

Benin

EIA profile

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Overview ESIA procedure

The EIA procedure in Benin involves a screening process, a scoping process, the preparation of a draft EIS and its publication. Then a public hearing to discuss the EIS is held and subsequently the decision by ad hoc committee on whether a certificate of environmental conformity is issued for the project is taken. Thereafter, follow-up assessments and audits are done. A flowchart produced by ABE and ABPEE gives an overview of the different stages of the EIA process and how they relate to each other.

Important outputs of the EIA process in Benin are: Starting document for screening, ToR, EIA report, public hearing report, technical report as result of review process, environmental conformity certificate.

Screening

Screening process

At the start of the EIA process, the proponent shall submit a written notice to the Ministry in charge of the Environment requesting the issuance of an environmental compliance certificate for his project. The ABE then verifies if the project is actually subject to the EIA procedure and checks if it is subject to a full EIA or a preliminary EIA and the Ministry responsible for the environment communicates the decision to the proponent.

Decree 2017-332 specifies which activities are subject to EIA and which level of assessment is required. Two types of EIAs are prepared: full EIA's and preliminary EIA's.

Appendix 1 of Decree 2001-235 provides lists of projects that are subject to EIA. Screening thresholds are used to define whether a full or a preliminary EIA is required. Projects whose environmental effects are limited, can easily be limited or can be avoided through the application of mitigation measures, are generally subject to a preliminary EIA. A full EIA has to be done for projects as listed in Annex 1 and for projects subjected to preliminary EIA but involve hazardous areas or environmentally sensitive areas as specified in Appendix 2 (confirmed in annex of decret 2017).

The environmental law states in Article 89 that after the submission of the written notice for screening, the Ministry that is responsible for the environment indicates to the proponent the nature, scope and extent of the study that he must prepare. The law contains no information on whether this decision must be published.

Sensitive areas

Projects that involve environmentally sensitive areas as defined in the Annex of the Decret 2017-332 always are subject to a full EIA.

Contents of the starting document

The environmental law states that the general nature of the activity has to be described in the written notice that supports the screening phase.

Timeline Screening

Not specified.

Scoping

Scoping process

According to the General guidelines, the proponent develops the ToR on the basis of general and potentially available sectoral EIA guidelines. In case of a lack of competence, the proponent may request support for doing so from the ABE. The proponent then submits the ToR to ABE for approval.

source

Decree 2001-235.

Contents of the scoping document

Not specified.

Timeline scoping

According to decree 2015-382, the ToR are approved within 7 days after reception.

Assessment

Assessment process

According to Decree 2017-332, the initiator of the project is fully responsible for the assessment study, but he may be supported by an agency or an independent consultant. The guide states that the general impact study must be designed and prepared using a scientific method in order to identify and assess the impact of the project on the quality of the environment. Once the initiator considers the EIA report to be complete, he submits it to the minister responsible for the environment and demands a environmental conformity certificate.

Contents of the EIA report

Article 36 of Decree No. 2017-332 specifies the content of the EIA report. It must describe the anticipated environmental impacts of the project and must include at least the following elements:

- a non-technical summary;
- comparative analysis of options, alternatives or variants for achieving the objectives pursued by the project proposal, and the justification of the alternative or variant chosen (the project);
- detailed description of the project, including maps, maps and useful figures and environmental aspects;
- analysis of the legal and institutional framework of the project;
- analysis of foreseeable, direct, indirect and cumulative potential impacts of the project on the environment and people's lives; description and analysis of the initial state of the site, its natural and human environment, including natural resources, built environment, population and activities, issues related to climate change, human rights, cultural heritage likely to be affected by the project and the use that one makes of these resources;
- analysis of the potential impacts of the project on the environment;
- technology risk analysis, if applicable;
- the summary of public participation (consultations, public hearing);
- the Environmental and Social Management Plan (ESMP)

Any project that results in the involuntary physical or economic displacement of at least 100 people is the subject of a Resettlement Action Plan (RAP).

Section 4 of the General Guide provides detailed guidance for the drafting of each of these sections of the EIA Report and for the presentation of the report in general.

The Guide also requires the inclusion of the Technology Accident Risk Management Plan.

source

Decret 2017-332

Accreditation of consultants

An approval for the exercise of activities relating to environmental assessments is issued by the Minister in charge of the environment. Accreditation is granted to any person who meets certain conditions, such as having a degree in higher education in Environment, having participated in the realization of at least five ESIA reports, etc.

source

Articles 44-49, Décret no. 2015-382 du 09 juillet 2015.

