Burundi

EIA profile

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Contact & history

Country contact

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History of ESIA

The constitution promulgated in March 1992 in the wake of preparations for the Earth Summit, addressed the issue of the environment. Indeed, in Article 111, it ranks "the protection of the environment and conservation of natural resources" among the issues that are within the law. Following constitutions will naturally follow this approach.

Thus the current constitution, enacted in March 2005, states in Article 35 that "The State shall ensure the proper management and rational exploitation of the country's natural resources while preserving the environment and the conservation of these resources for generations to come. "

The presence of the environmental aspects in the constitution is thus paving the way for laws and regulations in this field.

Prior to Law No. 1/010 of 30 June 2000 on the Code of Environment of the Republic of Burundi, the EIA practice was mainly effective in projects supported by the World Bank and the African Development Bank. This law has been supplemented by an implementing decree: Decree 100/22 of 07 October 2010 on the enforcement of the Environmental Code in relation to the EIA procedure and a ministerial decision of 9 January 2013 following No 770/083 on the scoping in the EIA process in Burundi.

Legal framework

Framework/Enabling law

Environmental code of Burundi: Law No. 1/010 of 30/06/2000

National detailed regulation for ESIA

Decree No. 100/22 of 7 October 2010 on the implementation of the measures of the Environmental Code in relation to the procedure of environmental impact study

Guidelines

Not available. Plans for joint development of guidelines by ABEIE and the Environment Directorate are still ongoing.

Sector specific procedures or regulations on EIA

There are some sector regulations with aspects related to EIA

- Law No. 1/008 of 1 September 1986 Land Code of Burundi
- Law No. 1/02 of 25 March on the Code of Forest Burundi
- Decree Law No. 1/138 of 17 July 1976 and Petroleum Mining Code of Burundi
- Decree-Law No. 1/41 of 26 November 1992 establishing and organizing the Hydraulic Public Domain
- Decree-Law No. 1/16 of 17 May 1982 on the Code of Health
- Decree No. 100/138 of 26 March 2007 on the reorganization of the National Commission for the Environment
- Ministerial Order No. 530/770/720/320/205 of 27 February 2009 on development and management of protected areas in the vicinity of ravines and rivers crossing urban and green spaces
- Ministerial Ordinance No. 540/760/770/236/2006 determining the annual contribution for site rehabilitation research and exploitation of mineral substances

Scope of ESIA application

Articles 4 and 5 of the Decree contain provisions related to the type of projects submitted to EIA. Private, national and international projects are subject to EIA. Maintenance and large repair works are not subjected to EIA.

Article 4 determines that projects of Annex 1 are submitted to EIA irrespective of the cost of their realization. Article 5 promulgates that projects of annex 2 may be submitted to EIA if the Ministry in charge of the environment deems that they may be harmful to the environment under the conditions determined by the environment code.

Exemptions from ESIA application

Maintenance and major repairs works are not subject to the EIA procedure, whatever the projects or equipment which they relate to are. (Article 24)

Institutional setting

Central ESIA authority

The Department of Environment is the central EIA authority. It operates under a General Directorate in charge of the Environment which is overseen by the Ministry for Water, Environment, Land Management and Urban Development.

Other key (governmental) parties involved in ESIA, and their roles

National Institute for Environment and Nature Protection (INECN).

(De)centralisation of ESIA mandates

All decisions are taken at the Department of Environment of MEEAT&U.

Payment system

For the review of the EIA by the Ministry of Environment, the promoter shall pay an administrative fee whose amount is yet to be fixed by a joint order of the Ministries of the Environment and Finance as provided by the regulation. It should be noted that the fee will be paid again in case the EIA is rejected and another study is submitted to the review.

ESIA procedure

Overview ESIA procedure

Chapter II, III and IV of the decree of the Environment and the ministerial Decision No. 770/083 and Chapter 2 give some indications on the procedure of EIA.

For projects of Annex 2, the decision to submit the project to an EIA is taken by MEATU after consulting the sector or other sector administrations concerned by the project. The EIA is then completed by the third party which should be an authorized body (consulting firms, public or private research institutions, organizations dealing with nature protection with qualified people in the field of EIA).

The report of the EIA is deposited and publicized. Then comes the administrative control of the quality and the decision on the EIA.

