

**THE EFFECTIVENESS OF PROVISIONS AND QUALITY OF PRACTICES
CONCERNING PUBLIC PARTICIPATION IN THE EIA PROCEDURES IN
ITALY AND THE UK**

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SUMMARY

The Environmental impact assessment (EIA) procedure foresees that the information on the environmental effects of a specific activity are used to support the decision on whether to give a project consent, and has the ability to ensure no more than that the decision taken is an *informed* one. As one of the principle groups of actors in the procedure, it can be concluded that the effective involvement of the public serves to guarantee, at least in part, the effectiveness of the whole EIA procedure. This paper therefore addresses the following question: how can the effectiveness of provisions for and practices concerning public participation in the EIA procedure be improved, with specific reference to Italy and the UK? We start by examining the literature and general public involvement practices in EIA to establish what the ‘goals’ of involving the public in the EIA procedure are, and which ‘factors’ contribute towards achieving effective public participation. Indicators for both the ‘goals’ and the ‘factors’ are then identified and used to analyse the legislative provisions and procedures of each country in relation to their implications for effective public participation. Two case studies for each country are also analysed in relation to the same set of indicators. As a final step ‘profiles’ of public participation in EIA for each country are created and broad recommendations based on the opportunities for improving the effectiveness of public participation formulated.

JEL: O20, K32, Q20

Keywords: environmental impact assessment, public participation, voluntary approaches

NON TECHNICAL SUMMARY

Environmental Impact Assessment (EIA) is the procedure in which information on the environmental effects of a specific activity are used to support decision making. It was first introduced in the United States in 1969 as a mechanism by which development and growth are considered within the context of their impacts on the environment and not only their economic significance. In Europe, the Directive 85/337/EEC was adopted on 27 June 1985 and entered into force 3 years later on July 3rd 1988. Trends in EIA are moving away from the scientific ‘expert’ approach towards a more holistic one in which economic and social concerns are integrated in the EIA. This broadening of the EIA procedure has paralleled the increase in transparency in administrative processes in many countries and debates about the active role of the public in

democracy and decision making. It is recognised that, as one of the key groups of actors involved in the procedure, the public plays an important role, and it can be concluded that the effective involvement of the public serves to guarantee, in part, the effectiveness of the whole EIA procedure. What we aim to examine is: how can the effectiveness of provisions for and practices concerning public participation in the EIA procedure be improved, with specific reference to Italy and the UK? In order to answer this question, we start by establishing what the 'goals' of involving the public in the EIA procedure are, and which 'factors' contribute towards achieving effective public participation. Indicators for both the 'goals' and the 'factors' are then identified and used to analyse the legislative provisions and procedure in Italy and the UK in relation to their implications for effective public participation. Two case studies in each country are also analysed in relation to the same set of indicators. As a final step a 'profile' of public participation in EIA for each country is created and broad recommendations based on the opportunities for improving the effectiveness of public participation formulated.

1 INTRODUCTION

The procedure of Environmental Impact Assessment (EIA) is one in which information on the environmental effects of a specific activity are used to support decision making and has the ability to ensure no more than that the decision taken is an *informed* one. It was first introduced in the United States in 1969 as a mechanism by which development and growth are considered within the context of their impacts on the environment and not only their economic significance. In Europe, the Directive 85/337/EEC was adopted on 27 June 1985 and entered into force 3 years later on July 3rd 1988.

Trends in EIA are moving away from the scientific ‘expert’ approach towards a more holistic one in which economic and social concerns are integrated in the EIA. This broadening of the EIA procedure has paralleled the increase in transparency in administrative processes in many countries and debates about the active role of the public in democracy and decision making. There is still resistance from regulators, public administrations and developers to the idea of steps being taken to strengthen public participation in the EIA procedure and the NATO/CCMS (1995) study of public participation in EIA in NATO countries found most legal provisions and practices wanting with respect to their effectiveness. However, it was also found that in the majority of the countries examined, voluntary public involvement activities take place “as a reaction to the deficiency in legislation”. It is recognised that, as one of the key groups of actors involved in the procedure, the role the public plays is an important one, and it can be concluded that it is the effective involvement of the public that serves to guarantee in part, the effectiveness of the whole EIA procedure. The Question central to this research is: How can the *effectiveness* of provisions for and practices concerning *public participation* in the *EIA procedure* be improved, with specific reference to Italy and the UK?

In order to answer this question the approach undertaken initially entails establishing the goals of involving the public in the EIA procedure and isolating the factors that contribute towards achieving effective public participation. Following this, indicators for both the ‘goals’ and the ‘factors’ are identified and subsequently used to analyse the legislative provisions and procedures of each country in relation to their implications for effective public participation. Two case studies for each country are also analysed in relation to the same set of indicators as used in the analysis of the provisions and procedures. ‘Profiles’ of public participation in EIA for each country are then created by combining the results of the analysis of the provisions with that of the two case studies. Broad recommendations are then made based on the opportunities for improving the effectiveness of public participation as emerging in the profiles.

2 PUBLIC PARTICIPATION IN EIA & ANALYSING ITS EFFECTIVENESS: REVIEW AND METHODOLOGY

2.1 The goals of involving the public in EIA

An examination of the relevant literature resulted in the formulation of a succinct set of the goals for involving the public in the EIA procedure. These can be seen in Table 1. In practice, legislative provisions may only accommodate for the satisfaction of some of these ‘ideal’ goals and not all may be chosen as the objectives of the public involvement activities. However, it should be noted that their separation is an artificial one, as the satisfaction of one goal can contribute to the achievement of others and/or suited to public participation at a certain stage of the procedure.

2.2 The four factors contributing to effective public participation

The literature review also isolated four factors as those which contribute to effective public participation in EIA. These are summarised as follows:

1. The nature of the public involved. By involving both individuals and organised groups (ad-hoc or pre- established) with diverse interests, being proactive in ensuring their involvement (not assuming they will seek to be involved), not favouring one element of the public, the effectiveness of public involvement is positively influenced.
2. The amount of power the public is attributed in the EIA and related decision making process by the inherent nature of the techniques and methods used. By assigning higher levels of power to the public and ensuring that the public are adequately equipped for these high levels of power, the effectiveness of public involvement is positively influenced.
3. When the public are involved in the procedure. It is feasible to involve them at all stages. By involving the public from the early stages of the procedure and throughout, the effectiveness of public involvement is positively influenced.
4. The ability to ‘manage’ conflict. By being flexible through anticipating, avoiding, recognising, responding to and resolving conflict, the effectiveness of public involvement in EIA is positively influenced.

