

Tanzania

EIA profile

Updated to: 09 October 2013

Overview ESIA procedure

The Screening process in Tanzania leads to a decision of whether an full EIA has to be conducted, a preliminary environmental assessment is necessary or if no environmental assessment is required. Thereafter, scoping, the assessment process and the review of the EIA report follow. Then, it is decided if the EIS is approved and if an EIA certificate is issued. Monitoring and auditing of compliance follow.

Milestone documents resulting from the EIA process are the following: Policy Brief for Screening, Screening report, Scoping report with Terms of Reference, EIA report, EIA review report, EIA certificate.

Screening

Screening process

Screening is a legal requirement and is conducted by NEMC. Projects of national interest or those of potential high risk are screened by NEMC. More localised projects are screened by the local authority of the area where it is located under supervision of NEMC.

Upon receipt of the project brief from the proponent, NEMC distributes it to relevant stakeholders (Ministries, local government and/ or regional secretariat and public institution). A period of 21 days is given for comments. NEMC then screens the project brief based on the comments and the screening criteria given under the second schedule of the EIA regulation 2005. NEMC can require a preliminary assessment when more information is needed for the screening decision. Following the screening process, a screening report is presented to the proponent. The decision (whether or not an EIA is required or if more information is required to make the screening decision) is then communicated to the proponent, in writing, 45 days after the initial application.

Screening is based on 3 methods:

- A positive and negative list of projects listed under the first schedule of the EIA regulations 2005;
- An initial environmental assessment whose results are included as part of the initial project brief for which various stakeholders have to comment and lastly;
- a criteria based on project features, impacts, location (nearness and effect to sensitive areas). This criteria is included under the second schedule of the EIA regulation 2005.

Sensitive areas

There are provisions for sensitive areas. As part of the screening criteria, it is required that projects should not be located in and should not have effect on any environmentally sensitive areas such as wetlands and national parks. A list of environmentally sensitive areas is given in the Appendix of the EIA Guidelines.

Contents of the starting document

Project registration is done through a submission of a project brief to NEMC in a prescribed form. The contents include: Name of the proponent; proposed project; proposed site; required infrastructure and utilities; environmental impacts and other environmental issues that NEMA may request.

source

Lawcastles (2006). Statutory Procedure for Conducting EIA in Tanzania. Lawcastle Technical paper No 2 of 2006

Timeline Screening

45 days

source

The EIA and Audit Regulations, 2005, Article 7, 8 and 9

Scoping

Scoping process

Scoping is a mandatory requirement.

Where EIA is required after screening, the proponent or consultants hired by the proponent are required to prepare a scoping report on the results of the scoping process. Thereafter, the proponent or the consultant has to develop the Terms of Reference (ToR). Accompanied by the scoping report, the ToR are then submitted to NEMC for approval. If found necessary, a site visit is made as part of the review of the ToR. Finally, the outcome of the review is communicated to the proponent.

source

The EIA and Audit Regulations, 2005, Article 13-1

Contents of the scoping document

Contents of the scoping document include:

- a) method of scoping;
- b) identification of issues and problems;
- c) synthesis of results of the scoping exercise including details of potential impacts;
- d) stakeholders and how they were involved in the scoping exercise;
- e) spatial, temporal and institutional boundaries of the project;
- f) alternatives and;
- g) Terms of Reference

source

The EIA and Audit Regulations, 2005, Article 13-4

Timeline scoping

The decision on the approval of the ToR shall be made within 14 days from submission.

source

The EIA and Audit Regulations, 2005, Article 13-2

Assessment

Assessment process

Assessment begins after the approval of the ToR. The proponent is required to: identify, predict and evaluate significant impacts; ensure that the concerns and views from stakeholders are fully taken into account during assessment of impacts and; assess all alternatives and their impacts recommending the appropriate options. The proponent then identifies impact mitigation and enhancement measures and prepares a Environmental Impact Statement. Before submitting it to NEMC, the proponent shall also consult the relevant authorities on it.