Screening

Screening process

Projects of Annex 1 of the Decree are automatically subjected to EIA. For projects of Annex 2, the decision to submit the project to an EIA is taken by MEATU after receiving the advice of the relevant sector or other sector administrations that are affected by the project.

Sensitive areas

The environmental law provides that water works that may impact on hydraulic systems, water courses, catchments and aquatic species (article 52) are subject to EIA. More generally, Article 5 of the Decree provides that the Minister takes into account the particularity of circumstances and sites to determine if the projects presented may have significant impacts on the environment or not.

source

Article 5 of the Decree.

Contents of the starting document

Article 6 of the Decree facilitates preliminary screening, where the proponent sends a screening sheet to the Minister. The sheet describes the project and its potential effects on the environment as well as the terms and conditions for its implementation including the necessary measures prescribed to prevent, mitigate, correct or compensate for the potential effects on the environment. It specifies the conditions in which the proposed project will be conducted, the direct or indirect effects that it may have on the environment, the measures envisaged to prevent, modify or mitigate these risks, as well as alternatives that could address these risks.

Timeline Screening

Article 7 of the Decree determines that within one month after the document has been submitted, the Minister has to take the screening decision.

Scoping

Scoping process

Scoping is described by the Ministerial Decision No. 770/083 of 09/01/2013 on the scoping in the procedure of EIA in Burundi.

Recognizing that the scoping a key step in the EIA process, a combined scoping approach is established in Burundi. The scoping is an open and interactive process, which serves to limit the scope of the EIS, to provide guidance on how to conduct the study and to facilitate the evaluation of the quality of the study. The scoping is done by a method combining fixed terms of references (that served as draft terms of reference) provided by the administration and specific elements for the project, as developed by the promoter after public involvement (Article1-3 of the ministerial decision). This scoping procedure refers to projects of Annex I and those of Annex II after the decision of submitting them to the EIA has been made by MEATU.

According to the ministerial decision of 2013 :

The promoter shall prepare a proposed TOR including the public and send it to MEATU for approval

MEEATU analyzes the proposed TOR, approves, monitors and revision them if necessary (Article 5), the promoter of the project pays for the scoping (Article 6)

Contents of the scoping document

According to the ministerial decision related to scoping, fixed terms of references partly determine the content of the scoping document.

Timeline scoping

Not applicable.

Assessment

Assessment process

Articles 19, 20 and 21 provide an overview of the roles of stakeholders involved in the assessment of the quality of the report. Article 19 provides that the EIA report is submitted by the proponent or the owner of the project in triplicate to the Ministry of Environment for review and for approval. A copy is available to each administration concerned by the process of authorization for the execution of the work.

Article 20 provides that when the project subjected to EIA concerns a national park, nature reserve or a natural area protected by the provisions of Chapter 5 of the Code of the Environment or may have effects on the above elements, the EIA report should be referred to the authority responsible for the natural environment who shall give its opinion to the Ministry of Environment within a maximum of one month.

Article 21 provides that when the construction project subjected to the EIA procedure gives rise to a public inquiry, the report containing the impact assessment is included in the documents covered by advertising in public inquiry conducted for the admissibility of the proposed project. The conduct of the public inquiry is the responsibility of the Ministry for the Environment.

Contents of the EIA report

The impact study must include: the analysis of the initial state of the site and its environment, the evaluation of foreseeable consequences of the implementation of the project on the site and its natural and human environment, the utterance and description of the measures envisaged by the petitioner to remove, reduce and, if possible, offset the adverse consequences of the project on the environment and the corresponding estimate of expenses; presentation the alternatives and why the presented version of the draft was privileged (Article 23)

Article 16: For environmental impact studies for projects of structures and facilities, the requirements set out in section 23 of the Environmental Code specifically involve an analysis of the following data:

- A detailed description of the project and the reasons for his choice of other solutions possible;
- Analysis of the initial state of the site and its physical, socio-economic and human biological environment, including on natural resources, socio-economic and socio-cultural aspects that may be affected by the project;
- Analysis of the changing environment of the site in the absence of the project;
- The identification, analysis and evaluation of possibilities and potential effects of the implementation of the project on the natural and human environment;
- Identification of measures to avoid, reduce or eliminate harmful effects and planned to maximize the positive effects on the environment;
- The Environmental Management Plan against the rules logistics accurately describing the prevention, reduction and / or offset the effects of the project on the environment, including institutional arrangements, costs, schedule for their implementation, monitoring mechanisms of the project and its environment as well as the compensation plan and affected by the project if communities;
- The terms of reference of the study;
- The summary in non-technical language specific information required in paragraphs above;
- A summary of public consultations including comments and recommendations received from parties interested or affected by the project.