2.3 Identification and Application of indicators for analysing effectiveness

The indicators used to assess the effectiveness of public involvement in EIA are chosen on the principles that: they should be directly observable phenomena that can be measured objectively; there is always a close relationship between the indicator and the aims; they are suited to the

deductive approach undertaken in this study. There are two types of indicators used - those related to the achievement of the goals of public involvement in EIA and those related to the factors that contribute towards effective public involvement in EIA.

2.3.1 *Analysing the effectiveness of public involvement by establishing the goals achieved*

The starting point for an analysis of effectiveness in terms of the goals of public participation in EIA is: *public involvement is effective when the goals of involving the public in the EIA procedure are satisfied*. The listed goals of involving the public in the EIA procedure can be divided into those that permit ‘directly observable phenomena’ to be used as indicators and those that are more subjective in nature and suited to an inductive approach (Table 1).

Goals 5 and 8 are difficult to ascertain with a deductive approach alone and are therefore examined in this study in relation to evidence that suggest they were being *pursued* with conclusions drawn when possible from other sources in determining their achievement. The achievement of the other goals is determined by the presence of the public involvement activities known to realise them (as seen in the literature) and the evidence that the activity achieved something, i.e. it is meaningful. Determining if overall decision making is improved (goal 8) suggests that the quality of the decision without public participation first be determined; this is beyond the scope of this study.

Table 1 The goals of public involvement

Goals	Directly observable phenomena can be used as indicators.
1. Identifying interested parties and their concerns and values surrounding the proposed development.	√
2. Collecting information about the local environment and the local community.	√
3. Defining problems and issues that should be addressed in the Environmental impact study (EIS)	√
4. Identifying alternatives.	√
5. Understanding the perception of the proposed activity.	X
6. Validating the quality of the EIS and obtaining feedback about the quality of the proposal.	√
7. Informing and education on the project, the consequences and decisions.	√
8. Improving overall decision making.	X
9. Reaching conflict resolution and consensus.	X

2.3.2 *Analysing the effectiveness of public involvement in relation to the four factors and their indicators*

The following broadly defines these factors and the indicators used in the analysis. The rationale behind both the factors and their indicators are drawn from the literature review.

1. The nature of the public involved (the wider the better). The indicators used are:

- addressing non-organised individuals (positive);
- addressing organised groups (positive);
- addressing diverse interests (positive);
- favouring one element of public (negative);
- assuming the public seek information (negative).

2. The amount of power the public is attributed in the EIA procedure and related decision making process by the inherent nature of the techniques and methods used (the higher the better, but the public must be equipped for the power). The indicators used are:

- the method or technique used in the public involvement activity and the form of communication it is part of;
- the level of power the form of communication attributes to the public.

3. When the public are involved in the procedure (the earlier the better, as well as throughout the process). The indicator used is:

- the presence of public participation at the feasible stages of the procedure.

4. The ability to ‘manage’ conflict (the more flexible the better). The indicators used are:

- the developer instigated activities beyond legal requirements (positive);
- the developer anticipated conflict (positive);
- the developer tried to avoid conflict (positive); D tried to resolve conflict (positive)
- the developer possibly exacerbated conflict (negative);
- conflict was resolved and consensus reached (positive).

2.3.3 *Application of the indicators and limitations of the analytical tools*

Both types of indicators are applied to the case studies and legislative provisions and procedures in each country. However, when they are used for the analysis of the legislation and procedure they

take on a slightly different aspect. For the goals, the provisions and procedure are analysed in terms of which of the goals appear to be their objectives. For the four factors, they are analysed according to: who the provisions and procedure permit to be involved; the power attributed to them; when they are involved and the potential for the management of conflict.

The methodology has limitations that can be summarised as follows: the breakdown of these goals is in fact quite artificial as they are often related to each other in an iterative and consequential manner; the focus on the developer's activities tends to underestimate the role the other actors have in instigating and ensuring effective public participation; interviews and documents may introduce bias; the research may not include all of the facts and the cases may be judged unfairly.

3 THE LEGAL FRAMEWORK & THE PROCEDURES: BRIEF DESCRIPTION & ANALYSIS OF THEIR IMPLICATIONS FOR EFFECTIVE PUBLIC INVOLVEMENT

3.1 The EIA Directives and public participation

Directive 85/337/EEC aims to introduce a common procedural framework for the systematic assessment of development projects in which this assessment and the considerations of this assessment, occur at the earliest stages possible (therefore being preventative in principle) enabling "proposals to be modified in the light of potential impacts identified in order to eliminate or else mitigate them" (Sheate, 1994). The information produced by the assessment is then to be 'taken into consideration' by the competent decision making authorities before making the decision whether to grant consent for a particular development proposal. Directive 97/11/EC, amending Directive 85/337/EEC, was emanated on the 3rd March 1997 and will come into force on 14th March 1999.

The discretionary nature of the EC Directive accommodates for the differing legal and administrative systems into which the procedure must be inserted. It is therefore logical to assume that within the 'framework' for the EIA procedure there will be organisational differences in different member states and practice will be further influenced by participatory culture, the degree of implementation of the Directive and whether the MS has adopted measures above the obligations specified in the Directive. However, the Directive clearly delineates most of the differing stages of the procedure, but only requires the use of some of their inherent opportunities for involving the public. In all, the public are assigned a triple right; to be informed, to be consulted and to be taken into consideration (Pellizzoni, 1992). According to the levels of power discussed earlier, the public is therefore allowed 'no' to 'low' power in the EIA procedure and related decision making process.

3.2 The principal environmental impact assessment regulations in Italy

The Italian Ministry of the Environment (MoE) was established by law n.349 8 July 1986. In July 1988, the MoE presented a draft of the framework law implementing the objectives of Directive 85/337/EEC to Parliament (still pending) and in the meantime emanated the following decree *Dpcm 10 august 1988 n.377 titled Regolamentazione della pronunce di compatibilita ambientale* (Regulations for the declaration of environmental compatibility) which requires an EIA for projects listed in Annex I of Directive 85/337/EEC with the addition of dams and certain other installations from Annex II. Decree 377 entered into force with the publication of. *Dpcm 27 December 1988, Norme tecniche per la redazione degli studi di impatto ambientale e la formulazione della giudizio di compatibilita* (Technical regulations for the preparation of the environmental impact study (EIS) and for the formulation of the judgement of environmental compatibility). The scope of this decree is to define the integrative technical regulations for all of the types of projects listed in article 1 of the Dpcm 10 August 1988 n. 377.

