

# Mozambique

## EIA profile

**Updated to:** 19 August 2020

### Overview ESIA procedure

The first step of the EIA process in Mozambique is Screening, where the activities are categorized. It is then decided if they need a full, simplified or no EIA in order to receive the permit. Scoping is done for full EIAs and simplified EIAs. For simplified EIAs a pre-assessment is done during that stage. Further steps of the EIA process are the assessment, review and decision-making stage on whether an environmental licence is issued or not. Finally, compliance monitoring is undertaken.

Documents that can be essential outputs of the EIA process are the following: Starting documents (Screening), Environmental Pre-feasibility Study document for full EIAs (Scoping), ToR for full and simplified EIAs (Scoping), Environmental Impact Report (EIR) for full EIAs, Simplified Environmental Reports (SER) for simplified EIAs, recommendations from review, Environmental Licence, EMP.

## Screening

### Screening process

Decree 54/2015 establishes that screening is required for all activities with possible impacts on the environment. The Ministry for Land, Environment and Rural Development (MITADER) is responsible for the screening decision.

The decision is based on several documents, including a description and justification of the activity, the legal framework of the activity, and a short description of the environmental and the socio-economic conditions of the area. At this stage, the authority may not approve the project when fatal flaws ('questoes fatais') are identified.

The screening results in the rejection of the activity's implementation, or in the categorization of the activity in one of four categories. Category A+ requires full fledged EIA and the supervision and review of (an) independent expert (s). Category A requires only a full fledged EIA. Category B a simplified EIA and Category C requires no EIA but compliance with General Procedures of Good Practice in Environmental Management.

The screening decision is based on several criteria, including: the number of affected people and communities; the type of ecosystems, plants and animals affected; location and extension of the affected area; probability, nature, duration, intensity, and significance of the impact; direct, indirect, potential, global and cumulative impacts; and reversibility and irreversibility of the impact. Decree 54/2015 provides lists to determine the categories of the projects (Anexo I to V).

Category A+ comprises of projects that are of such complexity, magnitude, and likely to produce irreversible impacts, that they require strict monitoring with involvement of specialists. They may involve economic and physical displacement that cannot be addressed under the specific Regulation on Resettlement Resulting From Economic Activities (Decree No. 31/2012, of 8 August), or they are

positioned in areas characterized by highly valued biodiversity and habitats, animal and plants species on the edge of extinction, or may involve projects producing dangerous toxins (carcinogens), pesticides, and extraction and processing of minerals.

Category A are projects with significant impacts, for example large scale infrastructures (airports, highways), large-scale agriculture, forestry, fisheries and related industries.

Category B projects involve projects that have no significant impact and are not undertaken in sensitive areas, such as transmission lines, education complexes, and factories involving the production of various types of goods such as construction materials. Projects of Category B require the simplified EIA process including the formulation of ToR and a Simplified Environmental Report (SER).

Category C projects may create minimal negative impacts, such as small-scale irrigation, telecommunication towers, or small factories.

### *Sensitive areas*

The Decree provides for the possibility to reject a project considering its fatal flaws. This can be applied to projects proposed in areas considered to be only for conversation purposes, and areas that contain species on the edge of extinction as well as migratory species, and to protect ecosystem functions essential on national, provincial, or district level.

The Category A + provides extra protection for proposed projects in sensitive areas (both from an environmental and social concern).

source

Articles 8 and 9 of Decree 54/2015 including appendices I to V.

### **Contents of the starting document**

Several documents have to be presented to the responsible authorities by the proponent, including:

1. description of the activity;
2. justification of the activity;
3. the legal framework of the activity;
4. short description of the biophysical and the socio-economic conditions of the area;
5. current use of the land in the area where the activity is to take place;
6. environmental information of the area where the activity is to take place;
7. information on the elaboration and submission of the different steps of the EIA (ToR, scoping and EIA);
8. duly completed form with preliminary environmental information as available at DINAB or at the provincial departments of MITADER.

source

For this a form is available, a so-called FIAP, Anexo 6 to the Decree 54/2015.

### **Timeline Screening**

8 working days

source

Article 19 of Decree 54/2015

## Scoping

### Scoping process

All activities that fall under Category A+ or A require scoping, but to a different extent. For activities of Category A+ and A an Environmental Pre-Viability Study (EPDA) that also includes the designing of ToR has to be done. Activities in Category B only require Terms of References for the Simplified Environmental Report (SER), but no EPDA.

The proponent is responsible for writing the EPDA. An essential aspect is that the proponent identifies the likelihood of fatal flaws.