According to the EIA guidelines and procedure, the methods of assessment is depended on the particular case. There is however a general requirement to determine the baseline study in which case consideration should be given to the existing social, economic, physical, ecological, socio-cultural and institutional environment within the project boundary area. It is stated under the 4th schedule of the EIA regulations, 2005 that the consultant should ensure adequate stakeholder participation.

source

Lawcastles (2006). Statutory Procedure for Conducting EIA in Tanzania. Lawcastle Technical paper No 2 of 2006 The EIA and Audit Regulations, 2005, Schedule 4 and EIA Guidelines and Procedure

Contents of the EIA report

- (i) executive summary; (inclusive record of stakeholders consulted)
- (ii) project background and description;
- (iii) policy, administrative and legal framework;
- (iv) baseline or existing conditions
- (v) assessment of impacts and identification of alternatives;
- (vi) impacts management or environmental mitigation, measures;
- (vii) environmental and social management plan;
- (viii) environmental and social monitoring plan;
- (ix) resource evaluation or cost benefit analysis;
- (x) knowledge gaps;
- (xi) report preparers
- (xii) Reference

source

Accreditation of consultants

An accreditation system for consultants exists and is covered and governed in accordance with provisions of the Environmental (Registration of Environmental Experts) Regulation, 2005. Each environmental expert who conducts an EIA or an environmental audit has to be certified as an environmental expert. Similarly, international experts and consultancy firms also need to be certified and registered.

source

The EIA and Audit Regulations, 2005, Article 14

Review

Review process

NEMC is required to circulate the EIS in order to receive written comments from various institutions and government stakeholders and make it available to the public. Moreover, NEMC may conduct site visits as part of the review process and hold open public hearings. Where necessary, the EIA regulation provides for information to be put on the internet.

The NEMC has developed a formal system for reviewing EIA reports. As part of the process, the reviewer considers whether certain specified aspects have been adequately addressed or satisfied in the report, and then gives a score for each of the main topics covered. The overall score of the report is the average of the scores given to each of those topics.

source

EIA and audit regulation, 2005, Part VI

Review expertise

The NEMC can set up a cross-sectoral Technical Advisory Committee to assist with the review process. In addition to government experts, NEMC has a mandate to invite external experts for it.

source

V. Booth, K. Chapman and B. Walmsley: In SAIEA 2003

Timeline Review

The law stipulates that review within NEMC should take 60 days and for the Minister 30 days.

source

Ignace Mchallo, Head of EIA, NEMC. By e-mail correspondence

Decision making

Integration of ESIA into decision-making

Approval of EIA report is necessary to obtain an EIA Certificate. NEMC prepares terms and conditions for issuance of the EIA Certificate and recommends to the Minister responsible for Environment in the Vice President's office. The Minister in turn approves the projects by signing the EIA Certificates, as stipulated in EMA 2004 section 92 (1).

For activities listed in the First Schedule of the EIA and Audit Regulations (2005), the licencing authority (line ministry) does not issue the required licence for proceeding with the project, unless a EIA Certificate has been received.

source

Ignace Mchallo, Head of EIA, NEMC. By e-mail correspondence Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa. NEMC website:

<http://www.nemc.or.tz/index.php?optio>

Decision justification

The minister is required to communicate decisions and the reasons thereof to the proponent in writing with reference to the EIA.

The EIA regulations require that the decisions by the minister be made public. A copy of the decision document is supposed to be available for inspection by the general public at NEMC offices

source

EIA and audit regulation, 2005, article 31-2

Timeline decision-making

30 days

source

EIA and audit regulation, 2005, article 31

Possibilities for appeal

Appeals on the decisions by the Minister are made to Environmental Appeals Tribunal (EAT) and those against the decision of the Environmental Appeals Tribunal are made to the High Court.

Appeals can be made against refusal to grant an EIA certificate by the Minister, revocation, variation or suspension of an EIA report, the amount of money which the proponent/ person is supposed to pay as fees. Additionally, appeals can also be made on decision to withhold information from the public by NEMC.

Any person aggrieved by any decision to award the EIA licence can appeal

source

The EIA and Audit Regulations, 2005, Article 61

Follow-up

Compliance monitoring

The EIA and audit regulations require monitoring to check compliance with EIA approval conditions through NEMC on the one hand and through the proponent on the other hand. NEMC, in consultation with respective line ministries, may undertake inspections for impact and compliance monitoring. NEMC is also responsible for carrying out environmental audits. Such audits must be done for all activities which are subjected to EIA. The audit reports must be reviewed by the cross-sectoral Technical Advisory Committee.

