (EC, 2002, p.2). In 2005 the Commission was still striving for policy coherence: We should make policy choices that ensure that our various objectives are mutually reinforcing. Actions that promote competitiveness, growth and jobs, as well as economic and social cohesion and a healthy environment reinforce each other. These are all essential components of the overarching objective of sustainable development, on which we must deliver, was proclaimed in “The Commission’s Strategic Objectives 2005–2009, COM (2005) 12” (EC, 2006a, page 4). The Commission has yet to deliver on this promise, but the next section offers a perspective on how to do so.

2.3. *A vision of truly integrated impact assessment*

As the Commission-wide IA process is currently implemented, it has many weaknesses such as its potentially contradictory objectives and the fact that it is based on a weakly acknowledged SDS. Thus, taken optimistically, the current form of IA may be but one step on a longer road. That road may lead to a policy-making process that proceeds from a clear definition of objectives instead of looking at an externally defined policy object. The MATISSE Project calls this process “Integrated Sustainability Assessment” (ISA), which is “conceptualised as a support to longer term and more strategic policy processes, where the objective is to explore persistent problems of unsustainable develop-

ment that have a systemic pathology and possible solutions to these”.⁸ The MATISSE researchers can even imagine an important hurdle being taken in reconciling the Lisbon Agenda with the EU SDS: one merely has to obtain “more economic benefits from resources than competitors do” (Weaver and Jordan, 2006, p.5).

One of their tentative conclusions is that many of the weaknesses perceived in IA might be eliminated if IA were purposefully supplemented by ISA. Hence they propose measures to influence the market mechanism (both eco-taxes and cap-and-trade approaches) and ones to promote social learning to bring about transitions. Better facilitation of learning is also demanded by EEAC (2006) and Calenbuhr (2004). The Commission-wide IA process could provide coherence if it had a reference framework free of internal contradictions, which is not being provided by the SDS. On this point Weaver and Jordan (2006) concur with Norman Lee, who also calls for a common definition of sustainable development. They call for the exploratory function of the SDS to be accomplished by ISA, which would resort to behavioural change (sufficiency) in addition to technological improvements (efficiency) when the situation required.

2.4. *The challenge of Environmental Policy Integration*

Environmental Policy Integration (EPI) is a very high-level central guiding vision. Andrea Lenschow derives it from sustainable development, which – as the “mother concept” of EPI – “may rightly assume compatibility between economic, social and environmental concerns at a global level. But at sector and sub-sector levels trade-offs are likely to appear and there may be real winners and losers of EPI”, warns Lenschow (2002), as cited by Persson (2004, p.18).

One reason why it is important to coordinate better the Commission’s IA processes is that they are the beginning of a system encompassing the other policy-making bodies in Brussels as well as part “of a new system seeking to integrate all existing internal procedures for impact assessment. An inter-institutional agreement on better regulation has subsequently been agreed, between the Parliament, Council and Commission, committing all institutions to using impact assessments,” reports the European Environmental Agency (EEA, 2005a, p. 38).

⁸ Weaver and Jordan (2006, page 3). What the MATISSE Project calls “(S)IA” is simply called Commission-wide IA in the present paper.

Table 1
Each IA process treats the sugar case differently

Type of assessment	DG Trade SIA Process	Commission-wide IA process	
Orientation	Outward	Inward	
Assessment processes	SIA on reform of WTO Agreement on Agriculture, “sugar” being one of six most important products	Impact assessment of reforms in reaction to negative WTO panel decision on Brazil/Thai complaint:	
		Reform of CMO	Reform of Sugar Protocol
		Domestic parties	African, Caribbean and Pacific (ACP) countries
DGs involved	DG Trade	DG Agriculture and others	DG International Cooperation and others

In fact a “High Level Technical Group” is responsible for monitoring the implementation of the Inter-Institutional Agreement on Better Lawmaking adopted in December 2003 (EC, 2005f). “When the European Parliament and the Council carry out impact assessments, they will, as a general rule, take the Commission’s impact assessment as the starting point for further work”.⁹ A newer research project is tackling EPI from 2006–2008 called Environmental Policy Integration and Multi-level Governance (EPIGOV) (Ecologic, 2006).

