



Netherlands Commission for
Environmental Assessment

Advice on Terms of Reference for SEA on Waste Law, Georgia

Memorandum by the NCEA

22 February 2006



Advice of the Secretariat

To Ministry of Environment, Georgia

Attn Minister of Environment of Georgia, Mr Papuashvili

From Mr Arend Kolhoff (Technical Secretary - Netherlands Commission for Environmental Assessment)

Date 22 February 2006

Subject Terms of Reference
Strategic Environmental Assessment for Waste Law

By: Secretariat of the Netherlands Commission for EIA
Advice DGIS-0602

1. STUDY BACKGROUND

1.1 Rationale for this SEA

Though Strategic Environmental Assessment (SEA) of plans and programmes are not mandatory under Georgian legislation, Ministry of Environmental Protection and Natural Resources decided to carry out SEA for the Waste Law.

1.2 The current situation.

Currently a national waste strategy or plan that sets the objectives on waste management for the coming years is not yet in place. Because the law is meant as a tool to achieve the objectives which are set in the national plan or strategy, the lack of such a plan or strategy hampers the drafting of a law. Ideally, the objectives in such a strategy or plan would provide a framework for the SEA of the waste law.

Nonetheless, a draft waste law has been elaborated and discussed in the summer of 2005. In September the idea was launched to carry out an SEA for the draft law. In the framework of SEA a public hearing was organized in December 2006. At that public hearing an alternative law was presented. This alternative law was developed by the Center for Strategic Research and Development.

Since the SEA process has started at a stage where the draft law, and its alternative, was already quite far advanced, new alternatives will not be developed within the SEA process. Instead the SEA will focus on an assessment of the two existing proposals.

2. OBJECTIVES

2.1 Objectives of the law

Main objectives of this law are: (a) to facilitate the provision of the main rights of people in the field of environmental protection - to live in harmless for the health environment and enjoy all natural and cultural resources; (b) to ensure protection of major environmental components - land, water and atmosphere - in accordance with the ecological and economic interests of the society with the consideration of the interests of present and future generations; (c) to ensure the solution of global and regional problems in the field of waste management on a legal basis.

The main tasks of the law are: (a) to ensure the attainment of safe conditions for human health and natural environment, its maintenance and improvement; (b) to ensure the protection of human health and natural environment through the regulation of waste minimization, use and management methods; (c) to define the state policy in the field of waste management; (d) Create a united system of waste management; (e) to ensure for the society the principle of availability of the information on waste management; (f) to facilitate stage by stage enactment of legal norms defined by the European Union Legislation in the field of waste management in the territory of Georgia.

Comment: The objectives of the law as stated in the above section are very general. I can understand that due to lack of a national waste management plan or strategy it is not yet possible to come up with more concrete objectives. I recommend NOT to elaborate more concrete objectives. Elaboration of objectives should be done in the framework of the national waste management plan or strategy.

2.2 Objectives of SEA

The SEA for Law will provide decision-makers at the Ministry and the Parliament with sufficient information to assess the implications of the draft law with regard to the environment.

Comment: I thought that the SEA should provide information for the Minister to decide which of the two alternatives will be selected elaborated into the waste law and will be sent to the Parliament for adoption. Or is it the idea to elaborate two alternative waste laws and the Parliament may choose? This should be clear.

BS: Objective is also to inform the drafting of the waste law?

3. LEGAL SETTING

Only those laws / (international) conventions/directives that influences the waste law should be described briefly. Description should focus on the way the relevant laws influences the scope of the waste law.

One could think of the following national laws and international conventions: The Constitution of Georgia, the Law on Environmental Protection, the Law on Ambient Air Protection, the Law on Water, the Law on Minerals, the Law on Health Protection, and other relevant laws and sub-laws. Basel Convention, Stockholm Convention on POPs, Kyoto Protocol, Marpol Convention, relevant EU directives.

4. IMPACT ASSESSMENT OF ALTERNATIVES

4.1 Alternatives

The two existing alternatives will be used to assess the impacts.

First the strategic issues to decide upon should be identified and listed. These issues can be used as a framework for the description of each alternative. The following strategic issues to decide upon have been identified already:

- classification of waste;
- distribution of competences between state authorities and between state and local authorities;
- application of a number of principles e.g. polluters pay principle, proximity principle, etceteras ...

The choices made in the two alternatives should be justified in the SEA.

The 'classification of waste' and the 'distribution of competences between state and local authorities' should be part of the SEA report and can be skipped in these ToR

4.2 Assessment of the impacts

Because this SEA is assessing a legislative proposal, which is rather abstract, the level of analysis should be relatively abstract (i.e. less detailed and more general) as well. Consequently, the assessment methodology will use qualitative rather than quantitative methods. It may not be possible, or necessary, to indicate aspects such as probability with any precision. Special attention should be paid to "knock-on" effects, which are second or third order effects that result from a direct impact. For example, decentralisation of waste management responsibility could lead to an increase in local solutions for waste, which could lead to less transport of waste, which leads to reduction of transport emissions.

For each alternative the impacts should be assessed. A qualitative expert judgement can be used to assess the impacts of the two alternatives. A distinction should be made between environmental, social/health and economic impacts.