The EPDA report is reviewed by a multi-sector technical review committee. The technical committee reviews the scoping report of A+, A and B projects. It provides comments and asks for additional information to the proponent when regarded necessary.

source

Article 10 and 12 of Decree 54/2015

### Contents of the scoping document

Three different Scoping documents can be distinguished: the EPDA report, the ToR for Category A+ and A activities and the ToR for Category B activities.

The EPDA consists of:

- a non-technical summary;
- name and address of the proponent as well as of the multi-disciplinary team elaborating the EIA;
- delineation of the areas on which the project has indirect influence;
- patterns of land use for the areas on which the project has direct and indirect influence;
- description of the activity and its foreseen interventions, as well as possible alternatives for the different stages of the activity (planning, construction, exploration, and decommissioning);
- biophysical and socio-economic description of the area;
- identification and review of the fatal issues of the activity;
- indication of the potential environmental impacts of the activity;
- identification and description of the aspects that should be researched in detail during the EIA.
- a report of the public participation.

A Review report by the independent Experts on the EPDA and EIA of Category A+

The ToR for category A+ and A projects consists of:

- a description of the needed in depth studies as identified in the EPDA;
- a description of the viable alternatives that need further research during EIA;
- methodology for identification and review of the possible environmental impact during the different stages of the activity;
- name and address of the proponent as well as of the multi-disciplinary team elaborating the EIA;
- necessary additional information requirements.

The ToR for category B activities require:

- name and address of the proponent;
- delineation of the areas on which the project has direct and indirect influence (including map);
- patterns of land use in the areas of the project;
- analysis of how the activity fits into the existing spatial plans;
- description of the activity and its foreseen interventions, as well as possible alternatives for the different stages of the activity (planning, construction, exploration, and decommissioning);
- public participation plan;
- identification of the environmental issues at stake in the EIA;
- description of the methodologies to be used in the identification, classification and review of the environmental impacts of the proposed activity and alternatives;
- name and address of the multi-disciplinary team elaborating the EIA.

source

Article 10 and 12 of Decree 54/2015

### **Timeline scoping**

ToR for B projects: 15 working days

EPDA and ToR for A projects: 30 working days

EPDA and ToR for A+ projects: between 40 and 50 working days

source

Article 19 of Decree 54/2015

## **Assessment**

### **Assessment process**

The Proponent is responsible for the assessment process. The EIA is guided by the approved ToR that is established during the scoping stage. The methods of the assessment undertaken in the EIA had to be

specified in the ToR. The EIA and simplified reports have to be submitted to MITADER.

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

The EIA for Category A+ and A activities, requires the following content:

- non-technical summary;
- legal framework;
- analysis of how the activity fits into the existing spatial plans;
- description of the activity and its foreseen interventions, as well as possible alternatives for the different stages of the activity (planning, construction, exploration, and disabling);
- geographical delineation of the project;
- baseline data of the socio-economic, and natural environment in the area under influence of the activity;
- detailed description and comparison of the different alternatives and the predicted future for the environmental and socio-economic situation, with and without mitigation measures;
- identification and review of environmental and social impacts of the activity and its mitigation measurements;
- identification of impacts on health, affected communities including vulnerable groups, and proposed mitigation measures;
- environmental and social management plan that includes a monitoring plan, an environmental education program, and contingency plans for accidents;
- in a separate attachment, the management plan for biodiversity counterbalancing, when applicable;
- in a separate attachment, a report of the physical, social and economic losses identified, as well as a Resettlement Plan in line with the National Directive, and a report of the public participation that informs affected peoples about resettlement and includes a discussion of alternative resettlement areas;
- name and address of the multi-disciplinary team elaborating the EIA;
- public participation report.

Specialist reports must be attached to the EIA report in the form of appendices.

For Category A + an independent advisory review report has to be submitted.

The Simplified Environmental Report (SER) for Category B activities is required to have the following contents:

- non-technical summary;
- description of the activity and its geographical location;
- legal framework;
- analysis of how the activity fits into the existing spatial plans;
- short description of the baseline environmental situation in the area under influence of the activity;
- identification and review of environmental impacts of the activity;

- environmental management plan that includes a monitoring plan, an environmental education program, and contingency plans for accidents;
- name and address of the multi-disciplinary team elaborating the EIA;
- public participation report.

source

Article 11 and 12 of Decree 54/2015

### **Accreditation of consultants**

Individual consultants, consulting firms, or consortiums can be involved in the impact assessment process and studies. They can only be registered when they have five year or more experience in the area of the environment, or in specific subjects related to the environment. The Decree provides a list of criteria Mozambican consultants need to comply with.

