

AFRICAN TRADE INSURANCE AGENCY

**ENVIRONMENT OPERATIONS  
MANUAL**

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## Abbreviations and Definitions

ATI	African Trade Insurance Agency
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species
EA	Environmental Assessment: Analytical tool used to anticipate potential impacts of particular activities on the environment and on human livelihood
EAP	Environmental action plan: An instrument, which provides details of the measures to be taken during the implementation and operation of a project to eliminate or offset adverse environmental impacts or to reduce them to acceptable levels. Included are the actions needed to implement them.
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment: Comprehensive analytical effort designed to anticipate environmental impacts of major projects having the potential to have significant, diverse and irreversible impacts on the natural environment and on humans dependent on that environment
EIN	Environmental Information Note, see Annex 1
EIS	Environmental Impact Statement: Comprehensive analytical effort designed to anticipate environmental impacts of major national activities affecting the global commons outside of the jurisdiction of any nation
EMP	Environmental Management and Monitoring Plan: Systematic program designed to prevent, mitigate and monitor anticipated environmental and related human impacts of prospective and ongoing activities. Sometimes called an Environmental Action Plan (EAP)
ER	Environmental Review
FAO	Food and Agriculture Organisation
FI	Financial Intermediary: Investment Fund, bank insurance agency or other financial institution that lends directly to projects or investment funds.
UNFCCC	United Nations Framework Convention on Climate Change
GMO	Genetically modified organism
IFC	International Finance Corporation: Affiliate of the World Bank group that makes loans to and investments in private sector projects in developing countries and emerging markets
LCA	Life cycle analysis
LEA	Limited Environmental Assessment
LMO	Living genetically modified organism
MHA	Major Hazard Assessment: Analytical tool used for identifying, analysing and controlling potential major hazards to human health and safety resulting from storage and processing of toxic and hazardous substances
MEA	Multilateral environmental agreement
NEAA	National Environmental Assessment Authority
NGO	Non-governmental organisation
PPHA	Pollution Prevention and Abatement Handbook
ERA	Environmental risk assessment: An instrument for estimating the probability of harm occurring from the presence of dangerous conditions or materials at an installation. Risk represents the likelihood and significance of a potential hazard being realised
PIC	The Rotterdam Convention on the <u>Prior Informed Consent</u> : Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
POP	Convention on the Control of Persistent Organic Pollutants
RTFP	Regional Trade Facilitation Project
UPOV	International Convention for the Protection of New Varieties of Plants
UNEP	United Nations Environment Programme
WB	World Bank: The International Bank for Reconstruction and Development

## CHAPTER 1 INTRODUCTION

### 1.1 Background

1.1.1 The Common Market for Eastern and Southern Africa (COMESA) Treaty envisions a fully integrated internationally competitive regional economic community. Within this vision, the mission of COMESA is to achieve increased co-operation in all fields of development. A strategic focus of COMESA over the next 3 to 5 years is *i.a.* to promote regional integration through trade development and investment promotion.<sup>1</sup>

1.1.2 Even if several countries in the region have pursued a sound economic policy for many years, thus creating a stable macroeconomic and investment friendly environment, the availability of trade finance for productive activities is severely constrained. Assessments of this situation are indicating a perception of high risk associated with Africa as a whole and with individual countries. The risk is mostly associated with government behaviour and political events such as wars and civil turmoil.<sup>2</sup>

1.1.3 The Regional Trade Facilitation Project, (RTFP), supported by the World Bank, aims to address this problem by bringing together a core group of African countries that are willing to challenge this perception by setting up a credible insurance mechanism against losses caused by political risks. The governments of these countries agree to be the ultimate risk takers in the mechanism, thus creating a strong disincentive to cause claims and strongly enhancing its credibility in the market. COMESA has requested World Bank Group financing and technical support to design, prepare and implement the RTFP. The governments of Burundi, Malawi, Kenya, Rwanda, Tanzania, Uganda and Zambia have endorsed the project to improve the situation for trade and investment in the region.

1.1.4 One of the prerequisites of the World Bank Group support, is that the facilitating institution – the **African Trade Insurance Agency (ATI)** takes into account the requirements of environmentally sound and sustainable practices as identified in laws and regulations of participating countries, and the policy of the Bank on environmental assessment.<sup>3</sup> This policy will be adopted by the ATI, and procedures for screening and assessment of transactions seeking insurance cover will be presented in this manual.