The next section of this paper will examine the lack of coordination of impact assessment processes, namely Commission-wide IA and Trade SIA, which is found to be detracting from EPI and policy coherence, and evidences of rivalry among DGs.

3. The need for better coordination of impact assessment processes

There is a need for better coordination of the two IA processes in the Commission. One external factor leading in this direction is the intrusion of WTO trade law beyond “border measures” such as tariff schedules into areas that have previously been considered “domestic” in member countries, factors such as what the WTO calls “Non-Tariff Barriers”. In support of this assertion an OECD working group has recently pointed out that applying a trade screen as part of impact assessment procedures could become regarded as essential in coming years: “The incorporation in RIA of more explicit references to international trade could be a major focus for the trade policy community in the coming years” and “There is...a need for greater collaboration and coordination between trade and regulatory officials during the development of regulatory proposals” (OECD, 2006, p.4 and 10).

⁹ Per the “Inter-Institutional Common Approach to Impact Assessment (IA)”, Item 15, European Commission, Secretariat General, portal.

If the Commission-wide IA process requires trade expertise to perform the trade screening of new initiatives on the Commission’s work plan, one logical first step would be to seek more intensive involvement of DG Trade in the Commission-wide IA process. This is not likely to happen by itself, and the present formal procedures do not provide for more than *ad hoc* consultation in Inter-Service Groups.

One case in which the two IA processes have addressed similar—if not exactly the same—policy questions is the reform of the European sugar regime, officially known as the Common Market Organization (CMO) for sugar. It has been the one instance identified thus far where a decision on an issue complex is pending and both IA processes have dealt with it, albeit in very different ways (EC, 2006i; IARC, 2006). We will therefore use the sugar case to demonstrate the need for better coordination of IA processes.

3.1. The reform of the European sugar regime — a case study in policy learning

Sugar is an interesting subject for a case study; it has some aspects in common with another exotic import to the EU, bananas, which became a classic in the history of trade policy.¹⁰ Like bananas, sugar is a tropical agricultural commodity imported from the African, Caribbean and Pacific (ACP) countries; but unlike bananas, sugar is also produced by European farmers. Thus in the sugar case the EC has commitments on more fronts than in the case of bananas, inwardly as well as externally (see BBC, 2005, for a primer). Besides that, recently sugar has been proving to be a hot topic in particular in connection with its use as a feedstock for bioenergy, a situation which could bring some people’s hunger for food into conflict with others’ hunger for energy (EC, 2006c).

The reasons for taking on the topic of sugar were quite different in the two IA processes, and became the

¹⁰ Between 1993 and 2001 a trade dispute raged at the WTO between the US and the EU over bananas (ICTSD, 2001).

separate issue complexes shown on the left and right sides of [Table 1](#):

- DG Trade took it on as part of the long-pending reform of the Common Agriculture Policy (CAP) being negotiated as a result of the WTO Doha talks; the question to be answered was: How fast should the EU reduce subsidies on six agricultural products (including sugar) to comply with the WTO's trade liberalization agenda? Here special attention was on external strategic, but delicate diplomacy: How should the EU negotiate?
- The Commission-wide process took the sugar issue on as the basis for considering a new European Council directive to comply with the more specific ruling handed down by the WTO's dispute-settlement panel in 2004 at the instigation of sugar exporters Brazil, Thailand and Australia. The question to be answered was more specifically focussed on sugar: In view of the WTO panel ruling in Brazil's favor against the EU, should the EU opt for full liberalization or only one of the less liberalized options?¹¹ Here special attention was on the losers at home: How should the EU compensate?

3.1.1. How the SIA was done on sugar

DG Trade commissioned the Impact Assessment Research Centre (IARC) at University of Manchester to do an SIA for six major products including sugar, together with the Overseas Development Institute in London. This project delivered its final report in 2005 ([Morrissey et al., 2005](#)).

The final report also gives details of “the environmental impacts of sugar policy reform on developed and developing countries” (p.29) in the form of soil and fertilizer effects, relying on a 2004 WWF study. They found that Brazil would benefit greatly, if not disproportionately: “The largest [economic impact] would be seen for the sugar industry, up by 16%...” (p.36). Likewise “India will be one of the major beneficiaries of a liberalised sugar market” (p. 41). Similar conclusions are reached by [Grill et al. \(2005\)](#).