The proponent submits an EMP as part of the EIA report. Additionally, the EIA and audit regulations of 2005 require self auditing by the proponent, who has to submit annual environmental audit reports. An elaborate mechanism for auditing by the proponent is described in Part X of the EIA regulation, 2005.

source

EIA and audit regulation, 2005, article 44 EIA and audit regulation, 2005, part X Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

Non-compliance penalties

Part XVI of the EMA (2004) sets out a variety of penalties. The minister may cancel or suspend an EIA certificate if: the holder contravenes the conditions set out in the EIA certificate; there is a substantial modification in the project; the project pauses and environmental risk which could not be foreseen; if it is established that information or data given by the developer was false. It is further an offense to implement any project without approval under the EIA and audit regulation or to provide false information in an EIA. This can be punished with a fine between 500,000 and 10,000,000 Tshs and/or an imprisonment for two to seven years (1 USD is approximately 1630 Tshs).

source

Kalonga S. Environmental Impact Assessment: A legislative handbook for Eastern Africa Region. CLEAA PD ellows 2007-2008 Alumni (un-published) Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Afric

Stakeholder engagement

Public participation requirements for ESIA process stages

There are provisions for public participation during scoping, environmental impact study, during the EIA report review and during the preparation of the terms and conditions of the EIA approval. Additionally, a member of the public may, after showing a reasonable cause petition NEMC to order an audit of a particular project.

Both oral and written comments are made and recorded for input either into the draft EIA report or for consideration alongside the final EIA report during decision-making.

It is not explicitly required to provide insight into which particular public comments have influenced decisions. However, the Minister on making a decision is supposed to consider the comments made by various stakeholders including the public and the report of the person presiding at a public hearing, where applicable.

Costs

The proponent is responsible for all fees, costs and expenses associated with the preparation of an EIA report. However, accessing records of decision and EIA report comes along with a fee.

source

- The EIA and Audit Regulations, 2005, Article 17, 26 and 56
- Section 89 and 90 of Environmental Management Act 2004
- The EIA and Audit Regulations, 2005, Article 32
- Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

Timeline for public comments

Not specified. Nevertheless, appeals with regards to any of the decision is supposed to be made within 30 days.

Access to information

The EIA regulation states that any project brief, environmental impact statement, Terms of Reference, public comments, report of a person presiding at a public hearing, environmental impact assessment statement, decision letter or any other information submitted to NEMC is public document and anyone may have access under conditions that NEMA may consider appropriate.

The EIA regulations recommend a number of ways through which the proponent can share information to the public. These include putting up posters in strategic public places near the proposed project; publishing a notice in newspaper with nationwide circulation; making announcement in radios with nationwide coverage in both Swahili and English and holding public meetings where it is appropriate.

source

The EIA and Audit Regulations, 2005, Article 17, 26 and 56

ESIA practice

Annual no. of ESIA's

Number is growing annually, total of EIA/EA certificates issued stood at just over 300 in 2013.

Central ESIA database

The EIA regulations, 2005 requires NEMC to keep a register of EIA certificates, EIA statements, EIA experts, Audit and monitoring reports as well as approvals of applications for seeking exclusion of proprietary information from public access.

Professional bodies

Eastern Africa Association of Impact Assessment: EAAIA was formed to enable the Eastern Africa region to establish a well-managed database that act a as: a source of EA information, a mechanism for

exchange and sharing of knowledge, information and experience on EA policies and practice; support maximization on the use of available resources in the region. Tanzania is a member

Network for Individuals Concerned for Environment (NICE)

[East African Network for Environmental Compliance and Enforcement \(EANECE\)](#): Regional network of governmental agencies which have in their mandate environmental management, compliance and enforcement responsibilities in the East African nations of Kenya, Uganda, Tanzania, Rwanda and Burundi.

Relevant links

[Southern Africa Institute for Environmental Assessments \(SAIEA\) on Tanzania](#)

Background information

History of ESIA

The National Environmental Management Act (No. 19 of 1983) provided for the establishment of the National Environmental Management Council (NEMC), the main EIA authority to date. In 1994 NEMC developed the National Conservation Strategy for Sustainable Development. Simultaneously, the Ministry of Tourism and Natural Resources took the first step towards incorporating environmental concerns into national planning and development with the publication of the National Environmental Action Plan in 1994. The National Conservation Strategy for Sustainable Development and the National Environmental Action Plan and specific sectoral policies such as those on land, mining, energy, water, agriculture, population and fisheries recognise EIA as a means of ensuring that natural resources are soundly managed. Draft EIA guidelines were first presented in 1996 and later on revised and up-dated in March 2002. At that moment, the country was still lacking a coherent legal basis for effective environmental management though. In 2004, the parliament of Tanzania then passed the Environmental Management Act (EMA) which repealed the Act of 1983. Under the EMA, the Environmental Impact Assessment and Audit Regulations of 2005 were passed. EMA promulgates both EIA and SEA.

