

## Yemen

### EIA profile

**Updated to:** 27 August 2013

#### Overview ESIA procedure

The EIA procedure in Yemen starts with screening. Scoping is recommended, but not mandatory. Thereafter, the assessment, review, consent decision-making process and compliance monitoring are the main steps of the EIA procedure.

Major documents resulting from the EIA process are the following: Scoping report incl. Terms of Reference (voluntary), EIS incl. Monitoring plan.

#### Screening

##### Screening process

EPA makes the screening decision, in consultation with the competent authority of the project. The decision on the screening lists themselves (i.e. standards, criteria, specifications) are formulated and approved by the Cabinet.

Screening is based on contents of EIA by-law which clearly states:

- which areas are considered of high value, requiring a (preliminary) EIA for any activity in that area;
- which activities are considered potentially harmful to the environment and therefore requiring and EIA;
- below what capacity or size the requirement for an EIA for any particular activity can be dispensed with. EIA should also be obligatory for existing facilities with plans for major expansions (e.g. 25% of capacity), if a new facility of this kind would be eligible for EIA.

##### *Sensitive areas*

There are specific requirement formulated for protected areas. The EPL provides for the formulation of a list of special environmentally sensitive areas and locations by the cabinet. Projects with likely effects to such areas as historical and archaeological places, wetlands, coral islands, natural protected areas, and public parks require full EIA. (Confirm with EPA.)

##### Timeline Screening

Within 24 working days after receipt of necessary information. In case of the need for additional information, the screening procedure starts when this additional information is received.

## **Scoping**

### **Scoping process**

Scoping is advised, but not mandatory.

EPA in collaboration with specialists and responsible authority prepare a scoping report (incl. Terms of Reference), which is submitted to the competent authority. Communication between project proponent and EPA does not occur directly but goes through the competent authority, unless EPA requires specified information about the project.

### **Contents of the scoping document**

Not specified.

### **Timeline scoping**

Between six weeks and three months.

source

Environmental Impact Assessment Policy for the Republic of Yemen, 1996.

## **Assessment**

### **Assessment process**

Assessment is on the basis of the scoping report (including the Terms of Reference). The EPA distributes free copies of the EIS to stakeholders. The report is available to the public for printing at their own costs. Governments have to respond with comments to the EPA, otherwise it is assumed that they agree. The EIS can be returned to the project proponent with additional advices and comments. Consequently, the final EIS is drawn.

### **Contents of the EIA report**

- Description of the proposed activity, including a map of the location; the use of the neighbouring lands; the project's requirements of water, energy, drainage, and roads; description of manufacturing operations of the project raw materials handling incidents and risk and safety methods and measures of waster.
- Description of the environment that potentially might be affected.
- Description of alternatives to proposed project (e.g. using materials of least pollution).
- Evaluation and assessment of the probable environmental impact and effects of the proposed activity and the alternatives, including those direct and indirect effects, and short and long term accumulations contains (solid and liquid waste, gas emission, land uses, noise levels, socioeconomic factors).
- The extent to which areas outside the national sovereignty may be affected by the proposed activity.
- Monitoring plan

source

Manchester University, EIA Centre (2001) Evaluation and future development of the EIA system in Yemen. A report prepared under the METAP EIA Institutional Strengthening Project.

### **Accreditation of consultants**

The EPA is responsible for maintaining a data base of consultants and consulting firms that may be contracted for EIA studies. Information and activities of these consultants have to be part of the data base. EPA advises project proponents on the consultants for their projects (EIA policy).

## **Review**

### **Review process**

EPA receives the EIS from the proponent (or consultant). It then reviews the report and consults relevant stakeholders including the public. If satisfied, either approves the EIS or sends it back to the project proponent with comments. If not accepted, the EIS has to be improved and submitted again for review.

### **Review expertise**

The EIA is sent back to the initial contributors of comments to review. This also include the public, in which case EPA is responsible for ensuring the public are invited for comments. There is also the possibility for external review by experts from other concerned ministries.

### **Timeline Review**

Between six months and one year (EIA policy).

## **Decision making**

### **Integration of ESIA into decision-making**

The competent agencies that give permits are co-operating agencies in EIA and, in this way; EIA is integrated into other existing consent procedures. The licensing Agency gives the final permission for the proposal.

The EPA in conjunction with other relevant government ministry or authority decides if, or under what conditions, the proposed activity is environmentally acceptable. Accordingly the MoWE issue clearance letter which may include conditions and mitigating measures (changes in design or location), to monitoring requirements or to requirements for operation and maintenance.

### **Decision justification**

Decisions are justified in writing. The competent authority has to prepare a document in which the justification of the decision is elaborated upon.

- The decision of approval or rejection of the project is based upon the EIS. The competent authority may decide upon the proposed project or can select one of the alternatives. The competent authority does not necessarily follow the outcomes of the EIS review, but may take a different decision. This does however not mean that the EIA outcome can be omitted.
- The competent authority has to provide the EPA with a copy of the decision report. There is no mentioning of publication of the decision towards civil society and other actors that are not directly involved.

### **Timeline decision-making**

30 days max.

### **Possibilities for appeal**

No information

### **Follow-up**

#### **Compliance monitoring**

Monitoring is a requirement. EPA, however, does no routine monitoring but responds to complaints received, e.g. from governorates in support of public complaints to them.