1.1.5 A mandatory screening /assessment of the proposed transactions will cover a wide spectre of potential environmental impacts. The procedure and instruments of assessment will rely on national environmental laws or regulations and must meet these relevant requirements prior to the approval of an application for cover. For countries without suitable environmental standards and environmental assessment procedures, World Bank policies and guidelines will apply.

1.1.6 As a financial intermediary, the ATI is responsible to the World Bank for the transactions they support. ATI will therefore make an independent environmental review of all applications, before it is sent to the World Bank for “no objection”

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<sup>1</sup> <http://www.comesa.int/comesaqa.htm>

<sup>2</sup> <http://www.worldbank.org/pics/pid/3a63683.txt>

<sup>3</sup> OP 4.01, Environmental Assessment, January 1999

## 1.2 Objectives and tasks of the African Trade Insurance Agency

1.2.1 The objective of ATI, as a new pan-African multilateral agency, is to provide insurance and guarantees for purposes of trade, investments and other productive activities in Africa. ATI will address the lack of political risk cover by implementing the Regional Trade Facilitation Project (RTFP), which will develop a leveraged political risk insurance scheme covering export and import transactions into, within and from the African region.

1.2.2 The term “political risks” is usually taken to mean events, actions or omissions that are outside the control of the parties in a commercial transaction, and are here understood as breaches of undertaking and agreements on the part of a government.<sup>4</sup> This might be government performance risks on the one hand or war, civil disturbance and embargo risks on the other hand.

1.2.3 ATI issues insurance policies for overseas entities or entities in a participating African country that has financial exposure related to **productive activity** in another participating country or a third country, such as suppliers of goods and services on credit terms. It is anticipated that this service will play an important role in generating exporter confidence and therefore lead to growth in foreign trade.

1.2.4 Since the purpose of the RTFP is to stimulate productive activity, any type of financial exposure, other than equity investments, that promotes or allows for this effect, is eligible to support. Notwithstanding this, it is anticipated that there will be a number of common types of transactions that will represent most of the applications submitted for cover under this facility. As general examples of common or typical transactions may be:

➤ Sale of goods on credit terms	➤ Import of goods to stock;
➤ Sale of goods on credit terms;	➤ Import of goods for processing and subsequent export; and
➤ Financial and operational lease;	➤ Commercial loans.
➤ Import of capital equipment	

1.2.5 More specifically, requests for insurance cover might be related to:

- A three year financial lease of trucks for purpose of carrying timber logs;
- Sale and commissioning of mini hydro electric plant on five years payment terms;
- Import by a contractor of equipment used to pave airport;
- Import of fabric by garment supplier for conversion into garments
- Confirmation of a 60 day letter of credit for supply of raw materials to manufacture beer;
- Supply of generator on three year terms for use in hotel;
- Sale of oil on 60 days credit terms;
- 12 month bank loan for working capital for manufacture of soap;
- 5 year bond issue by medium sized Kenyan company to finance plastic extrusion plant;
- Sale of copper ore by a Zambian company to a Kenyan buyer on 60 days terms.

1.2.6 The transactions **and their operative setting** must be explained to be able to determine the appropriate environmental category and best assessment instrument. The lease of **trucks** might be related to a project with a valid logging concession that has undergone a previous EA. The issue at hand will be if the new trucks make a difference compared to the existing permits and conditions for the concession. Use of the **oil** to be sold, will be decisive. If it will be used for

<sup>4</sup> ATI Operation Manual, Exports and Imports Facility chapter 3

purposes of warfare it is obviously not acceptable. If it will be used in a highly polluting facility, it will also be ineligible. For use in a nationally licensed power plant, the import of oil should, however, normally be a C transaction. For manufacturing of **soap** in an existing localisation, one might need to establish information on past or present concerns for health, safety risks and liabilities associated with the manufacturing and an environmental audit might be appropriate.

