Myanmar

EIA profile

Updated to: 25 August 2019

Overview ESIA procedure

The EIA procedure in Myanmar starts with the submission of a project proposal to ECD. On the basis of the provided information, ECD takes a screening decision whether an an EIS or IEE is required or none of these assessments and ECD decides whether an EMP is required for the respective project.

The EIA procedure comprises the following steps: Scoping conducted by the proponent (incl. public consultation); The proponent prepares the scoping report and the ToR for the EIA and will sent it to ECD for review and approval. EIA reporting by the proponent including public consultation; EIA review done by EIA Review Body including public consultation organized by ECD; EIA / EMP approval decision by the Ministry that is made public. In case of approval the Ministry will issue an Environmental Clearance Certificate including conditions; Monitoring; self-monitoring by the proponent as well as compliance monitoring by the Ministry.

Outputs of the EIA process: Scoping report and ToR; letter of endorsement; EIA /EMP report; EIA Review Report; Environmental Compliance Certificate; Monitoring report.

The IEE procedure comprises the following steps: IEE reporting done by the proponent including public consultation; IEE report submitted to the department and they make it publicly available; Review of the IEE report by the Department. Approval decision by the Ministry, the decison is made public. In case of approval the Ministry will issue an Environmental Clearance Certificate including conditions; Monitoring: Monitoring; self-monitoring by the proponent as well as compliance monitoring by the Ministry.

Outputs of the IEE process: letter of endorsement; IEE / EMP report; Environmental Compliance Certificate; Monitoring reports.

source

EIA procedure (2015)

Screening

Screening process

The proponent submits the project proposal, a preliminary schreening and a verification of the presence of all required documents and related materials. Thereafter, the Environmental Conservation Department determines the necessity of an environmental assessment and the level to which this should be done and takes a screening decision. The following options exist therefore:

- An Initial Environmental Examination (IEE) is required
- An Environmental Impact Assessment is required

- No environmental assessment is required

Annex 1 of the EIA procedure (2015) provides detailed information for screening of the proposed projects.

Sensitive areas

An EIA is required in all cases where the project will be located in or will have adverse effects on legally protected areas.

source

EIA procedure (2015) art. 25

Contents of the starting document

No specified requirements are listed. The project needs to provide information on: (i) State of development of the project: proposed, existing, under construction; (ii) Location of the project; (iii) Expected adverse impacts.

source

EIA procedure (2015)

Timeline Screening

In 15 working days of receipt of the complete project proposal, the screening decision shall be taken.

source

EIA procedure (2015) art. 29.

Scoping

Scoping process

The draft regulations of the EIA Procedure (2014) require scoping for all EIA type projects.

According to the EIA guidelines, the project proponent is responsible for carrying out the scoping procedure and thus for preparing a scoping report and the TOR. These documents are to be submitted to the Ministry for review and approval. The MOECAF can either decide to approve the Scoping report and the TOR with or without conditions or to require the project proponent to revise the documents in accordance with the comments of the Ministry.

Contents of the scoping document

The following content of the scoping report is defined as follows:

- Executive summary
- Context of the project
- Overview of the policy, legal and institutional framework

- Project description and alternatives
- Description of the environment (incl. maps, images, aerial photos, satellite images)
- Key potential environmental impacts and mitigation measures
- Public consultation and disclosure
- Conclusions and recommendations

Timeline scoping

In 15 working days of receipt of the complete scoping report and ToR, ECD will take a decision.

source

EIA procedure (2015) art. 54

Assessment

Assessment process

The project proponent selects the organization or person that will be responsible for the writing of the EIA or IEE report. Within 7 working days ECD will decide on acceptability of this person or organisation.