A monitoring plan is mandatory and is submitted as part of the EIS report. The proponent is required to collect data from the onset of the project.

source

Manchester University, EIA Centre (2001) Evaluation and future development of the EIA system in Yemen. A report prepared under the METAP EIA Institutional Strengthening Project.

### **Stakeholder engagement**

#### **Public participation requirements for ESIA process stages**

The EIA policy of 1996, prescribes public participation in the EIA process. It is not however specified at which stages the public are supposed to be involved.

#### **Access to information**

The private consultancy firm organizes a workshop or meeting in coordination with Environmental authority developer, donor to consult relevant government institutions and local communities. The necessity and format of public participation is however not specified within the EPL. The administrative authorities are obliged (according to a presidential decree) to send the EIS to the EPA for review and approval.

Public access to EIA reports is in principle attainable through the EPA library. In addition to a reasonable collection of environmental literature (with a computerised catalogue), the library includes EIA reports accessible to the public.

## **ESIA practice**

### **Annual no. of ESIA's**

No information

## **Background information**

### **History of ESIA**

EIA in Yemen began to develop in the nineties, after the unification of North and South Yemen and establishment of the Environment Protection Council (EPC). In 1993, Decree No. 89 was issued by the Cabinet, making EIA a mandatory process for all development projects. Two years later in 1995, the Environmental Protection Law (EPL) was established and ratified by the Parliament. This law gave a legal framework for EIA. In 1996, an EIA policy has been prepared. The EIA policy contains EIA operational regulations. It was merely approved by the EPC who has an advisory role only and no mandate to enforce the policy. In 2001, EPC was replaced by the Environmental Protection Authority (EPA). In 2005, the EPA got a legal mandate for reviewing and environmental approval, via a presidential decree.

More recently, EIA directives have been drafted in four sectors. Furthermore, a revision of the Environmental Protection Law including more ambitious EIA legislation is ongoing and new by-laws and directives are also being drafted. The new law will provide expanded possibilities on EIA for enforcement and monitoring. It is also proposed that public investments will become subject to obligatory EIA review. The formulation of laws, plans and policies is being supported by international donors: UNDP (EIA policy), World Bank (NEAP), Netherlands-DGIS (institutional and technical development water and environment), and GTZ (institutional development in water sector).

source

Kolhoff et al., 2013. An analysis framework for characterizing and explaining development of EIA legislation in developing countries - Illustrated for Georgia, Ghana and Yemen. Environmental Impact Assessment Review 38 (2013) 1-15.

## **Legal framework**

### **Enabling law**

Environment Protection Law (EPL) No (26).1995

### **National detailed regulation**

Legally binding EIA regulations are under development.

### **Guidelines**

In 1996, an EIA operational regulations have been developed in the for of an EIA policy. The policy was adopted by the Environmental Protection Council (EPC), but not the Parliament or the Cabinet. As the EPC does not have the legal mandate of enforcing it, EIA remained a voluntary tool.

The executive regulations (Bylaw No. 148 [2000]) consist of EIA guidelines and projects categories that require EIA. In order to make the updating of EIA-defined guidelines and environmental standards easier, these guidelines and standards have been issued as annexes to the executive regulations, so that in case technical amendments or updating is necessary, there is no need to go back to the Cabinet.

(To be checked)

source

Kolhoff et al., 2013. An analysis framework for characterizing and explaining development of EIA legislation in developing countries - Illustrated for Georgia, Ghana and Yemen. Environmental Impact Assessment Review 38 (2013) 1-15. Abdul Jalil, 2004. G

### **Sector specific procedures or regulations**

There are sector specific laws that require EIA. Water Law No. (33) For 2002 (Chapter three, article 56), Urban Planning Law and Investment Law for 2001 and Oil & mineral exploitation law for 199 and the Cleanliness law for 1999.

Also, EIA directives have been drafted in four sectors: dams, roads, water and waste water, oil and gas. These drafts are not yet officially approved by the Cabinet.

### **Scope of application**

All projects, activities, expansion or renewable (public or private, foreign or national) listed in annex 1 of EPL.

source

Environmental Protection Law No. (26) Article 2

### **Exemptions from application**

Competent authority may make exemptions from EIA, if the objective of the activity is to protect human lives or to ensure the safety of the establishment or the working area, or because of an accident. This however is on condition that the responsible person has taken all measures to remedy the defect. Additionally, the EIA policy states that some international donor projects are exempted from (Yemeni) EIA, because they already undertake their own EIA procedure (UNDP and World Bank). This exemption should however not be regarded as 'free or automatic' but should be based upon information about the environmental assessment carried out by the donor. A condition for this approach is that the EPA evaluates and approves the procedure, and that the EPA receives a copy of all EIA files.

## **Institutional setting**

### **Central ESIA authority**

The Environment Protection Authority (EPA) is the central EIA authority in Yemen. It was established in 2001 when it replaced the Environmental Protection Council (EPC). It is an administrative body under the Ministry of Water and Environment and is responsible for the management of the environment and wildlife conservation in Yemen.

source

Environmental Protection Law No. (26) article 5

### **Other key (governmental) parties**

The main ministries and authorities involved are:

- Ministry of Water and Environment (WoWE);
- General investment authority (GIA);
- Ministry of Planning and Development (MoPD);
- Ministry of Oil and Mineral Resources (MoOMR);
- Free Zone Authority;
- National Water Resource Authority (NWRA).

**(De)centralisation of mandates**

EPA management and decision making is highly centralized.

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