One potentially confusing aspect of the current agricultural trade liberalization is that it is divided into general liberalization and the special preferences afforded certain ACP countries. Mauritius, a beneficiary of the latter, would lose its main export crop industry altogether, a relatively dramatic effect, as [Morrissey et al.](#)

¹¹ The degree of liberalization is a trade-off between how little liberalization would satisfy the WTO and how much liberalization European farmers would tolerate.

Table 2

Key impacts identified for sugar ([Morrissey et al., 2005, p.27](#))

Economic	Social	Environmental
Production losses in EU and sugar protocol, gains in exporters (e.g. Brazil, India, Australia)	Income and employment gains/ losses as per production.	Adverse where production increases.
	General consumer gains from lower prices	Benefits where production falls

([2005, p. 31](#)) found: “[A]lthough sugar is a product affected by the agricultural trade liberalisation, the effect of the SIA scenario is small relative to the effect of reform of the Sugar Protocol that benefits ACP countries, especially Mauritius.”

The WTO-incompatible preferences are to be dramatically “eroded”: In the sugar case [Morrissey et al. cite Borrell and Hubbard \(2000\)](#), who estimate that complete liberalisation of the EU sugar market would lead to a loss in income transfers for the ACP Sugar Protocol countries of US\$ 400 million per year. The greatest losses would be for those countries which export sugar only or predominantly to the EU and have the biggest preferential quotas (Mauritius, Guyana, Fiji and Barbados); see also [EC \(2005d\)](#).¹²

[Morrissey et al.](#), although working on an SIA, also deal with EU-internal effects by including a “Summary of Sustainability Impacts for the EU”. The EU-internal impacts on sugar production are concentrated in rural areas and in certain countries such as Spain. Their extent is low in the aggregate, but high in probability of occurrence ([Morrissey et al., 2005, Table 12, p.57](#)). This paper's [Table 2](#) is an excerpt from that larger fact sheet.

There is one additional fact that must be mentioned in the argumentation of this paper to the credit of the Commission, and which does help appreciate better why the two IA processes have taken such different courses as they are doing currently in general: The Commission as the executive branch of government needs a degree of “free rein” to negotiate treaties, as the negotiation process requires give and take reactions to partners on short notice. DG Trade exercises this option. Ratification may be imposed as a requirement to preserve the principle of checks and balances with the legislative branch of government. With such free rein DG Trade has its

¹² A study commissioned by [WWF \(2006\)](#) found that “Importantly, the increased external EU demand for sugar will not be satisfied by its traditional ACP partners but by those EBA [Everything But Arms] beneficiaries that are also low-cost sugar-producing countries, such as Malawi, Swaziland, Zambia and Zimbabwe.” ([Dufey et al., 2006, p. 152](#)).

negotiations and concomitant SIA which cover sugar as part of the talks on agriculture.

3.1.2. How the Commission-wide IA was done on sugar

Unlike an SIA, a Commission-wide IA is not carried out by an external contractor, but is performed by the DG responsible itself.

A Commission-wide IA has to conform to the “Guidelines” issued in 2002 and updated in 2005 (EC, 2005b). The quality of such an IA is subject to independent monitoring by the Council, which may apply its own quality criteria. The level of detail is more modest than in an SIA, as the goal is only to justify a yes/no decision as whether to go ahead with the proposed measure (not to take all the positive and negative impacts into account and when appropriate, to recommend flanking measures). Theoretically at least, indicators of sustainable development are supposed to come into play, and some anchoring be provided for the proposed measure in the framework of the Sustainable Development Strategy (SDS).

The Commission-wide IA on liberalization of the Common Market Organization (CMO) for sugar is described in EC (2003, 2005e, 2006b). DG Agriculture needed to assess the impacts of liberalization on EU-internal stakeholders; DG International Cooperation needed to assess the impacts of liberalization on EU-external stakeholders (former colonies, now ACP countries). The main issue was to find the extent of liberalization that would satisfy the WTO without alienating the stakeholders, while of course considering sustainable development and regulatory burdens. Three scenarios

were examined: “No reform”, “Price cut” and “Full liberalisation — removal of price support and quota regime”. Ultimately the second one, a compromise position, was chosen. The “price cut” option referred to a drop in the EU-internal sugar price of 33%, as caused by removal of tariff protection and guaranteed purchases. The farmers suffering from this cut would in future be given payments made directly instead of coupled to production.