The proponent is responsible for ensuring that the EIA / IEE investigation is undertaken in accordance with the ToR.

source

EIA procedure (2015)

Contents of the EIA report

The content of the EIA and IEE report are specified in detail. The following headings are mentioned and further specified for the EIA report:

- Executive Summary
- Introduction (presentation of project proponent, of environmental, social and health experts)
- Policy, legal and institutional framework
- Project description and alternative selection
- Description of the surrounding environment
- Impact and risk assessment and mitigation measures
- Cumulative impact assessment
- Environmental Mangement Plan
- Public consultation and disclosure

The required content of the IEE report is specified in Article 36 of the EIA procedure (2015).

source

EIA procedure (2015) art. 62

Accreditation of consultants

Any person or organization that prepares an EIA or an IEE has to be registered by ECD. ECD from time to time publishes a list with all persons and organizations that are registered for the preparation of environmental assessments. The applicant has to pay a registration fee. Registration is valid for a period of three years.

source

EIA procedure (2015)

Review

Review process

The proponent submits the EIA report to ECD. ECD submits EIA report to EIA review body for comment and recommendation, invite commentsw form relevant parties and arranges public consultation meetings. The review body then prepares an EIA Review Report. ECD collects and reviews all comments and recommendations and sent it to the Ministry for approval decision. Upon completion of the review of the EIA report the Ministry will take the a decision on approval. Approval will result in the provision of an Environmental Compliance Certificate (ECC).

source

EIA procedure (2015)

Review expertise

The EIA Report Review Body consist of technical experts from the relevant government departments and government organizations, technical organizations and civil society.

source

EIA procedure (2015)

Timeline Review

Within 90 working days of receipt of the EIA report, the Ministry will take a final approval decision. In case of complex projects the timeline can be extended. For the approval of the IEE report, the available timeframe is 60 working days.

source

EIA procedure (2015) art. 68

Decision making

Integration of ESIA into decision-making

Approval of the EIA / IEE report by respectively the Ministry or ECD results in issueing of an ECC.

source

EIA procedure (2015)

Decision justification

The EIA approval decision is published.

source

EIA procedure (2015) art. 70

Timeline decision-making

Within 90 working days of receipt of the EIA report, the Ministry will take a final approval decision. In case of complex projects the timeline can be extended. For the approval of the IEE report, the available timeframe is 60 working days.

source

EIA procedure (2015) art. 68

Possibilities for appeal

Appeal to the EIA approval decision by the Ministry is possible. Such an appeal should be made to the Minister within 30 days of the disclosure of the Ministry's decision. The Ministry will then forward it to the Committee within 15 days. The Committee shall consider the appeal and take a decision within 30 days after it has received it from the Ministry. It can decide the following:

-to uphold the decision of the MOECAF

-to instruct the MOECAF to require the proponent to revise and resubmit the EIA report to the Ministry

-to instruct the MOECAF to alter, revise or cancel its decision on the EIA report and cite its grounds for such instructions.

The following actors / institutions can make an appeal to the EIA approval decision:

- Project proponent

- Government organizations

- People or organizations potentially affected by any adverse impacts of the project.

The Ministry will publish the decision made by the Committee.

source

EIA procedure (2015)

Follow-up

Compliance monitoring

The project proponent has the duty to self-monitor its compliance with the applicable laws and standards, the ECC and the EMP. It has to submit monitoring report at least every 6 months to the Ministry. The Article 109 defines the content of these reports. The monitoring reports have to be published on the proponent's website.

The Ministry may undertake compliance monitoring.

source

EIA procedure (2015)

Non-compliance penalties

In case of non-compliance the proponent has to pay a penalty to the Ministry. Annex 3 to the EIA procedure provides a list with penalties and other means of adminstrative punishment.

source

EIA procedure (2015)

Stakeholder engagement

Public participation requirements for ESIA process stages

Publi participation is required during the phase of scoping, data collection and the drafting of the EIA report and during review of the EIA report.

During Scoping and EIAC report preparation the project proponent is responsible for involving the public in the process. The proponent then shall disclose information about the proposed project to the public as well as arrange consultation meetings

During EIA review, the EIA report is made publicly available to the public by the ECD. Moreover, relevant stakeholders are consulted and public consultation meetings are organised.

The public is invited to provide comments on the EIA report. It is not specified in which form these comments are to be provided.

The project proponent has to pay for the costs related to information disclosure and public consultation.

source

EIA procedure (2015)

Timeline for public comments

Timeline is not specified for scoping phase and preparation of the EIA report phase, for the review phase the timeluine needs to be within the 90 days required by the Ministry for final approval decision.

source

EIA procedure (2015)

Access to information

The following information is made available to the public:

- Information about the proposed project
- EIA report
- EIA approval decision
- Modified EIA approval decision (if applicable)
- Monitoring reports of the proponent

The proponent has to disclose the information about the projerct during the scoping phase to the public via its website, local media and sign boards at te project site.