Following an Infraction procedure against the Italian State by the European Commission on the 7th July 1993 regarding their unfulfilled obligations to set criteria and thresholds of exclusion for Annex II projects, the following decree *Dpr 12 April 1996 Atto di indirizzo e coordinamento* (Act of instruction and co-ordination) assigns the Regions and Autonomous Provinces the competence to apply the EIA procedure to projects listed in Annex II of the 85/337/EEC Directive. This regulation came into force in June 1997. The most important innovations are: the introduction of a formal scoping phase (not obligatory); the integration of EIA in all the relevant authorisation and environmental permit procedures; the competence of the regions for all of the projects in Annex II, except for those that are already regulated at a national level; a self declaration by the proponent of a “finding of no significant impact” in the case of projects listed in Annex II of the Directive that respect the criteria and thresholds established in the Annexes of the regulation.

The draft for the framework law approved of in 1990 by the Council of Ministries makes provisions for EIA of all of the projects specified. The emanation of the “Atto di indirizzo e coordinamento” has rendered it ineffectual to a large degree and the current debate around it concerns its potential for the future introduction of the environmental assessment of plans and programmes and a further simplification of the procedure. It should also be noted that some Regions of Italy and Autonomous Provinces have special constitutional rights and have promulgated specific EIA laws, some of which are considered far more advanced than the decrees from the Ministry of Environment.

3.3 The principal Environmental Impact Assessment Regulations in the UK

EC Directive 85/337/EEC obligations have been implemented in the UK through secondary legislation based on section 2 (2) of the European Communities Act of 1972. A series of Regulations incorporate the requirements of the Directive as far as possible into the existing town and country planning system in which planning permission was already generally required from the local authorities. EIA (known as environmental assessment (EA) in the UK) of the majority of projects listed in Annex I of the Directive and of the project categories and sub categories listed in Annex II are covered under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 and its successive amendments. The projects listed in Schedule 1 of the Regulation are subject to mandatory EIA. Whether or not a project falls into the scope of Schedule 1 is clarified by the definitions of those projects which incorporate an indication of scale in the form of a quantified threshold. Where there is doubt, procedures exist for obtaining an opinion from the planning authority or the Secretary of State (SoS). Annex II projects, categories and sub categories for which member states are permitted to define thresholds and criteria to determine the need for EIA are listed in Schedule 2 of the Regulations, for which EIA is only required if the particular project in question is judged likely to give rise to 'significant environmental effects'. Rulings can be obtained on the need for EIA from local planning authorities or the SoS. Additional guidance is in the Department of the Environment (DoE) Circular 15/88. The SoS can make Regulations for the purposes of requiring EIA for projects other than those already listed in Annex I and II of the EIA Directive. After a long delay due "at least in part to the Government's deregulation initiative and in gaining the agreement of a number of environmental departments" (Sheate, 1994), these provisions were used by the Government in 1994 to add privately financed toll roads to the list of projects that undergo mandatory EIA as well as add windfarms, coast protection works and motorway service areas to the Schedule 2 projects.

3.4 Analysis of the EIA Legislation and Procedure in Italy: the Implications for Effective Public Involvement

3.5

The results of the analyses of the legislative provisions and procedures in both Italy and the UK are now summarised.

3.5.1 Public involvement in Italy: what the laws and procedures imply for its effectiveness

The theoretical goals provisions for public involvement in EIA appear to have as their objective: information on the project, consequences and decision; validation of the quality of the EIS and feedback on the quality of the proposal; resolution of conflict and reaching consensus.

The public involved through the information in the newspaper, deposition of EIS in local offices and deposition of decision and recommendations the public involved is *wide*. However, through consultation of the EIS, in all procedures, the public inquiry foreseen by both Annex IV of Dpcm 27/12/1988 and the 'Atto' and the 'debate' foreseen by the Atto, it can only be considered *wide in theory*. In practice, the provisions for public participation may favour a certain type of public by the nature of the comments in that these must be strictly related to the project and location and therefore scientific and/or technical in nature which thus favours those with expertise and/or financial resources. This is further affected by the short time in which they must come up with comments of a technical or scientific nature.

The power attributed to the public: the public are given *no power* (information) and *low power* (consultation) by the provisions and procedure as foreseen by the Dpcm of 1988. The Atto di indirizzo introduces the 'debate'. The 'events' of this are recorded and forwarded to the decision maker therefore rendering it consultative in nature and low in power. However, it holds potential for negotiations to take place therefore raising the power to *moderate* if co-operation occurs.

When the Public are involved : the public are first involved *post EIA* at the time when the application for the 'judgement of environmental compatibility' is made.

The potential for the management of conflict: the lack of face-to-face communication (not foreseen by law except in the 'debate' in the 'Atto') increases the potential for misunderstanding and reduces the possibility of reaching consensus. Involving the public post EIA reduces flexibility and the potential to avoid conflict (by understanding and addressing public concerns in the study). The time limit for producing public comments may not be adequate for their required nature. As a consequence the restricted 'legal' channels may force people to display opposition in other ways.

3.5.2 *Public involvement in the UK: what the laws and procedures imply for its effectiveness*

The theoretical goals the provisions for public involvement and the procedure seem to have as their objectives: information on the project, consequences and decision; feedback on the quality of the proposal, but not validation of the quality of the EIS; understanding the perception of the proposed activity (the nature of comments submitted is unrestricted).

The Public involved through the information in the newspaper, deposition of ES for inspection and publication of decision and recommendations on the Planning register, consultation of the ES, the public involved is *wide*. Although the public inquiry is not strictly part of EIA procedure, it is part

of the planning consent process into which EIA has been fitted in the UK and is applied should the project be deemed to be 'of regional or national importance'; here the public involved is *only wide in theory* as in practice it may favour a certain type of public by: being formal and quasi judicial-very formidable for citizens with no experience; becoming the domain of experts and counter-experts; being time consuming and expensive.