We propose to replace the first set of guidelines (a-1) by the second set of guidelines (a-2)

(a-2) To assess the environmental impacts use could be made of the following methods / indicators:

- the waste pyramid, in general it can be stated that from an environmental point of view a lower level in the pyramid is preferred above a higher level of the pyramid, so prevention is preferred above recycling;
- travel distance from source to disposal;
- proximity to sensitive areas, sensitive areas from social / health and environmental point of view.

To assess the health / social impacts:

- occupational health of workers in the waste sector;
- public health.

To assess the economic impacts:

- costs and cost efficiency.

- (b) Evaluation of the potential impacts of the proposed law against the alternatives based on the magnitude of the effects, probably of occurrence, geographical extent and duration and the value of the environmental affect.
- (c) Assessment of compliance of the proposed law with national environmental legislative requirements, standards and carrying capacities.
- (d) Suggested amendments to the law should lead to reduced negative effects.
- (e) Identification of potential opportunities to enhance beneficial environmental effects of the proposed law.

4.3 Comparative assessment

A comparative assessment of the identified impacts of the two alternatives should be presented in a table or matrix.

5. STUDY RESULTS

The SEA study will deliver the following:

- An assessment of potential significant environmental effects of the two alternatives;
- An assessment of opportunities to promote/enhance environmental conditions;
- Recommendations for mitigating or complementary measures and/or alternative options to ensure compliance with national environmental policy.

6. WORK PLAN

The work plan will include but not necessarily be limited to the following activities:

- consultation meetings with regulatory authorities, groups representing public opinion and decision-makers;
- preparation of the draft and final SEA report;
- preparation of the draft amendment to the draft law.

More detail / information is needed here:

- Who will be consulted, when and how?
- Who is responsible for these consultations?
- How will Ucha and Nino co-ordinate their efforts with the TF?
- What product will the consultants give the TF? A detailed outline of the report, a full draft, how many revised drafts?
- When should a draft SEA be ready for review by the TF?

Steps in the SEA process:

1. To identify the main strategic differences between the alternatives available (in other words, the main choices to be made in the law – decentralization vs centralization, etc)
2. Assess the effects of the two alternatives, concentrating on the differences between them
3. Propose amendments that would address these effects

7. EXPERTISE REQUIRED

- Expert in waste management
- Lawyer, if needed
- other experts, if needed

8. REPORTING

The study conclusions will be presented in the SEA report in the format given in Appendix 1. The underlying analysis is to be presented in appendices to this report.

The draft SEA report is to be presented for comments by 22 March, 2006. Within two weeks comments on the draft report will be received (in written and through the discussion meetings with different stakeholder groups).

The consultant/s will take account of these comments in preparing the final report (10-15 pages excluding appendices). The final report in Georgian to be submitted by 24 April, 2006

9. TIME SCHEDULE

ACTIVITIES	February	March	April	May
Consultation meetings				
Preparation of the draft SEA report		by 20 March		
Draft SEA report (along with the draft law and the alternative draft law) presented for comments		by 22 March		
Discussion meetings with different stakeholder groups			7-10 April	
Final SEA report			by 24 April	
Preparation of draft amendment to draft law				by 15 May

10. APPENDICES

1. Report format for Strategic Environmental Assessment for the Waste Law;
2. The conceptual framework and the draft Waste Law as suggested by the Ministry of Environmental Protection and Natural Resources;
3. The conceptual framework of the alternatives and the alternative draft Waste Law as suggested by the Center for Strategic Research and Development;
4. Comments received before the public meeting of 20 December, 2005.

APPENDIX 1

Report format for Strategic Environmental Assessment for the Waste Law

1. SUMMARY

The summary should set out the potential significant environmental effects of the proposed law, the potential opportunities to promote/enhance environmental conditions; and recommendations for mitigating or complementary measures and/or alternative options ensure compliance with the national environmental policy.

In addition, one of the following two statements should be made:

“The amendments to the draft law are recommended to ensure that the draft Waste Law complies with country’s environmental policy. The recommended amendment is attached.”

or

“No changes to the draft law are recommended. The draft Waste Law has been subject to a strategic environmental assessment and is considered not to have significant environmental impacts and to comply with national environmental policy.”

2. THE PROPOSED LAW

This chapter should state: (a) the purpose and rationale of the proposed law; (b) key decision-making factors in policy formulation including economic, planning and environmental considerations; (c) alternative options; (d) areas and sectors affected by the proposed law; (e) the proposed law activities.

3. THE ENVIRONMENTAL ASSESSMENT

This chapter should include an analysis of the key issues outlined in Section 1 of the Terms of Reference.

4. RECOMMENDATIONS

4.1 Recommended amendments

This section should indicate how the draft law needs to be altered to address the environmental issues adequately.

4.2 Monitoring environmental performance

This section should set out criteria for a monitoring programme to measure and evaluate the physical, social and economic variables associated with the law, the effectiveness of mitigating measures.

5. TECHNICAL APPENDICES

Other technical information and data, as required

6. ADMINISTRATIVE APPENDICES

- Study methodology/work plan
- List of persons/organization consulted
- List of documentation consulted
- ToR for the SEA