Legal framework

Enabling law

Environmental Management Act (EMA) No. 20 of 2004 provides the legal basis for EIA and SEA. It is commonly referred to as EMA Cap 191.

National detailed regulation

National Environmental Impact and Auditing Regulations (2005): These regulations set out procedure for conducting EIA and Environmental audit in the country.

Guidelines

NEMC issued general EIA guidelines, which comprise of three parts:

- Part 1: Elaborates the proposed EIA procedure.
- Part 2: Detailed guidelines for the following stages: registration, screening, scoping, EIA report writing, review and monitoring.
- Part 3: Includes relevant annexes (e.g. screening lists, review criteria, checklists, flow diagrams)

The guidelines are intended to eventually become integrated into the regulation and thus become part of the legal provisions for EIA.

Sectorally, the following guidelines exist (their status is also given):

- Roads (2005): being tested
- National parks: In use
- Marine parks and reserve: Finalized
- Mariculture development: Inclusion of EIA in sector's own guideline
- Coastal tourism: Inclusion of EIA in sector's own guideline

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

Scope of application

All development projects likely to have significant environmental impacts. These projects are listed under the first schedule of the EIA regulation 2005 and include public and/ or private, national and/ or foreign. In summary they include projects in:

i) Agriculture; ii) Livestock and range management; iii) Forestry activities; iv) Fisheries activities; v) Tourism and recreational development; vi) The energy industry; vii) The petroleum industry; viii) Food and beverage industries; ix) The textile industry; x) Building and civil engineering industries; xi) Chemical industries

source

Kalonga S. Environmental Impact Assessment: A legislative handbook for Eastern Africa Region. CLEAA PD ellows 2007-2008 Alumni (un-published)

Institutional setting

Central ESIA authority

The National Environmental Management Council (NEMC) is the central EIA authority in Tanzania. NEMC is an agency that operates under the Division of Environment of the Ministry of Environment.

Initially, NEMC was established in 1983 in terms of the National Environment Management Council Act No. 19. Its functions and responsibilities were then rearticulated through the Environmental Management Act of 2004. NEMC is aimed to undertake the review, monitoring, enforcement and compliance activities for EIA and to facilitate public participation. NEMC has a Directorate of Environmental Impact Assessment (DEIA). The Directorate reviews and approves EIA reports, conducts site inspections and verification visits, manages the EIA database and it conducts monitoring and environmental audits. It furthermore provides training on EIA at district level.

source

Kalonga S. Environmental Impact Assessment: A legislative handbook for Eastern Africa Region. CLEAA PD ellows 2007-2008 Alumni (un-published) Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa

Other key (governmental) parties

National Environmental Advisory Committee (NEAC): Reviews achievements of objectives, goals and targets set by NEMC and advises the Minister accordingly. Additionally NEAC gives advice to the minister on matters relating to environmental standards, guidelines and regulations including EIA.

Division of Environment: The Division of the Ministry of Environment, among other tasks, is responsible for formulating policies and strategies on the environment.

Ministry of Environment: The Minister approves EIA reports and may delegate these powers to DoE, Government Authorities or Sector Ministries. The Ministry also reviews NEMC reports for projects subjected to EIA and has the powers to issue or suspend EIA certificates in cases of non compliance.

Sector Ministries: An environmental section was established within each line ministry to facilitate intersectoral cooperation. Each section is headed by a Sector Environmental Coordinator. In relation to EIA these sections have the following tasks: providing the proponent with relevant policies, regulations, legislation or other information, support the evaluation of registration forms and Project Briefs, collaborate in the review of the ToR, consultation during the EIA study and the review of the EIS, undertake monitoring of the project implementation.

Local Government Authorities: Monitor the preparation, review and approval of EIA for local investors

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

(De)centralisation of mandates

The responsibility for the screening decision can be delegated to local authorities. The screening then happens under supervision by NEMC.

Although responsibility on EIA report review is extended to the provincial and district levels of government, decision-making for EIA is centralised and done by the minister in charge of environment upon receiving advice on EIA report review from NEMC who consults with the provincial and local authorities.

Payment system

The proponent pays directly to NEMC a fee of Tsh 20,000 for EIA application. This fee is not linked to the environmental permit and is only for EIA administration. The proponents are obliged to contact NEMC to receive latest information about the required fees. Fees are also required to access Council records of decision, EIS documents and to register EIA practitioners.

source

Kalonga S. Environmental Impact Assessment: A legislative handbook for Eastern Africa Region. CLEAA PD ellows 2007-2008 Alumni (un-published) Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of

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