The power attributed to the public: the public are given *no power* (information) and *low power* (consultation) by the provisions and procedure.

When the Public are involved: the public are first involved *post EIA* when the ES (environmental statement) has been published and the proponent makes it available for inspection. This is before the Application for planning consent is submitted and a decision is reached. The public are informed earlier (on the planning register) if the proponent has sought the competent authority's opinion on the need to subject the project to EIA.

The potential for the management of conflict: the lack of face to face communication increases the potential for misunderstanding and reduces the possibility of reaching consensus. Involving the public post EIA reduces flexibility and the potential to avoid conflict (by understanding and addressing public concerns in the study). The lack of provisions that allow the quality of the ES to be questioned by the public (except in a public inquiry which doesn't occur in every case) reduces the credibility of the public consultation exercise. A member of the public wishing to do this may have no legal channel. The public inquiry is adversarial in nature, it presents itself as a 'fair' mechanism for all interested parties to state their case but does not contribute to reaching consensus. Decisions are win-lose rather than all-win.

4 THE CASE STUDIES & THEIR ANALYSIS

The four cases, two from Italy and two from the UK, were analysed from the perspective of how 'effective' the public participation activities that took place during the EIA procedures were, using the indicators outlined earlier. The cases were chosen according to the criteria of, all being subject to mandatory EIA, their accessibility and demonstrating diverse levels of conflict. The background to the case and a chronology of events (in the form of a table after Ng and Sheate, 1997) was formulated by information from documents and wherever possible, interviews with some of the actors involved in the case. The following briefly describes the characteristics of each of the cases and then the analysis carried out for each case is illustrated by that of Monfalcone.

4.1 The Four Cases: a Brief Description

4.1.1 *Monfalcone-a case study in Italy*

Snam is one of the of the ENI group of companies (the Italian public energy and chemical company) and deals specifically with the supply, transport and distribution of natural gas. In response to the call for diversification of sources (elicited by the Piano Energetico Nazionale of 1988) and the potential offered by LNG, Snam began its search along the coast of Italy for a site suitable for a regasification terminal. The initial proposal in the municipality of Monfalcone was made in February 1995 and was for a plant dimensioned for handling 8 billion cubic meters of natural gas comprising a 350 metre long pier for the mooring of the tankers (one every 3.5 days for 20 hours at a time) and the subsequent unloading of the LNG into the 4 storage tanks on land. An intensive period of project design (incorporating feedback from the public), formal authorisation procedures and a multitude of communicative activities took place and in June 1996, Snam made an 'Irrevocable proposal' to the Municipality of Monfalcone. This was a 'package' of compensatory measures and initiatives involving the environmental restoration and economic revitalisation of Monfalcone and the surrounding area. The project was finally abandoned following the negative results of a popular consultative referendum in Monfalcone in September 1996.

4.1.2 *Verrone-a case study in Italy*

The developers of the project are Fenice S.p.A., a company created as part of the Fiat group with the responsibility of implementing the group's Fenice project; this has the development of a system for the ecologically correct disposal of the industrial waste produced by Fiat establishments in Italy as its objective. The proposal of an integrated plant for the treatment and recovery of industrial residues with a facility for energy recovery in Verrone was part of this wider programme. The specific details of the proposal submitted by Fenice S.p.A in 1993 were for a plant to treat wastes classified as special, toxic and hazardous, originating from the production processes of Fiat's own establishments in Piemonte (75%) and Lombardia (25%), located in the perimeter of the Fiat Auto S.p.A. establishment in Verrone. In spite of early signs of local opposition, Fenice S.p.A went ahead with the request for environmental compatibility in 1993. Strong local opposition to the project as proposed, accompanied by a series of attempts to negotiate, continued from that time through to 1996, when the Region of Piemonte decided it could not give the final approval for the project as it stood without the support of the local bodies. Some mitigation and protection measures were included in the initial proposal and later on in the procedure, in trying to find local acceptance of the project, further measures requested by the regional 'Sovrintendenza' of cultural heritage concerning

landscape were observed by Fenice S.p.A. Attempts were also made to consider incorporating the waste disposal needs of the Biellese territory into the project.

4.1.3 Manchester Airport-a case study in the UK

Manchester Airport is owned and operated by Manchester Airport plc, a company established in April 1986. Manchester city council holds 55% of the shares in Manchester airport, with the balance being distributed equally among the other 9 Districts in Greater Manchester. Public consultation exercises promoted by the Airport concerning proposals for expansion, particularly a 2nd runway (R2) began with the publication of the Draft Development Strategy in 1991, more followed until the submission of the application accompanied by the Environmental Statement in 1993. Local opposition was fierce and residents associations formed a federation to oppose R2. Numerous other local groups opposed on environmental grounds and called for a more strategic approach to airport expansion, suggesting expansion of Liverpool Airport as an alternative. However, the project received a lot of support from the wider community and local and regional businesses. Following a public inquiry, in January of 1997, the project received approval by the Secretaries of State for Environment and Transport. Measures to minimise the impact on the environment, ecology and quality of life for local communities over time have been formulated into a legally binding S106 agreement which has been drawn up between Manchester Airport and Cheshire County Council.

4.1.4 Testwood lakes-a case study in the UK

The developers of the Testwood Lakes project are the Hampshire Division of Southern Water Services Ltd which is the water and sewerage business of the Southern Water group of companies (now part of the Scottish Power company). “Southern Water Services ...serves Kent, East and West Sussex, Hampshire and the Isle of Wight. In 1992 the Hampshire Division supplied an average of 270 million litres of water a day to over 600,000 people” (Southern Water Services Ltd, non-technical summary, 1991). The Testwood Lakes project is a water storage reservoir scheme aiming to secure supplies for forecast increases in demand and provide an alternative source in the event of source pollution. The proposed use of the reservoirs and a large part of the site is given over to nature conservation and some informal recreation. The project is currently in its fourth year of construction after receiving planning approval in 1992 followed by 2 years in which the section 106 planning obligation, amongst other things, finalised the developer’s commitments for on site nature conservation and post project monitoring. All local organisations, councils and interested parties are

represented on the Testwood Forum which meets twice a year to assist southern Water services and New Forest District Council in implementing and reviewing the Management Plan.