The proponent will diclose the EIA report not later than 15 days after submission to ECD to relevant stakeholders and the public by means of national media, the website of the project or proponent, their office and at public meeting places.

The Ministry will publish the approval decision.

source

EIA procedure (2015)

ESIA practice

Annual no. of ESIAs

In the period 2014 - 2018 the number of EIAs gradually increased from about 40 in 2014 to about 80 in 2018.

source

Verbal information by ECD.

Central ESIA database

A central database is available at ECD that keeps record of all EIAs and IEEs since the EIA procedure was adopted in December 2015.

source

Verbal information by ECD.

Professional bodies

A professional body of EIA experts does not yet exist.

Background information

History of ESIA

The National Environment Policy of Myanmar 1994 is the basis of Myanmar?s environmental statutory framework. In 1990, the National Commission for Environmental Affairs (NCEA) was formed. It was responsible for development environmental policies and for issuing environmental regulations. In 2005, the NCEA became part of the Ministry of Forestry. The NCEA did undertake efforts to introduce EIA formally, but this process was never finalized. In 2011, the Ministry of Forestry was upgraded into the Ministry of Environmental Conservation and Forestry (MOECAF). The MOECAF enacted the Environmental Conservation Law 2012. Since the law was introduced, MOECAF has started drafting subsidiary regulations to enact legislation, including some on the EIA Procedure. EIA has been formally introduced in Myanmar in 2015. In March 2016 MOECAF changed into the Ministry of Natural Resources and environmental Protection (MOECAF) because the Department of Mining became part of this ministry.

Legal framework

Enabling law

Environmental Conservation Law No 9/2012 (Pyidaungsu Hluttaw Law No. 9/2012)

The Environmental Conservation Law was issued on the 30st of March 2012. It determines that the Ministry that is assigned to perform the matters of environment (thus the MOECAF) has the duty to establish and carry out a system of enviornmental and social impact assessment.

National detailed regulation

Th Environmental Impact Assessment Procedure was approved December 2015. This is the legal procedure to EIA and it provides detailed provisions and guidance for application.

source

Environmental Impact Assessment Procedure; The government of the Republic of the Union of Myanmar; Ministry of Envronmental Conservation and Forestry; Notification No. 616/2015 (29 December, 2015).

Guidelines

In the period 2016-2019 MoNREC has drafted detailed EIA guidelines for the following four sectors: (i) Oil and gassector; (ii) Mining; (iii) Hydropower. None of these guidelines have been approved but they are used in practice.

source

Information provided by MoNREC.

Sector specific procedures or regulations

There are no sector specific procedures or regulations on EIA.

Scope of application

In Annex 1 of the Environmental Impact Assessment Procedure (2015) the activities requiring EIA or an Initial Environmental Examination (IEE) are categorised. Each of 141 identified activities are briefly described and a threshold is provided to determine whether an IEE or EIA is required or not.

source

EIA procedure (2015)

Exemptions from application

MoNREC reserves the right to require or exempt an IEE or EIA for a project.

source

EIA procedure (2015) art. 26

Institutional setting

Central ESIA authority

The Environmental Conservation Department is the authority that is responsible for implementing the EIA procedure.

source

EIA procedure (2015)

Other key (governmental) parties

The EIA report review body is a body of experts established by MoNREC responsible to review the EIA report.

A Committee is established that is responsible for appeal against the ministry decision to reject or approve an EIA report.

source

EIA procedure (2015) art. 71.

(De)centralisation of mandates

Not applicable.

Payment system

All costs for completing the IEE and EIA report will be the responsibility of the proponent. This also includes costs for disclosure, public participation activities and review. The proponent has to pay a service fee to ECD, the height of the fee is not specified. In the conditions of the ECC that the proponent will fund the inspection by the Ministry.

source

EIA procedure (2015)

Contact

Environmental Conservation Department at the Ministry of Natural Resources and Environmental Protection.