1.2.7 Where the insurance policy involves a credit period, the RTFP will normally not support credits with repayment periods longer than the production cycle or the revenue producing capacity of the item being financed. Otherwise the finance is not trade finance, but general working capital finance. **Any environmental impacts of ATI's activities is expected to be of a more indirect nature, associated with the application of the goods or services being imported or exported.**

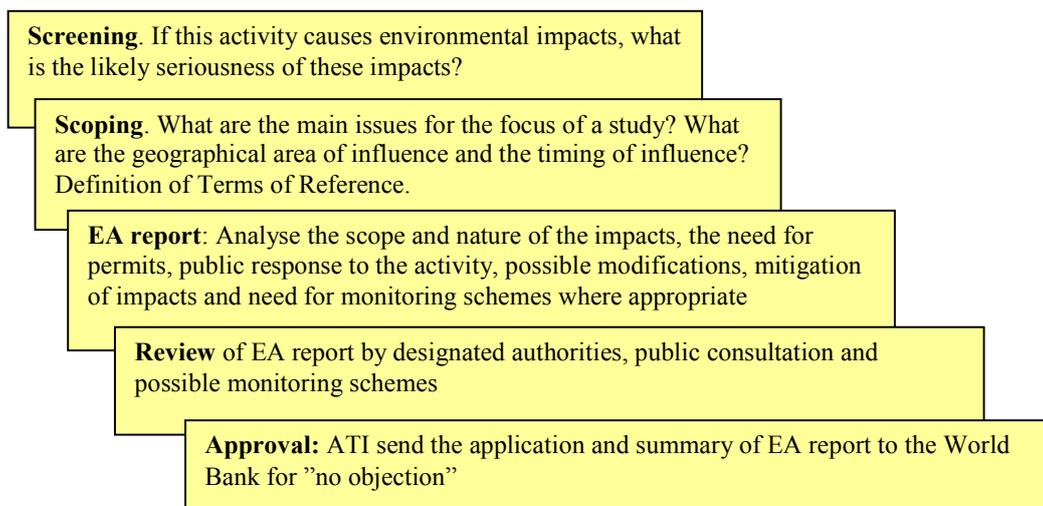
1.2.8 The ATI will have a qualified environmental officer who will be responsible for the environmental screening, assessment and monitoring of transactions.

### 1.3 Why environmental assessment?

1.3.1 The productivity of land and waters and the sustainability of ecosystems are together with a socially acceptable livelihood, a prerequisite for a sound development of communities and nations. An increasing number of countries have therefore introduced environmental assessment (EA) procedures as an instrument for protecting its environment and peoples from the adverse impacts of economic activities of different kinds.

1.3.2 EA is a process where a proposed activity is assessed with regard its impacts on the physical and biological environment, human health and safety, social and cultural heritage aspects as well as transboundary and global effects. The objective is to identify positive and negative impacts of the activity, and make sure that its negative consequences are prevented, minimised or mitigated.

*Figure 1. Simplified overview of an EA process*



1.2.3 Inadequate attention to environmental issues might lead to serious failures in economic performance. Environmental charges, fines, clean-ups, mitigation and other damage compensation costs might cause serious financial risks to otherwise successful businesses. These risks are associated not just with direct financial losses and degradation of common resources, but also with serious damage to the image and reputation of the involved parties.

## 1.4 Summary of steps to be taken for an environmental review of transactions

### I. The applicant will complete the Environmental Information Note (EIN)

1.4.1 The traded products or services to be insured by the ATI, as well as their intended use, must satisfy national and World Bank environmental requirements. The applicant will present to the ATI, through completion of the EIN enclosed as annex 1, all pertinent environmentally related information about the trade transaction, as well as information about the need for permits, licences, etc. that might be required.

### II. The ATI will determine the environmental category of the transaction

1.4.2 Based on a delegation of authority from the member countries, the ATI will categorise the transaction in accordance with guidelines in this manual, see chapter 3. If in doubt, consultations will be made with the national environmental assessment authority (NEAA). The choice of category will have the following implications:

- Category A-transaction: There are potential significant environmental issues associated with the products/services as such, or the use of these, requiring attention going beyond assurance of compliance with environmental standards. The application will be forwarded to the NEAA who will advise and guide the applicant on performing an environmental assessment (EA).
- Category B-transaction: The products/services or the use of these may have environmental implications. The ATI require the applicant to obtain all necessary environmental licences and/or permits needed before applying for insurance. The application will be forwarded to the NEAA for verification of licences/permits and for consideration of the need for additional environmental assessment. If licences/permits are deemed valid and no further assessment required, the NEAA will issue a “no objection” letter. The ATI will have the authority to issue a policy of insurance subject to confirmation by the NEAA that the applicant is in compliance with relevant laws and regulations and that no further assessments are needed. The insurance policy might therefore be issued prior to hearing back from the NEAA, but the policy will be conditional, pending on the issuance of “no objection” from the NEAA.
- Category C-transaction: There are no foreseeable or negligible environmental impacts associated with the products/services. The ATI will, based on a delegation of authority from member countries, go ahead with the application with a notification to the NEAA.
- Category D-transaction: The products/services are in violation of international environmental law, national laws and regulations, or World Bank policies. The transaction is not eligible for insurance cover under the ATI. The NEAA will be notified.

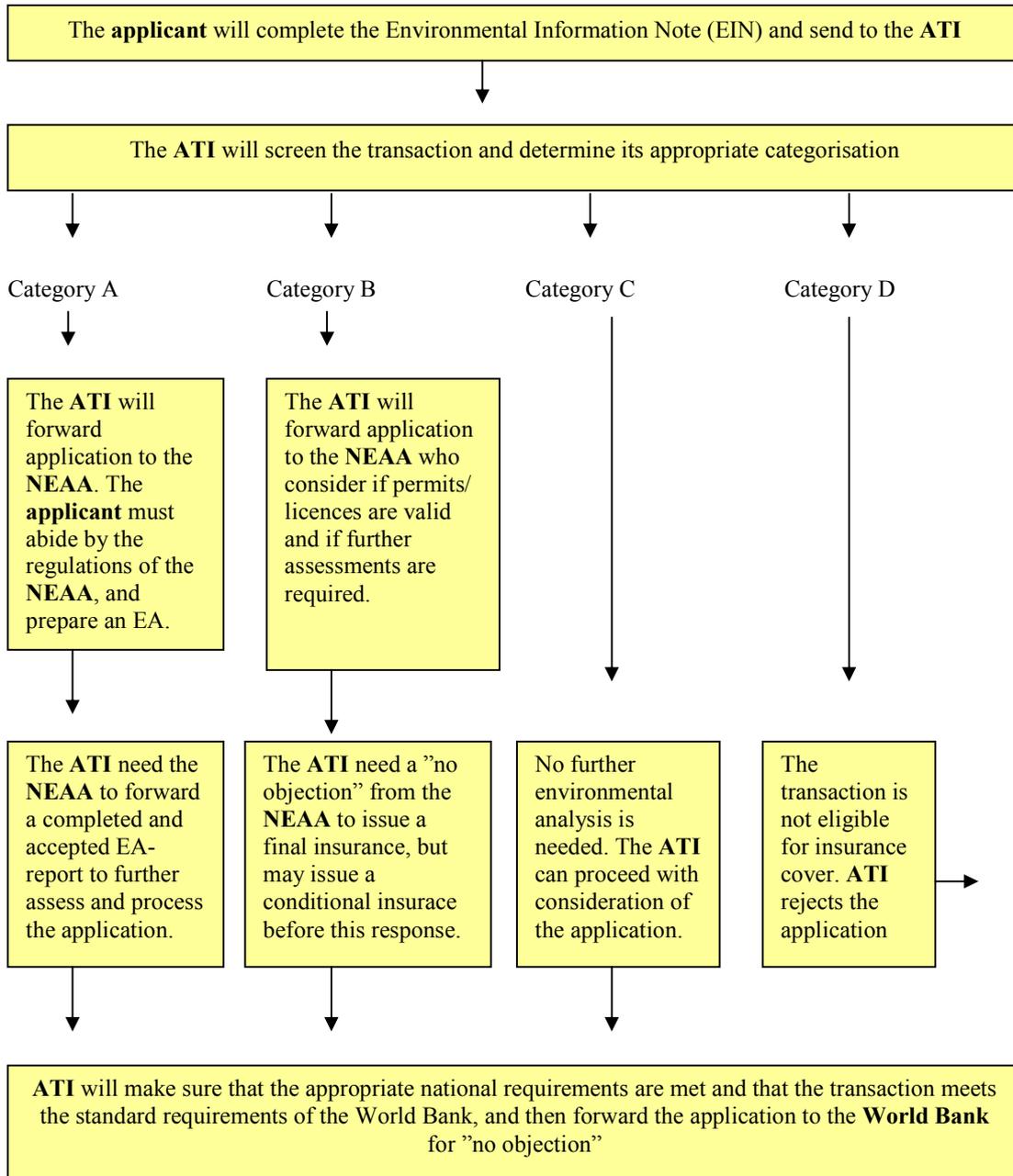
1.4.3 The ATI may, on the basis of a bilateral agreement, assume the duties of a NEAA if a member country is without current satisfactory environmental legislation, standards or assessment procedures.