4.2 An example of the analysis carried out for each of the case studies: Monfalcone

The type of chronology produced for each case can be seen in table 2. Following this, the first two tables present the analysis used to determine the goals achieved in the Monfalcone case; being divided into the goals with directly observable phenomena as indicators and those without. In the successive three tables, the factors and their indicators are applied. Although not detailed here, the analyses carried out also noted 'other factors' that may have influenced the effectiveness of public participation in the case.

Pre-EIA	1 9 9 5											1 9 9 6								
	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S
Feasibility study carried out	■	■																		
Presentation to Monfalcone municipal authority & press release	■																			
Supervisory scientific committee set up			■																	
Government makes announcement regarding Montalto					■															
EIA carried out							■	■	■	■	■									
Feasibility study presented by developer at public assemblies & small meetings. Copies and summaries are distributed.							■	■	■	■										
The Comitato per il No request a referendum							■	■	■	■										
Landscape options are exhibited for consultation by the public											■									
Presentation of the EIS, distribution of copies of the non-technical summary												■	■	■	■	■	■	■	■	■
Official submission of EIA for approval													■							
Local Authorities, special interest groups & the general public submit their comments													■							
Snam opens a local information office												■	■	■	■	■	■	■	■	■
Telephone information line and internet site established												■	■	■	■	■	■	■	■	■
The project is exhibited														■	■	■	■	■	■	■
The Ministry of Cultural Heritage gives a negative opinion															■					
The 'Conferenza dei Servizi' is held															■					
Receipt of N.O.F regarding safety																				
The 'Proposta Irrevocabile' is finalised and circulated																		■	■	■
Snam is invited to presentations & meetings to discuss the 'Proposta Irrevocabile'																		■	■	■
The 'NO' campaign increase (meetings, leaflets , internet sites)																		■	■	■
The popular consultative referendum is held-the response -NO																		■	■	■

KEY ■ Local Authorities ■ The public ■ Consultants
 ■ Developer ■ Decision makers

Table 2 Monfalcone: chronology of events

4.2.1.1 The goals

Table 3: Goals of public involvement that can be judged by directly observable phenomena

Goals:	Achieved	Evidence-the Directly observable phenomena
Identify interested parties and their concerns and values surrounding the proposed development	Strategically NO	<ul style="list-style-type: none"> The neighbouring municipality Duino, which is strongly impacted by the proposal was NOT represented at the initial presentation.
	As they procedure progressed. YES	<ul style="list-style-type: none"> Small meetings held with special interest groups and local authorities during the period in which the EIA was carried out and the report prepared. The prior identification of issues of concern are also indicated by: <ul style="list-style-type: none"> actually addressing issues of concern, such as visual intrusion and safety by information and consultation. many of the measures in the 'Proposta Irrevocabile' represent guarantees that address concerns and values
Collect information about the local environment and the local community	YES	<ul style="list-style-type: none"> The public targeted by the information and consultation exercises was the local community of Monfalcone. Working closely with the elected representatives i.e., the local authorities.
Define problems and issues that should be addressed in the EIA (SCOPING)	NO	
Identify alternatives	YES	<ul style="list-style-type: none"> NGOs contribute to modifications in project design. The public choose the eventual landscaping design.
Validate the quality of the EIS and obtain feedback about the quality of the proposal	YES	<p>Facilitated by:</p> <ul style="list-style-type: none"> the EIA report and non-technical summary being widely distributed; written submissions from the public were forwarded to the decision makers. <p>Observations and queries were made by the public about (these were noted and some addressed):</p> <ul style="list-style-type: none"> the EIS not addressing associated development such as the gas pipeline; the potential impacts of dredging and their potential mitigation; the exact national importance of the project; predictive methods and reliability of sampling methods; the interference with other local interests such as tourism. <p>Counter studies were carried out by WWF (collaborating with all opponents).</p>
Inform and educate on the project, the consequences and the decisions	YES	<ul style="list-style-type: none"> small meetings. large assemblies. leafleting, brochures, magazines. distribution of the feasibility study report, the EIS and its non technical summary. open -door approach: local offices. use of media-television, radio, internet and newspapers.

Table 4: Goals of public involvement, that cannot rely on directly observable phenomena to indicate achievement, but use evidence to indicate that they were being pursued.

Goals	Evidence that these goals were being pursued
Understand the perception of proposed activity	<ul style="list-style-type: none"> • Small meetings that facilitated discussion/consultation. • Public opinion surveys conducted throughout the process. • Trying to address public concern about visual intrusion: exhibition and consultation exercise to address the problem. • Constant information campaigns targeting issues of public concern. • Some of the contents of the 'Proposta Irrevocabile' are ways of addressing public concerns and interests through formal guarantees.
Resolve conflict and reach consensus	<ul style="list-style-type: none"> • Trying to address as wide a public as possible by entering discussions with those in favour and against and a variety of general information techniques. • Trying to inform on all aspects of the proposal and therefore avoid conflicts that arise from lack of knowledge. • Encouraging small meetings in order to understand the participants values, interests and perceptions. • Producing a set of compensatory measures and guarantees in a legal form to reassure the other participants of their intentions. • Enter into negotiations over the contents of this proposal.

4.2.1.2 The four factors

Table 5 The public involved.

+	4.2.1.2.1 Addressing non-organised individuals	√
	Addressing organised groups	√
	Addressing diverse interests	√
-	Favouring one element of public	
	Assuming the public seek information	

Table 6 The management of conflict

D instigated activities beyond legal requirements	YES	see Table 7
D anticipated conflict	YES	see 'other factors' below
D tried to avoid conflict	YES	PRE-EIA involvement, strong and proactive information campaign throughout, wanting to offer something to the local community.
D tried to resolve conflict	YES	see Table 4
D possibly exacerbated conflict		<ul style="list-style-type: none"> • Exclusion of Duino at initial presentation may have added 'relationship' conflict to 'interest' and 'objectives' conflict. (This was said to have been out of deference to Monfalcone, Snam 1997) • Propaganda type information and climate before referendum could have lowered credibility of information from D
Conflict was resolved and consensus reached	NO	

Table 7 The power attributed to the public and when the public are involved.