Accreditation of consultants

Article 13 of the Decree provides that the promoter of the project may hire the services of an accredited third party or specialized organization. The conditions for the accreditation, however, are not mentioned.

Review

Review process

Articles 25, 26 and 27 reflect the substance of the chapter.

Article 25 provides that the EIA report as well as all documents and opinions resulting from the application of Articles 19 and 22, are examined by the Ministry of Environment.

The Ministry of the Environment may request from the promoter, any information or complementary study on aspects that are not sufficiently clarified in the report filed.

At the end of the review of the report (Article 25) the Ministry of Environment takes a justified decision of approving or rejecting the project. (Article 26).

Review expertise

The Ministry of the Environment conducts the review. It can seek the views of other Ministries concerned by the project.

Timeline Review

Article 21 determines that the review shall not exceed three (03) months from the closing date of the public participation phase.

Decision making

Integration of ESIA into decision-making

EIA report approval is integrated into the project approval; the approval of the EIA report implies the approval of the environmental permit.

The Ministry of Environment takes a justified decision of approval or rejection, which is transmitted to the ministerial competent authority for the implementation of the project. A copy of this decision is reserved for the proponent of the project. (Article 26)

Minister of Environment is the main decision-maker, but he/she may seek the views of other Ministries that are relevant to the project. He/she may as well request from the promoter any information or complementary study on aspects that are not sufficiently clarified in the submitted report. (Article 25)

After the approval of the project, the EIA becomes a legal instrument whose provisions are legally binding for the promoter (Article 29).

Decision justification

Decisions have to be justified in the environmental agreement certificate.

Decisions do not have to be made public, only to the concerned parties.

Timeline decision-making

At the end of the review of the report (Article 25) which shall not exceed three (03) months from the closing date of the public participation phase (Article 21) the Ministry of Environment takes a decision. (Article 26)

Follow up

Compliance monitoring

Monitoring is required, no further specifications.

Non-compliance penalties

The promoter is given a warning in case measures in the follow up and monitoring programme are not met or if their performance is not consistent with the description provided. If the warning is not enough, the violation action is sanctioned in accordance with Article 27 of the Environmental Code (Article 31). Also, the administration of the Environment may either order the suspension of operations or works undertaken or withdraw the environmental authorization. It should be noted that no compensation can be claimed by the promoter for the damage suffered, except if he appeals before the competent court to demonstrate that the sanction was inappropriate.

Stakeholder engagement

Public participation requirements for ESIA process stages

The public may comment on the EIA report. During the consultation period of the EIA file at the Ministry of Environment, a register is opened to register all the comments on the EIA. (Article 24)

Timeline for public comments

In accordance with Article 22, 3, The EIA file is available at the Ministry of the Environment for one (01) month from the date of the announcement in a national newspaper (Article 24)

Access to information

The EIA report is available to the public.

According to Article 22: When the EIA concerns a construction project for which a public hearing is not required by the legal provisions in force, it is made public under the following terms:

The availability of the study is announced to the public by posting at places to be determined by the Ministry of Environment and, in any case, at the headquarter of the provincial or territorial administrative unit concerned. Announcements by means of radio or television could be considered;

Advertising on the EIA and its consultation is made by insertion in one or more national newspapers, not more than two weeks after the EIA report is made available. Costs related to these inserts are the responsibility of the promoter or of the owner of the project;

Any person or organization may consult the EIA file submitted to the Ministry of the Environment, in the manner determined by the same Ministry.

Appeal

Possibilities for appeal

In principle, any decision can be appealed. However, Article 9 of the decree makes special reference to the appeal to the scoping decision that could be made by relevant administrations.

In principle, any body who deems it necessary can make an appeal.

ESIA practice

Central ESIA database

A joint project between the MEATU and ABEIE on the implementation of an EIA central data base is ongoing.

Professional bodies

Burundi Association for Environmental Impact Assessment (ABEIE)

Relevant links

http://www.uneca.org/eca_programmes/sdd/documents/EIA_book_final_sm.pdf

http://www.sifee.org/publications/typologie.pdf