3.2. The current lack of complementarities between the two IA processes

The ways in which the Commission-wide IA is different from the SIA become apparent in Table 1, with the Commission-wide process shown on the right side. There the emphasis is more on how far one has to go to satisfy the WTO without alienating EU farmers. DG Trade may regard the Commission-wide process as giving sufficient treatment to those aspects, and thus may see no need to deal with them in its SIA. In this way the two processes may be complementary and information may flow constructively in two directions, informing each other. However it has not been possible to confirm that interpretation, and doubts persist as to whether anyone has considered the advantages that better coordination of the two IA processes could bring.

Did DG Trade have an opportunity to take the Commission-wide results into account in the sugar case? The facts show there was adequate time to include the Commission-wide IA in its SIA because the time frames of the SIA and IA processes were intertwined in the

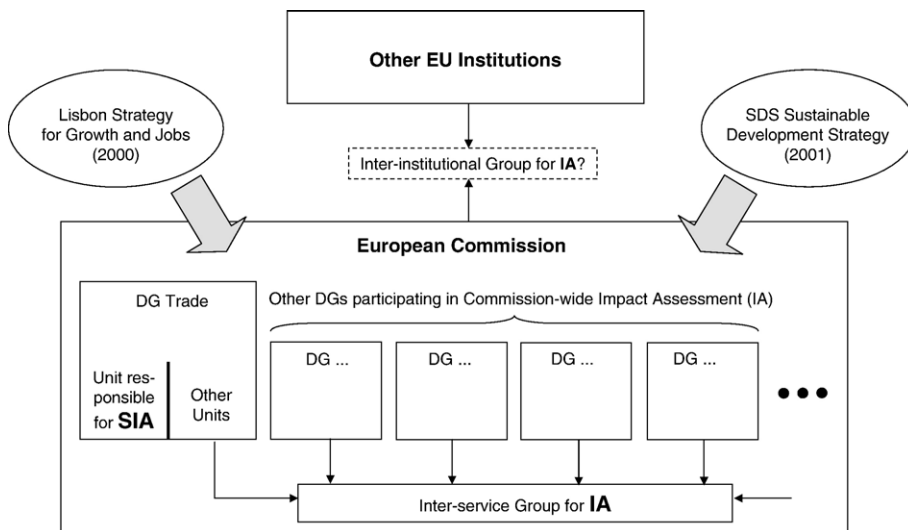


Fig. 3. Need for coordination bodies to improve policy coherence in EU Impact Assessment.

sugar case: the Commission-wide process took place while the longer SIA process was still running.¹³

Fig. 3 attempts to put the two IA processes against the backdrop of the SDS and the Lisbon Agenda, to which at least the Commission-wide process is explicitly linked. Note that DG Trade is depicted there as being split into two of its various constituent units, only one of which has been involved in the Commission-wide process looking at the sugar case — paradoxically *not* the same one as that in charge of the SIA process.

Surprisingly, DG Trade seems unwilling to address the differences in the two processes, preferring instead to gloss them over, downplaying the importance of the Commission-wide IA process. Adelle et al. (2005, p. 14) see some danger that this gap will prevent a coherent implementation of the SDS: “Our work suggests that there is currently a mismatch between the two [levels] 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”. That mismatch in coherence could be described as located between the EU SDS (right oval) and the Commission (box) in Fig. 3. We see a deficit there as well, and also between the unit in DG Trade responsible for SIA (part of the larger box at left) and other DGs (smaller boxes at right).