Review

Review process

After the EIA report is submitted to the Ministry, it is made public.

Subsequently, the review process of the EIA report is launched. The General Guide states that the EBA conducts the review in consultation with the ministries and other relevant bodies that are involved or interested in the project.

For any in-depth EIA, EBA sets up two ad hoc working groups for the review of each project: one with experts and one with representatives of the administration.

The objective of the review is to provide objective arguments as to the acceptability of the project in terms of environmental quality, which will highlight the project's strengths and the drawbacks associated with its implementation. The EBA also takes into account the report of the public hearing before finalizing its technical opinion.

The EBA then makes a decision on whether the report is acceptable. The results of the review process are presented in a technical report that also contains recommendations to the Minister regarding the decision-making process as to whether the Environmental Compliance Certificate should be issued.

source

Loi No. 98 – 030 du 12 février 1999 portant loi-cadre sur l'environnement, decret 2017-332

Review expertise

Through the publication of the draft report and the formation of specialized working groups for the review, external parties can be involved in the process in an ad hoc committee.

Timeline Review

ABE has 3 months time to review the EIA report after the file has been judged to be complete. Delays are allowed if additional information is needed for the review.

source

Décret no. 2017- 332 du 06 juillet 2017

Decision making

Integration of ESIA into decision-making

The environmental law states that if the EIA report is found satisfactory by the minister in charge of the environment, he will issue an environmental conformity certificate. Such a certificate is required before the project is approved by any competent authority.

The minister in charge of the environment is responsible for the decision whether an environmental conformity certificate is issued.

Included in the conditions of the environmental conformity certificate are project characteristics as modified during the EIA process, measures planned for avoiding, mitigating or reducing impacts and the Environmental Management Plan.

Decision justification

No information. The EIS is published, but the law 89-030 does not require that the environmental conformity certificate or conditions of the project must be published.

Timeline decision-making

Article 12 of Decree 2017-332 mentions that once the ABE has found the report to be acceptable or the available amount of time for review is passed, the Ministry has 5 days to take the decision on whether the environmental conformity certificate is issued.

Possibilities for appeal

No information.

Follow-up

Compliance monitoring

The General Guidelines state that the entire project, both during the construction phases of the operation, must remain under observation in order to ensure that the decision by the minister is respected. Also, the adequacy and effectiveness of implemented mitigation measures has to be checked. The ABE oversees the implementation of the Environmental Management Plan.

The terms of the monitoring program are developed by the developer in collaboration with the ABE and other departments and agencies that are involved in the project implementation. They are included in the Environmental Management Plan that accompanies the environmental conformity certificate.

No external monitoring requirements are given in the EIA regulations or guidelines.

Non-compliance penalties

If the conditions of the certificate are not met, the authorization for it can be withdrawn.

Stakeholder engagement

Public participation requirements for ESIA process stages

The public has the possibility to participate in the EIA process during the review stage.

The public can demand a public hearing through sending an written request to the minister in charge of the environment. Once this request is accepted and a public hearing takes place, they can express their opinion verbally.

Decree 2001-190 provides guidance on the organization of public hearings. Furthermore the general guidelines provide detailed information regarding the public hearing procedures in chapter 7.

Timeline for public comments

No information.

Access to information

After it was submitted, the EIA report is available to the public. Also, the public hearing report published by the minister.

Report data will be disseminated through the media (mainly radio) and by NGOs. The reports are stored at ABE and can be viewed by any person or entity that expresses the need for it. After a public hearing was found to be necessary, an notice is gazetted through the press and a public display in the region that is affected by the project. It provides general information about the planned public hearing. A copy is also given to ABE and to the respective regional authorities.

The public hearing report published by the minister and it also is archived in the ABE and can be accessed by the public there.

ESIA practice

Annual no. of ESIAs

Between 2012 and 2016, there were approximately 45 EIAs per year, with a slow increase during those years. There is no information for 2017-2019.

source

IFDD Cartographie EE 2019

Central ESIA database

EIA reports must be published. Certain technical details of the process may be exempted from public information on the reasoned request of the promoter, if this is deemed acceptable by the ABE. But in practice, the publication of the report is unfortunately not done.

source

IFDD Cartographie EE 2019

Professional bodies

The ABE is affiliated with the West African Association for Environmental Assessment (l'association ouest-africaine de l'évaluation environnementale, AOAEE).