For foreign consultancies involved in the project, the Decree requires that 50 % of the consultants are subcontracted Mozambican nationals.

There is no specific information yet regarding the requirements of Independent Experts for Category A+ projects.

source

Article 23 and 24 of Decree 54/2015

## **Review**

### **Review process**

A temporary multi-sector technical review committee is set up to review the EPDA. The same committee also reviews the EIA report. The committee submits a report with its comments to the EIA authority (MITADER), which also takes into account all the comments made by the public during the review process. For A+ projects, the review report of the independent expert is included (mechanism not yet operational).

During the review process, the proponent may have to submit additional information to assist the committee. The proponent has 10 working days to comply with these requests. The findings of the report of the committee form the basis for the decision-making process by MITADER regarding the granting of the Environmental License.

The review of the Simplified Environmental Report (SER) entails the set up of a technical committee comprising of various (local) representatives and technical experts. This committee may request additional information, and eventually approves the SER which is the basis for the approval of the Environmental License.

source

Articles 16, 17 and 18 of Decree 54/2015

## Review expertise

Through the review committee relevant expertise from within government can be involved in the review.

source

Article 13 and 14 of Decree 2015

## Timeline Review

45 working days EIA A projects

60 working days EIA for A+ projects

30 working days simplified EIA for B projects

source

Article 19, Decree 54/2015

## Decision making

### Integration of ESIA into decision-making

There are three phases of licensing:

1. a temporary license after approval of the EPDA (valid for 2 years).
2. a license for installation of the project, after the EIA and the resettlement plan (if applicable) are approved (valid for 2 years).
3. an operational license when there is full compliance with the EIA and full completion of the Resettlement plan (if applicable) (valid for 5 years).

The review committee provides recommendations to the competent authority regarding the issuing of the Environmental Licence. The issuance of the Environmental Licence must be based upon an approved EIA of the proposed activity. Environmental Licences are valid for a period of five years. They are then renewable for an equal period of time. The licence is a prerequisite for the issuance of any other licence or permit that may be legally required. The decision on the EIA approval and the issuance of the license are both taken by the central EIA authority.

MITADER is the competent authority for activities of Category A+ and A, and its provincial departments may issue the licence for Category B and C projects.

source

Article 20 and 21 of Decree 54/2015

## Decision justification

If environmental viability is proven, the competent authority notifies the proponent after payment of all required fees. It is not specified if this is writing or not. If environmental viability is not guaranteed, the competent authority can (partially) reject the implementation of the activity, which is reasoned both technically and legally in a final statement report.

The partial rejection can result in placing the project in another category. In this case, the Authority requires that a new AIA process is conducted, before they reconsider their decision.

source

Article 21 of Decree 54/2015

### **Timeline decision-making**

If environmental viability is proven, the competent authority has 15 working days to notify the proponent after payment of all required fees. If environmental viability is not guaranteed, the competent authority can (partially) reject the implementation of the activity. If that is the case, competent authority has 5 working days to notify the proponent.

source

Article 21 of Decree 54/2015

### **Possibilities for appeal**

Not specified

### **Follow-up**

#### **Compliance monitoring**

The Decree stipulates that MITADER has to conduct regular inspections on the sites of projects to monitor the implementation of the management plans. They can also request an environmental audit when they regard this necessary.

Specifically for A+ and A projects, the Authority has to visit the project on an annual basis during the construction phase.

Every five years the Environmental Licence has to be renewed. The renewal of the licence depends on the presentation of an updated EMP for Category A and B projects, and for Category C a report on environmental performance based on the conditions set out in the authorisation document. For Category A+ projects also an updated management plan for counterbalancing impacts on biodiversity is expected.

MITADER will conduct a visit to the locality of the project, for which the costs are the entire responsibility of the proponent.

source

Articles 22 and 26 of Decree no. 54/2015

### **Non-compliance penalties**

Penalties are set out as follows:

- Administrative offences are penalized with a fine of 30 to 150 minimum wages, as well as the imposition of any other sanction provided for in the law.