Indeed DG Trade portrays itself as aware that further efforts are needed to ensure coherence with other DGs, and its willingness to cooperate with them, as evident in this passage from its recent SIA Handbook (EC, 2006d) presented at the March 2006 conference. There the first author of this paper requested further clarification of the relation between the two IA processes, but was merely referred to the passage below:

“For the sake of continuity, there needs to be a smooth transition between the general Impact Assessment and the Trade Sustainability Impact Assessment:

- Process: A consultation group made up of representatives of different European Commission departments should be set up to carry out the general Impact Assessment and should bear in mind the subsequent Trade SIA phase from the outset;
- Substance: general Impact Assessments should highlight the aspects on which external consultants carrying out subsequent Trade SIA work may wish to concentrate their research. The terms of reference

for a Trade SIA should be drafted taking into account the Impact Assessment results and wider consultation with experts and stakeholders” (EC, 2002, p. 11)

If one considers DG Trade’s process to be used in isolation from the Commission-wide process it is in violation of the guidelines for the latter, which is intended to integrate all others: “Impact assessment is intended to integrate, reinforce, streamline and replace all the existing separate impact assessment mechanisms for Commission proposals.” (EC, 2002, p.3).

On the other hand, “there are no plans to merge the Trade SIA with the general Impact Assessment process or to replace one with the other,” says Robin Ratchford, Deputy Head of Unit G3, DG Trade.¹⁴ Ratchford continues: “The results of a general Impact Assessment of a proposal to seek a negotiating mandate from the Council could usefully provide a basis for the first stages of a Trade SIA carried out on the same negotiations once a mandate has been given.”

3.3. The unused potential for policy learning

The sugar case study demonstrates how pending decisions on a policy issue complex can be organized in two IA processes, which could be complementary to each other, thus yielding a more efficient division of labour. However as the two processes are currently practiced, the lack of interaction between them needs remediation.

The value added proposition in greater coordination of IA processes is that SIA should not mean applying WTO law mechanically, as it were. Instead the analysis of domestic impacts should inform negotiations determining future trade policy. *Policy learning* could thus be promoted. The measures that the EU, as an affected party, *learns* are effective in having the losers from trade liberalization compensated (the right-hand side of Table 1) could be instructive to negotiators as a determining party, i.e. makers of trade policy (the left-hand side of Table 1). Trade liberalization requires extensive adaptation on the receiving end, especially in the case of poor countries, as Joseph Stiglitz has recently warned (Stiglitz and Charlton, 2004).

3.3.1. Policy learning

Benefits could be had from four types of policy learning:

- 1 intra-Commission learning,
- 2 learning between the Commission and its stakeholder networks,

¹³ Mid-Term Report on the SIA is dated January 2005. In February 2006 the EU Member State Agricultural Commissioners approved a plan to reform the sugar regime (EC, 2006e). The Final Report on the SIA did not come out until 2006.

¹⁴ Personal communication 6.6.06.

- 3 learning from experience and research for the design of future IA processes, and
- 4 extension of impact assessment to other European institutions.

As for the first type of learning, namely, intra-Commission learning, this is a matter of better processing information related to a specific policy issue complex such as details of the sugar case. The Trade Commissioner and DG Trade are often accused of succumbing to business lobby pressure and emphasising competitiveness over other valid objectives of EU policy. For instance, “in 2003 [the development NGOs] WIDE, CIDSE and APRODEV issued a joint statement with several other NGOs with regard to the problems of non-transparency and undemocratic decision-making on trade issues...They asked that DG Trade seek adequate contributions from other DGs so that all possible aspects [of] SD were fulfilled in EU trade policy,” complains Kent (2005, p. 46). Sources within other DGs indicated to the first author that they perceive imbalances as regards the human and budget resources given to individual DGs to perform IAs.¹⁵ These expressions of opinion would seem to indicate the existence of a powerful position held by DG Trade in the Commission, which is not conducive to sharing information with other DGs.

Type 1 policy learning is supposed to be taken care of currently by the use of an Inter-Services Group (ISG) inserted between the two IA processes (see Fig. 3). However, Adelle et al. doubt whether adding an ISG will be sufficient for better coordination: “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 [citing] (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.” (Adelle et al., 2005, p. 15).