STAGE IN PROCEDURE	PUBLIC INVOLVED ?	PUBLIC INVOLVEMENT ACTIVITY	INSTIGATOR-	FORM OF COMMUNICATION	POWER
PRE EIA	YES	• press release and first notification of the project	• D&LA	INFORMATION	NO
		• distribution of feasibility report and summary leaflets	• D	INFORMATION	NO
SCOPING	NO				
DURING EIA AND EIA REPORT PREPARATION	YES	• public assemblies and meetings	• D	INFORMATION & CONSULTATION	LOW
		• exhibition of landscape option ; public comments determine choice	• D	CONSULTATION	LOW
POST EIA AND EIA REVIEW	YES	• <i>notification in regional and national newspapers and EIS deposited for public consultation</i>	• D	INFORMATION	NO
		• EIS and non-technical summary circulated	• D	INFORMATION	NO
		• public assemblies and meetings	• D	INFORMATION & CONSULTATION	LOW
		• opening of local information office	• D	INFORMATION	NO
		• telephone information line	• D	INFORMATION	NO
		• leaflets, letters to all residents and a monthly magazine	• D	INFORMATION	NO
		• public exhibition at a local trade fair	• D	INFORMATION	NO
		• public opinion surveys	• D	INFORMATION FEEDBACK	NO/LOW
		• <i>public comments submitted to decision makers</i>	• DM	CONSULTATION	LOW
DECISION MAKING	YES	• presentations and meetings	• DM	INFORMATION, CONSULTATION & CO-OPERATION	MODERATE
		• popular consultative referendum	• DM & LA	CONTROL	HIGH

(Activities in *ITALICS* are those required by law, D is the developer, LA is the local authority and DM is the decision maker)

5 THE COMBINED RESULTS

The results of the individual analyses of the case studies are combined with the results from the analysis of the provisions and procedures in each country to give the following tables. From these tables, and related literature, the profiles of public participation in EIA in Italy and the UK are drawn.

5.1.1 Italy

Table 8. The goals of public involvement

Goals:	Goals that appear to be the Objectives of the law and procedure	Monfalcone	Verrone
Identify interested parties and their concerns and values surrounding the proposed development		√	
Collect information about the local environment and the local community		√	
Define problems and issues that should be addressed in the EIA (SCOPING)			
Identify alternatives		√	√
Validate the quality of the EIS and obtain feedback about the quality of the proposal	√	√	√
Inform and educate	√	√	perhaps
Understand the perception		√	
Resolve conflict and reach consensus	limited	pursued above legal obligations	pursued above legal obligations

Table 9: The public involved

		Foreseen by laws and procedure	Monfalcone	Verrone
+	Addresses non-organised individuals	√	√	
	Addresses organised groups	√	√	√
	Addresses diverse interests	√	√	
-	Favours one element of public -	√		√
	Assumes the public seek information	To a degree		√

Table 10: When the public are involved & the power attributed to them

Stage in the EIA procedure	Foreseen by the law and procedure		Monfalcone		Verrone	
	involved	power	involved	power	involved	power
pre-EIA			√	No		
scoping						
EIA and report preparation			√	low		
EIA review	√	low	√	low	√	low
decision making	considered	low	√	moderate & high	considered	low
post decision making			Not applicable	Not applicable	√	moderate

Table 11: The management of conflict

	Foreseen by the laws and procedure	Monfalcone	Verrone
Conflict anticipation		√	
Conflict avoidance		√	
Conflict resolution	limited	√ pursued	√ pursued
Conflict actually resolved	Not applicable		

5.1.2 The UK

Table 12 The goals of public involvement

Goals	Goals that appear to be the objectives of the law and procedure	Manchester	Testwood
Identify interested parties and their concerns and values surrounding the proposed development		√	√
Collect information about the local environment & community		√	√
Define problems and issues that should be addressed in the EIA (SCOPING)		√	√
Identify alternatives		√	√
<ul style="list-style-type: none"> Validate the quality of the EIS obtain feedback about the quality of the proposal 	No √	partially √	√
Inform and educate	√	√	√
Understand the perception	√	√	√
Resolve conflict and reach consensus		pursued above legal obligations	Appears so.

Table 13: The public involved

		Foreseen by laws and procedure	Manchester	Testwood
+	Addresses non -organised individuals	√	√	√
	Addresses organised groups	√	√	√
	Addresses diverse interests	√	√	√
-	Favours one element of public	only the P.I	only the P.I	
	Assumes the public seek information	To a degree		

Table 14: The power the public is attributed and when they are involved

Stage in the EIA procedure	Foreseen by the law and procedure		Manchester		Testwood	
	involved	power	involved	power	involved	power
pre-EIA			√	low	√	low
scoping			√	low	√	moderate
EIA and report preparation			√	low	√	low
EIA review	√	low	√	low	√	low
decision making	considered	low	considered	low	considered	low
post decision making			√	low/moderate	√	moderate

Table 15 The management of conflict

	Foreseen by the laws and procedure	Manchester	Testwood
Conflict anticipation		√	√
Conflict avoidance		√	√
Conflict resolution	limited	√ pursued	√
Conflict actually resolved	Not Applicable		Appears so.

5.2 A brief profile of public participation in EIA in Italy

5.2.1 *Implementation of the Directive 85/337/EEC*

There is no framework law for EIA in Italy and only certain aspects of it are regulated. The provisions for the EIA of Annex I projects were made through the decrees Dpcm 10/08/96 and Dpcm 27/12/88. However, there are numerous other regulations, laws and permit procedures that apply during the EIA procedure for a certain project and Autonomous regions and provinces have also made independent provisions, some of which are stricter than national legislation. The Directive has only been partially implemented until the recent emanation of the Decree that foresees provisions for Annex II projects ('Atto di indirizzo e coordinamento'). This came into force in the June of 1997 and gives competence to the regions for these projects. However, by the time it came into force, none of the regions had been able to fulfil their obligations, having lacked the necessary skills and experience in EIA prior to its emanation. As a result, the provisions for EIA in general and those specifically for the participation of the public are complex, often incoherent and not transparent.

5.2.2 *The nature of the procedure adopted*

The official EIA procedure in Italy begins with the time the environmental impact study is submitted with the application for the declaration of 'environmental compatibility', the emphasis being on *authorisation* rather than *assessment*. In the period that follows, the procedure takes on the fragmented and laborious aspect of the legal framework as numerous other permits have to be applied for. Central control in matters of EIA has been prevalent in Italy until the introduction of the 'Atto di Indirizzo e Coordinamento'. This has had negative implications for the procedure and its effectiveness which manifest themselves as a lack of transparency for actors in the EIA at a local or regional level (an issues in both cases examined) and a lack of local and regional competence and therefore EIA skills, knowledge and experience. The Italian experience with central government seems to have resulted in a suspicion of many central government activities and what could be seen as conspiratorial 'communication' with a developer (also an issue in both cases examined). In addition, there seems to be apathy amongst the public and a lack of belief in the ability to play an active role in procedures and influence decisions, at least through legal channels.