- Failure to renew the Environmental Licence (every 5 years) is fined with 30 to 50 minimum wages, and suspension of the activity until a new license is issued.
- When projects are not implemented in accordance with the license: 2857 to 5714 minimal wages for A+ projects, 1429 to 2857 minimal wages for A projects, 286 to 1429 minimal wages for B projects, and 1 to 2 minimal wages for C projects, and immediate suspension.
- Other offences related to EIA are listed, for example a fine of 25 million MT (meticaïs) when the proponent does not follow the established deadlines of the AIA process.

source

Article 28 of Decree 54/2015

## **Stakeholder engagement**

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

Public participation is mandatory for Category A+, A and B projects. Public participation is required from the start of the conceptual phase of the project, until the EIA (or simplified) approval has been given.

Public participation is regarded to be the entire responsibility of the proponent. Public participation must at least include 2 consultations on a local level; the first consultation must entail a presentation of the proposed project and involves collection of comments and suggestions, and the second consultation must involve presentation of the report to be submitted to the government (supposedly the first version of the EPDA and/or EIAs). The announcement for the public consultation must be done at least 15 days in advance of the event.

All parties, and specifically local communities whom are directly or indirectly affected by the project can participate in the consultation.

All the technical reports in relation to the scoping of the project must be available to the public before the public consultation, to guarantee their participation in the process.

The final reports including the EIA, environmental and social management plans, management plans of counterbalancing biodiversity, and the resettlement plans are public documents. The EIA Authority is responsible for disseminating these documents on a national and provincial level.

Regarding resettlement of local communities, specific consultation requirements apply (see the Process of Resettlement Resulting from Economic Activities (Decree No. 31/2012, of 8 August).

All comments provided during public consultation and public hearings should be registered in such a way that the integrity of its contents is preserved (written, recorded, other). The public participation must result in a final report (this report will be public).

source

Article 15 of Decree 54/2015

### **Timeline for public comments**

For Category A+ projects, 45 days after de Public Consultation was held, and comments should be directed to the consultant responsible for the project.

For the other categories, 15 days after de Public Consultation was held, and comments should be

directed to the consultant responsible for the project.

### **Access to information**

During public consultation, all information that is related to the activity should be made available. If needed, this information should be transcribed to an easy to understand, clear and concise language. This includes the possible environmental, social and economic impacts of the activity, the decisions that can be taken, and the alternatives. The technical reports of the EIA report must also be made available for public comment.

The information is made available in public places and distributed through media organizations with the largest coverage and circulation in the area where the activity is to take place.

### **ESIA practice**

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

No information available

#### **Central ESIA database**

Not existing

### **Professional bodies**

AMAIA is the Mozambican Association of Environmental Impact Assessment

source

<https://www.iaia.org/affiliates.php>

### **Relevant links**

[Ministry for Environment, Land and Rural Development \(MITADER\)](#)

### **Background information**

#### **History of ESIA**

In the early 1990s , EIA was starting to be applied in Mozambique. The National Environmental Management Programme (1995) of the newly formed MICOA (predesessor of MITADER) outlines the priorities for environmental management and sustainable development in Mozambique. EIA is first mentioned in 1995, in the National Environmental Policy (Resolution 5/95 of 6 of December). The Environment Law of 1997 sets the foundation of a whole set of legal instruments for the protection of the environment. It requires environmental licensing for activities which may have significant impacts on the environment. The issuing of the environmental license is based on the EIA of the proposed activity and it is done before the issuing of any other licenses legally required for each case.

In 1998 the first Regulation on EIA was established (Decreto 76/98 of 29 of December) which set out the EIA process. This Regulation was abolished and replaced by a new one in 2004 (Decree 45/2004 of 29th of September), which was partially rectified in 2008 (Decree 42/2008 of 4th of November). In 2015, a new regulation on the process of environmental impact assessment was established (Decree 54/2015), thereby replacing the Decrees 45/2004 and 42/2008.

source

Decreto No 54/2015, 31 December 2015, Regulamento sobre o processo de Avaliacao do Impacto Ambiental

## Legal framework

### Enabling law

The Environment Law of 1997

source

Ley no. 20/97, 1 Octubre 1997, Ley Ambiente

### National detailed regulation

Decree on Environmental Impact Assessment (54/2015)

Moreover, the following legislation has been issued:

- Decree 32/2003: Environmental auditing
- Ministerial Decree 129/2006 of 19 July: General Policy for EIA
- Ministerial Decree 130/2006 of 19 July: General Directive for Public Participation process in EIA
- Diploma Ministerial 189/2006 of 14 December: General Norms for Environmental Management of Mining Activities
- Decree 56/2010 of 22 November: Environmental Regulations for Oil Operations
- Decree 31/2015 of 31 December: Environmental Regulations of the Mining Law

### Guidelines

The General Policy for the Preparation of EIAs (Ministerial Decree 129/2006 of 19 of July gives a set of global guidelines and parameters to which all EIAs should comply.