Wilkinson et al. from the Institute for European Environmental Policy (IEEP) in London found the practice of the ISGs noteworthy in the IA on sugar: “The ISG for the reform of the sugar regime was led by DG Agriculture, and consisted of several representatives each from no less than 13 DGs. The ISG held 17 half-day meetings between January and July 2003, including five hearings with various groups of stakeholders. A

total of 14 written submissions were made by members of the ISG. The ISG was regarded by participants as having a significant influence on the selection of topics to be analysed, and the final shape of the assessment” (Wilkinson et al., 2004, p.14) Indeed DG Trade was represented at the Inter-Services Group meetings on sugar, however not the particular DG Trade unit working on the SIA.¹⁶

Ideally the two processes should be complementary. The Commission-wide IA process is inward-looking (to the other DGs), whereas DG Trade with its SIA is outward-looking (to other countries and intergovernmental organizations). Aggarwal and Fogarty (2004) also describe the orientation of the Commission as “inward looking” in contrast to the orientation of nation states with the latter relating best to other countries.

As for the second type of learning, namely learning between the Commission and its stakeholder networks, one could imagine how policy networks could provide answers to some of the policy challenges that both the Commission and its expert contractors are facing. Some of the needed answers could be furnished by laypersons and NGOs participating in two-way exchanges during public consultations, as outlined in Funtowicz et al. (2002, p. 60). “Extended peer communities” serve then not only to verify the quality of policy proposals, but also create new perspectives, “as local people can imagine solutions and reformulate problems in ways that, with the best will in the world, do not come naturally, even to the accredited experts. Such exchanges could help to generate the vision and political will to overcome power imbalances in the Commission related to skewed representation of interests in its policy networks.

DG Trade once cultivated the Civil Society Dialogue (CSD) as a means of such policy learning with networks. However today it may no longer be reaching its policy networks effectively, as Erika Mann, Member of the European Parliament has suggested: “[Trade Commissioner Mandelson] underestimates the power of informal networks, failing to seek hard enough their agreement” (Pinzler, 2006, first author’s translation).

With regard to sustainable development, DG Trade’s dialogue and communication with business lobbyists should, on the one hand, spread understanding for the sacrifices that sustainability requires from them in respecting the need for policy space, environmental

¹⁵ Personal communication on 4.4.06 with Mr. Notis Lebessis, European Commission, Department of Agriculture & Rural Development, Economic Analyses & Evaluation Directorate, Adviser on Sustainability Issues.

¹⁶ The following persons represented DG Trade and DG Development respectively at the Inter-Service Group on reform of the CMO sugar: Mariella Catagalli and Lisa Mackie came from DG Trade. Lotta Isaksson and Philip Mikos came from DG Development (EC, 2003, Annex IV).

and social standards. On the other hand, strong lobby forces such as agriculture interests consulting with DG Agriculture should learn to see their concerns against the perspective of the more general benefits obtainable from trade liberalization at the expense of their privileges such as high protective tariffs and subsidies.

As for the third type of learning, namely learning from experience and research to improve the design of future IA processes, the results of research on truly integrated assessment should be taken into account.¹⁷

In the long run, this could mean that the SIA process including its CSD component evolves into a methodology adopted beyond its origin in the Commission, i.e. a methodology that could also be used outside the EU. It is a significant advantage of the Trade SIA as compared with the Commission-wide process that the former is suitable for use by other countries, while the latter is an EU-internal administrative exercise.

Why are not more SIAs done in countries outside the current leaders EU, Canada and the Philippines? One reason is that there is distrust among developing countries of environmental measures promoted by the North, which are suspected of “green protectionism”. This is a general problem in trade policy.

If other countries would do SIAs, it would mitigate another problem encountered in the SIAs, namely that some flanking measures might be viewed as interference in the sovereignty of other countries. Furthermore, it would balance off the risks inherent in holding public consultations which might betray the confidentiality of countries’ positions in ongoing trade negotiations. Both of these problems would be mitigated if more countries outside the EU did their own SIAs (Knigge, 2005, pp. 5–6).¹⁸

As for the fourth type of learning, namely extension to other European institutions, one must recall the longer-term perspective expressed in the Secretariat General’s document “Inter-Institutional Common Approach to Impact Assessment (IA)” (EC, 2006g). Each impact assessment process must build upon the other: Taking the Commission’s right of initiative as the basis, the Commission-wide process is a natural beginning of a longer chain of interrelated processes. SIA must refer to it. Likewise the Parliament will eventually begin its own impact assessment process, as will the Council and member states. All these impact assessment processes should be regarded as an integrated system.

¹⁷ Such as Weaver and Jordan, 2006.