Both cases showed the decisions taken at the competent decision makers discretion which then seemed to have profound negative effects on the events of the case. In Monfalcone, this was the decision to delay emanating the judgement on the environmental compatibility of the project until

after the local referendum which decided the project's fate. In Verrone, the decision maker approved the project in spite of fierce local opposition, a move which then increased local dissent.

5.2.3 *Public participation in EIA in Italy*

The level of power assigned to the public in the EIA procedure in Italy is the minimum expected and required by the Directive; the public are informed, consulted and their opinions are taken into consideration. Legislative provisions for involving the public in EIA above those required by the Directive tend to take on its discretionary nature. The 'Atto di indirizzo e coordinamento' allows the competent authority to hold a public inquiry if they consider it appropriate, and also a type of 'discussion' may be held between the proponent and the person submitting a written comment. Although the results of this meeting is forwarded to the ultimate decision makers therefore taking on the role of *consultation*, it has all the potential for *co-operation* if the actors involved wish it to be so. From Tables 8-11 its clear that the cases show two different approaches to involving the public in EIA. By the clamour of praise and debate surrounding the approach taken in the Monfalcone case, it can be concluded that the passive approach with adherence to legal obligations as seen in Verrone has been the more prevalent one to date. Table 8 shows that the goals of involving the public in the EIA procedure in Verrone are the same as those foreseen by the provisions. The approach in Verrone is furthermore characterised by not overcoming deficiencies in the law through voluntary initiatives, favouring communications with only certain elements of the public, only diverging from the official procedure in response to eruptions of public dissent; the proponent thus showing a reactive approach to the management of conflict.

Conversely, the approach to public involvement in Monfalcone is characterised by meaningful two-way communication with all of the interested parties carried out in a transparent manner and resulting in significant changes to project design. Voluntary measures were aimed at all goals except for involving the public in scoping (see Table 10). The approach is additionally distinguished by attributing the public higher power than that normally given by the procedure and addressing deficiencies in the legislation by not favouring communication with any one group.

5.2.4 *The outlook*

The reactive tendency of the public to say No outright and the use of 'causes' for political gains will only change with the provisions of meaningful opportunities to participate. The regions are faced with serious challenges in terms of organisation, experience, expertise and resistance to growth in participatory culture. They can however, take advantage of the knowledge and experience accrued

in Italy and other member states. Verrone has a significance in the development of participatory culture that is mainly of initial value to the developer and as their post-case self evaluation indicates, will bring about drastic changes in their approach to the next 'Verrone'. In spite of the results of the referendum, Monfalcone has presented an important moment in the wider development of participatory culture in EIA in Italy. However, Monfalcone is not alone in bringing the management of conflict and public involvement in EIA into the spotlight. The social conflicts brought on by 'Alta-velocita' high speed train network regarding the speeding up of the Bologna-Firenze line culminated in an agreement in July 1995 between the MoE, the MoT, the Tuscany and Emilia Romagna regions and the train administration. Each branch of the railroad has its own special agreement but all generally foresee the implementation of an environmental protection and monitoring plan ensured by a board of independent assessors.

5.3 A brief profile of public involvement in EIA in the UK

5.3.1 Implementation of the Directive 85/337/EEC

The UK government has shown a reluctance to EIA in defence of its own planning consent procedures and the implications it has for sectors that were previously unregulated. The obligations of the Directive have been implemented through secondary legislation, mainly into the Town and Country Planning Regulations 1988 (Si No. 1199) and for some types of projects listed in Annex I such as forestry and transport into other existing consent procedures. Separate sets were drawn up for Scotland and Northern Ireland but they were all more or less implemented by the time the Directive came into force. However, one confusing consequence is the variability of provisions for public participation between the different consent procedures and those under the Town and Country Planning Regulations.

5.3.2 The nature of the procedure

EIA in the UK is the term meant for the whole process whereby information about the environmental effects of a project is collected, assessed and taken into account in reaching a decision whether the project should go ahead or not. Competence is on the whole decentralised. Local planning authorities (LPA) determine the need for an EIA and are the decision makers unless the nature of the projects or the objections calls for higher authorities (government ministries) to be the decision makers. The first opportunity for the public to be informed about a future proposal for a project is when a developer approaches the LPA to determine the need; the application and the reasons for the subsequent decision are placed on the planning register. However, practice shows that developers are submitting their projects to EIA without approaching LPAs and this possibility

for notifying the public is forfeited. The procedure foresees the mandatory consultation of statutory bodies at the time that the ES is submitted with the planning application. These statutory bodies are also required to make information available to the developer during report preparation and this earlier consultation of statutory bodies has become common practice. Although important in increasing the credibility of the procedure and validating the ES, to some, consultation of the statutory bodies has been interpreted as analogous to consultation of the public. This wasn't the case in the two projects examined and moreover, the statutory bodies are seen as key actors in determining the contents of the legally binding agreements which project implementation and post project activities must adhere to.

5.3.3 *Public participation in EIA*

The public are assigned the same rights in the EIA procedure in the UK as those foreseen by the Directive; to be informed, consulted and taken into consideration. Tables 12-15 note that the two cases examined show a consistent achievement of the goals above those thought to be the objectives of the provisions for public involvement in the EIA procedure through voluntary initiatives and a use of all of the feasible opportunities offered by the stages in the procedure, particularly the early ones. Furthermore, the public are attributed higher power than that granted in the official procedure alone and the limited capacity of the laws and procedure to facilitate the management of conflict was partially overcome by the developers in both cases. The Testwood case appearing to have been concluded with consensus reached.