### Sector specific procedures or regulations

The Decree on Environmental Impact Assessment (54/2015) stipulates that for the mining and oil sector specific environmental regulations apply. For mining projects, the EIA process is supervised by the National Mining Institute and the relevant national or provincial department, depending on the size of the project. Also, the Regulations of the Mining Law (31/2015) establish that social impacts of mining projects need to be identified and addressed. For Oil and Gas projects, MITADER and other ministries need to collaborate in their decision-making regarding EIAs.

### **Scope of application**

All activities, public or private, that have a direct or indirect impact on the environment are subject to EIA. The Decree of 2015 has introduced categories: A+, A, B and C. Projects that are categorized as A+ require a full fledged EIA as well as an independent expert (team) to review and advise on the quality of the EIA. Projects characterized as A require a full fledged EIA, category B projects a simplified EIA, and category C projects have to comply with General Procedures of Good Practice in Environmental Management. The Decree also stipulates that for the mining and oil and gas sector, specific environmental regulations apply. According to these specific regulations (Decree 56/2010, 34/2015, 31/2015) mining and oil projects cannot be classified as A+, but only as A, B or C projects. This inconsistency is currently being worked on.

Also, the terms and conditions for biodiversity offsetting/counterbalancing are regulated in specific legislation (which is currently under consideration for approval).

### **Exemptions from application**

Exempted are activities arising from emergency situations due to natural disasters or calamities, and activities related to state's national defence and security. The central EIA authority has to provide appropriate guidelines and conduct audits in accordance with the legislation in force.

source

Article 5 of Decree 54/2015

## **Institutional setting**

### **Central ESIA authority**

The Process of Environmental Impact Assessment (AIA) is managed on both national and provincial levels. Both levels have to ensure that the information of the Environmental Licenses is available to the public, they have to ensure public consultation and to hold public hearings. Both levels are also competent to apply legal mechanisms to stop EIA activities, or suspend certificates of environmental consultants.

On a Central level, the authority (MITADER) has to guide, review and decide regarding the reports of category A+ and A projects which include scoping studies (so-called EPDAs), Terms of Reference, and the EIA reports. They provide the Environmental Licenses for A+ and A projects and have the mandate to manage the involvement of the independent review specialists. For oil and gas projects, MITADER has to manage the AIA process in collaboration the Ministry of Petroleum. More specifically, the Petroleum ministry has to participate in the reviewing of the EIAs, EAS (=simplified EIA), TdRs, and EDPAs by MITADER.

On a Provincial level, the MITADER authority has to guide, review and decide regarding the Terms of Reference for simplified environmental impact assessment studies, as well as the General Procedures of Good Practice in Environmental Management for C projects. Environmental management plans for mining projects of category B (e.g. small) are also approved on a Provincial level, in accordance with the Regulations for Mining Activities.

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

- The multi-sector technical review committee is responsible for the review of the scoping document and the EIA report. It consists of at least one representative of DINAB (Environment Directorate

within MITADER); one representative of the sector ministry that represents the activity; one representative of the Environmental Fund (FUNAB); one representative of the local authority of the area where the activity is to take place; one (or more) representative(s) of government, education or research institutions related to the environment; and, if necessary, one (or more) expert(s) in the field of the respective activity, requested and contracted by MITADER.

- AMAIA, the Mozambican Assossiation for EIA, aims to improve the quality of EIAs through capacity building of (public and private) professionals, and to safeguard that EIA contributes to sustainable development.
- IMPFA, MITADER's training institute.
- INM (National Mining Institute) has to manage the minimisation of environmental and social impacts in relation to small mining projects.

source

Article 18 of Decree 54/2015

### **(De)centralisation of mandates**

Decentralization is vertical. Decisions regarding EIAs for category B and C projects can also be taken at the provincial level, within the Provincial Directorates of MITADER.

source

Article 6, Decree 54/2015

### **Payment system**

All proponents pay an initial fee of 100000 MT.

Depending on the category of the project, subsequent fees have to be paid.

For Category A+ a fee of 0.30% of the value of the investment.

For Category A and B a fee of 0.20% of the value of the investment.

For Category C a fee of 0.02% of the value of the investment above 5.000.000.00 MT.

Other fees are required for renovation or alteration of the environmental license and for registration of environmental consultants.

source

Article 27, Decree 54/2015

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Since 2020 the Ministry is called MTA: Ministry of Land and Environment.

source

<http://www.mitader.gov.mz/>

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