¹⁸ Knigge also favors a “decentralization of the assessment process”, as he says was “suggested as part of the Global Environmental Assessment Project at Harvard University, which developed the idea of ‘distributed assessment systems’” (Cash, 2000, p. 1, and Knigge, 2005, p. 7).

4. Conclusions and outlook

Policy-makers are continually confronted with new situations and must remain willing to learn and digest large quantities of new facts. Against this background it becomes understandable that the EU institutions are experimenting with various techniques of ordering facts and practising evidence-based decision-making, and that IA processes are evolving.

As this paper goes to press, both the EU and the WTO are in crises, declaring “periods of reflection”. One would do well to reflect on the 7 years of experience there have been with impact assessment in the Commission including five since the launch of the Doha Round of international trade negotiations. Citizens’ attitudes to economic integration and to sustainable development are changing, the former especially as regards expansion and the latter in view of climate change. Evidence-based decision making should make the difficult policy decisions ahead more transparent to all interest groups. Hence stakeholder communication could be vital.

The number of cases of impact assessment studies now documented should be taken as a basis upon which to learn lessons from the two processes that have for historical reasons been developed separately from each other in the Commission, and to coordinate them both better. It appears that the Commission-wide IA process will prevail, and that somehow DG Trade’s older process must adapt to that reality.

One particularly unsettling feature of the Commission-wide IA process is the current persistence of the conflict inherent in using the same instrument to achieve the goal of “better regulation” from a competitiveness standpoint, i.e. the Lisbon Agenda, and the Gothenburg emphasis on sustainable development. The result thus far has been that the latter is reduced to rhetoric, while the former is having a renaissance under the German Presidency (EurActiv, 2004, with updates). Pursuing economic growth for job creation is politically more attractive than striving for sustainability with its external dimension, which is sometimes perceived even as “unpatriotic”. This predicament is being reinforced by a lack of clarity over *whose* conception of sustainable development is to prevail in the debate among stakeholders charged with revising the EU SDS during the first half of 2006. Perhaps the IA process emerging from the MATISSE Project offers a viable alternative to agreeing on the larger framework.¹⁹

¹⁹ Weaver and Jordan, 2006.

Better policy learning would have EU organs better sharing experience in how to communicate sustainability to their respective stakeholder networks, as the sugar case reveals would have been possible: in the case of SIA better policy learning would mean DG Trade would better understand domestic farmers' pain, counterbalance pressure from its business lobby and help affected countries elsewhere discover "flanking measures" to compensate for the adverse impacts of trade liberalization. In the case of the Commission-wide IA as well, better policy learning would mean that DG Agriculture acknowledge more gains from liberalized trade and help make globalization more easily understandable to its stakeholder networks, then better able to point to how negotiations are based on thorough assessments.

Will either of the existing IA processes prevail in the long run? The relational power of the Council over the Commission favours, of course, unequivocally the Commission-wide IA process over DG Trade's SIA. The legislative branch of government apparently enjoys receiving tailor-made policy input from the executive, and the Constitution – if and when it ever gets ratified – will give the Parliament as well a stronger role in IA. By the same token DG Trade's older IA process should not be abandoned; it could contribute valuable features for the design of future processes, namely its Civil Society Dialogue (CSD) and its applicability to the need for IA in countries outside the EU.

Even within DG Trade, the Commission-wide IA process is on the upswing: Now that the negotiations on the Doha Development Agenda have been put on hold, the use of Regional Trade Agreements (RTAs) will rise.²⁰ Each of them and each major bilateral agreement such as the ones anticipated with China and India will comprise a new initiative on the roadmap and thus require a Commission-wide IA. The multilateral development will thus boost the relative importance of that process in relation to SIA. The trade screen referred to in late 2006 by a working group at the OECD may act as a catalyst or second force tending in the same direction as the proliferation of bilateral treaties.²¹

In the coming years then, the two impact assessment processes appear likely to become better integrated with each other, thus providing a better environment for policy learning. Moreover eventually, the Council, Parliament and member states are due to develop their

own versions of impact assessment processes, perhaps constituting an integrated system.

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²⁰ Personal communication with Rupert Schlegelmilch, DG Trade, 16.6.06, and Wright (2006).

²¹ The trade screen has been described above in the Introduction section of this paper and in OECD, 2006.

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