One possible reason for the consistent adoption of voluntary measures in these two cases is the increasingly common practice of scoping between the developer, the statutory bodies and the LPA in the UK. This has been encouraged in Government guidelines, statutory bodies and recognised through practice as beneficial by EIA participants. Also, the idea that the public have an important role to play in scoping has emerged and there is an increased demand from the public to be involved earlier. Although recognised as beneficial, the early involvement of the public is not a statutory requirement and the uncertainty and lack of information in the early stages can cause difficulties. One other factor pushing the participation of the public in EIA towards early involvement is the *alternatives* available. Although not strictly part of the EIA procedure, the public inquiry is the technique used in the planning system in the UK. It appears unpopular with most of the actors, time and resource consuming, adversarial and unable to resolve conflict. In efforts to avoid a public inquiry or at least to reduce the issues of conflict to a minimum, the Testwood lake developer and consultant co-operated with the interested parties and willingly addressed the issues in the depth required. All concerns are acknowledged in the beginning of the EIS and then dealt with in a logical

manner throughout the following text. Although it would have been impossible to avoid a PI in Manchester, perhaps further efforts to find consensus by co-operating during scoping instead of only consulting would have reduced some of the issues brought to the PI.

5.3.4 The Outlook

Although the two cases examined show very positive aspects about the efforts made by all actors to ensure public involvement in EIA, what holds this approach together is rather fragile. It is only pressure from the public to be involved, experience of the actors and the slow growth of informal standards that dictate the future direction of effective public involvement of EIA in the UK. It is thought unlikely that the Government will take any legislative steps concerning public involvement in EIA. As a consequence great responsibility is placed on the public, the consultants, the developer and the local authorities to ensure that EIA experience keeps growing and knowledge is shared. One other issue will be the strategic environmental assessment (SEA) of plans and programmes and the integration of public involvement into this procedure. The UK government has shown as much resistance to this as they have to EIA. However, the two cases examined clearly show how ill-equipped the EIA and public inquiry procedure are at dealing with strategic issues and yet it is these issues which the public are now scrutinising, questioning and occasionally choosing extreme ways to express themselves. Hopefully the experience gained from public involvement in EIA will facilitate its integration into SEA.

6 RECOMMENDATIONS & CONCLUSIONS

The scope of the research has been to look for ways in which the effectiveness of public participation in the EIA procedure can be improved by focusing on the EIA provisions, procedures and practices in Italy and the UK. The approach involved examining the possibilities as defined by the literature and practices in other countries and the reality in the two countries studied. The iterative procedure undertaken was to firstly establish what effective public participation is, its goals and the factors that contribute to effectiveness and then create indicators for analysing and determining effectiveness which were then used in the analyses of the legislative provisions and procedure and two case studies in each country. These results were then combined for each country and separate profiles of public participation in EIA for Italy and the UK were created. These profiles have served to both isolate where measures can be taken to bring about increased effectiveness, and the strengths of the two different systems examined contribute to the following outlined recommendations; only some of the feasible responses to the question of 'how the effectiveness of public participation can be improved'. The brief recommendations are rather

superficial in nature and require the diverse expertise and experience of the different EIA actors, policy makers and regulators to ascertain their potential, practical implementation and more suitable alternatives.

The fact that Italy does not have a framework law has contributed to the low effectiveness of both involving the public and EIA as a whole, yet its institution would be an important opportunity for improvement by providing for simplified procedures with increased transparency, credibility and efficiency. The framework law should include provisions that address: the restricted nature of the comments which, as previously noted, can in turn restrict the public involved; the inaccessibility of documents; the late involvement of the public and the inadequate length of time for formulating comments of this nature. In addition it should ensure public involvement in the scoping stage. Certain initiatives that could be included in the procedure are for the official consultation exercise to allow comments of an *unrestricted* nature and assistance in the formulation of comments that are technical and scientific in nature as well as provisions that foresee that the non-technical summary is published separately. Potential obstacles to the development and approval of a framework law are the inefficiency of the legal system, the lack of horizontal communication channels and co-ordination (between regions) and an unwillingness to accept a coherent law by the autonomous provinces and regions based on principle.

Other important steps to be taken in encouraging EIA culture in Italy are to develop 'best practice guidelines' and guides to procedures for developers, administrators and citizens and advocacy of experimentation with Consensus Building and Alternative Dispute Resolution techniques. Strengthening of the Italian EIA network could take place by dedicating further resources to the EIA centre in Milan or the establishment of another independent institute which focuses on collating EIA skills and supports all of the actors involved in EIA in establishing 'standards'. This is *essential* in Italy with the possibility that approval of a framework law could take a while.

In spite of their reluctance to impose further regulations on the current EIA system, the incorporation of the measures in the amended Directive could just present a chance for the UK to strengthen the provisions for public involvement in EIA and mandate public participation in scoping. Improvements could also come from: making provisions for the non technical summary to be published separately; a guide to the procedure for citizens; encouragement of and experimentation with Consensus Building and Alternative Dispute Resolution techniques. The quality of the procedure could be strengthened by creating an independent body which validates the

ES, as the present system places a financial burden on local authorities and/or individual citizens seeking consultation in validating the ES or relying on their own skills and experience which may not be satisfactory. Furthermore, assessment by an independent body will increase the credibility of the procedure in the public's eyes. However, a potential obstacle to these developments is the Government's reluctance to impose further regulations in EIA.

The essential contribution of actors in improving the effectiveness of public participation in EIA on the project rather than national level cannot be overlooked. Roberts (1995) emphasises the developer's role in increasing the effectiveness of public participation in EIA when he says "organisations will need to learn that if it's well organised, open and honest, public involvement can be more than just a means to an end. It can be an end in itself, a permanent dialogue that will benefit the organisation for many years". On a practical level, this could simply be the adoption of initiatives such as the drawing up of a public participation programme for a project proposal. Both the NATO/CCMS study (1995) and the World Bank (1993) recommend this. The programme should outline the timing of public involvement and the goals and techniques to be used to achieve the specific goals at that stage. It should accommodate the input resulting from involving the public, and should be flexible in order to deal with unexpected obstacles. The programme can also be refined once interested parties are identified and asked how they want to be involved.

Last but not least, responsibility for effective participation falls on the public. This includes the fundamental recognition by the public that through EIA, they have the opportunity to define *how* they want their environment and not only oppose, the public's *use* of existing rights to participate, and moreover, the application of pressure for other channels and mechanisms for public involvement if dissatisfied with those existing. Indeed, in Robert's (1995) opinion, "the greatest guarantee of continuing growth of public involvement is the public itself".

To communicate with one another, exchange information is nature; to take the information you are given into consideration is culture (Goethe , quoted by Fiat, 1997).

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