Background information

History of ESIA

The Constitution of December 1990 placed particular emphasis on environmental protection. In its article 27 it is stipulated that "Every one has a right to a healthy, pleasing and sustainable environment and the duty to protect it. The State is responsible for the protection of the environment." In 1993, an environmental action plan was adopted and in 1995, the Benin Environmental Agency was created for its implementation. Subsequently, the Agency has developed a framework for regulation on EIA and several EIA guides. The environmental law as the enabling law for EIA was issued in 1999. In 2001, the first national EIA procedures have been introduced.

In 2017, DECRET No. 2017-332 on the organization of environmental assessment procedures in the Republic of Benin was introduced, specifying in more detail some steps in the EIA process.

Legal framework

Enabling law

The environmental law no. 98-030 (1999) obligates the initiators of various categories of projects and programmes to conduct an environmental assessment study.

Decree No. 2017-332 regulates the EIA procedures in Benin.

Other decrees issued are Decree no. 2001-235 of July 12, 2001 and Decree no. 2015-382 of 09 July 2015. Regarding the last: it is not clear what its current status is.

source

- Links to environmental laws and regulations
- [Links to Environmental Legislation on website of ABE](#)
- Environmental Legislation on Estis
- Environmental Law 1999
- Decret EIA procedure 2001

National detailed regulation

Decree no 2001-235 lays down the EIA procedures and Decree no 2001-190 describes the public hearing procedure in Benin.

Guidelines

Decree no 2001-235 requested the formulation of general and specific guidelines for the implementation of EIA which contain instructions. Since then a general guidelines has been established:

- General guidelines for the implementation of EIA (2001). Manual on the procedure to follow for obtaining an certificate of environmental comformity.

Several sectoral guidelines exist for EIA in Benin, e.g.:

- sectoral guidelines for dams and hydroelectric plants;
- sectoral guidelines for pipelines;
- sectoral guidelines for the management of protected areas and forests management;
- sectoral guidelines for water supply projects;
- sectoral guidelines for electrification;
- sectoral guidelines for tourist projects;decree 2003-332 on waste management and the disposal of hazardous waste.

Guidelines can be accessed on the [website of ABE](#).

Scope of application

Decree n. 2017-332 provides that any project

the activities are likely to have impacts on the environment and whose location of interventions is known

before authorization.

source

Décret no. 2017- 332 du 06 juillet 2017

Exemptions from application

Article 28 of the Decree no. 2017-332 states that the following activities are not subject to the EIA procedure:

- any project undertaken for domestic or artisanal purposes, which does not affect sensitive environments or does not generate releases to the environment;
- any project relating to the exploration and prospecting of natural and mineral resources not involving the creation of infrastructures;
- any project that is implemented in response to an emergency and that must be implemented without delay either for the protection of property or the environment or for public health or safety.

It is recommended to ask ABE to be sure if a project is exempt.

Institutional setting

Central ESIA authority

The Benin Environmental Agency (ABE) is the central EA authority that has the mandate to implement the different stages of the EIA procedure. It reports to the Ministry of Environment and Sustainable Development (Ministère du cadre de vie et développement durable)

However, ABE has corporate status and is financially independent.

Other key (governmental) parties

The Ministry of Environment and Sustainable Development provides the legal framework for environmental protection and is responsible for main decision-making during the EIA process.

Decree 2001-095 gave provision for the creation of environmental cells in the different ministries as an interface between ABE and the project proponents. These cells aim to ensure the integration of the environmental dimensions of project, plans and programmes into the respective sectors and departments. Environmental assessment is thus a key mission of these cells.

The Ministry of Environment further establishes Ad Hoc Committee of Public Hearings. These committees aims to inform stakeholders, particularly those affected by the project. Further, the publication of reports (EIA) will be done through local NGOs and the media.

For the review of the EIA report, Ad Hoc Working Groups are formed.

(De)centralisation of mandates

The screening process is decentralized and the responsibility is allocated to the ministries responsible for the respective sector of the project.

Payment system

According to Article 49 of Decree no. 2017-332, expenditures related to the review of EIA reports are the responsibility of the proponent. He must pay the required amount to the ABE when submitting the EIA draft report for the examination.

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