### **III. The ATI will request a “no objection” letter from the World Bank**

1.4.4 The ATI will only provide insurance for a category-A transaction if the EA process is considered adequate. If ATI later finds that key EA requirements have been violated, the insurance cover might be declared void. This might also be the case in situations where the applicant has given inappropriate or misleading information leading to a wrong classification.

1.4.5 The ATI will need to make sure that the appropriate national requirements are met and that the transaction meets the standard requirements of the World Bank. ATI will also reserve its right to demand further information or action to satisfy environmental requirements. When information and/or mitigation measures are regarded as satisfactory, ATI will send a recommendation to the World Bank to request a “no objection” response.

Figure 2 Main procedural steps for environmental clearance



## CHAPTER 2

### THE PROCESS OF ENVIRONMENTAL REVIEW AND ASSESSMENT

#### 2.1. General principles

2.1.1 A significant part of the World Bank's investment in its countries of operations is channelled through financial intermediaries (FI's) who act as the Bank's vehicles to provide funding mainly for the small and medium-sized enterprise sector. They include regional, national and sectoral investment funds, banks, insurance and leasing companies, and other financing mechanisms. The Bank needs to ensure the proper implementation of its environmental mandate in its FI operations while respecting the principle of delegated responsibility, which characterises such operations. The ATI is therefore required to adhere, at a minimum, to the following basic requirements:

1. The ATI will have to develop and implement environmental procedures satisfactory to the Bank and integrate them as fully as possible into its application appraisal and monitoring procedures.
2. The ATI will have to comply with the Bank's Environmental Exclusion List for FI's. This list includes activities prohibited by international environmental agreements or where the Bank considers indirect financing inappropriate because of the significance of associated environmental risks.
3. The ATI will have to submit to the Bank periodic reports on the implementation of its environmental procedures and the environmental performance of its insurance portfolio.

2.1.2 Transactions applying for insurance cover under the ATI must comply with national laws and regulations, in countries to which the goods or services are transferred. The state of development of national legislation, standards and regulations relating to environmental assessments are, however, highly variable. While some countries have established comprehensive legislation and procedures for assessment of activities, others have a weaker or even missing environmental legislative setting. [Chapter 7](#) offers more information on the situation in the individual countries. Some of the participating countries are in the process of harmonising their environmental laws and development of common environmental standards.<sup>5</sup>

2.1.3 The ATI will have a qualified environmental officer who will deal with the environmental aspects of applications and monitoring of issued insurance policies. He/she will co-operate closely with national environmental assessment authorities (NEAA's), and as a main rule, deem the environmental impacts acceptable if the products/services or their application, comply with national environmental legislation, standards or other national environmental requirements.

2.1.4 Based on a delegation of authority from the member countries of the facility, the ATI will screen the information given by the applicant, determine the categorisation of the transaction and submit the result to the NEAA in a note of orientation. Only when transactions are categorised as

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<sup>5</sup> UNEP/UNDP/Dutch Joint Project on Environmental Law and Institutions in Africa, ref. charles.okidi@unep.org

A or B, or in situations of uncertainty, will the NEAA be asked to participate in the further assessment procedure.

2.1.5 Countries are protecting their environmental resources, public health and seek to pursue a sustainable development path through a variety of means. Of the greatest relevance to the environment-trade interface, are the environmental standards—particularly those imposed on traded goods. A large number and variety of standards, from extracting raw materials through manufacture, transport, trade, sale, use and disposal, often in combination rather than alone, may create difficult control and management structures. Effective use of these instruments represent therefore a challenge both for institutions dealing with facilitation of economic activities and trade as well as institutions responsible for protection of environmental values. The most common concepts may be grouped under five headings.<sup>6</sup>

*Table 1 Most common group of standards*

- **Environmental quality standards** can be concentrations of different substances in air, water or soil. They can also be “critical loads” of deposition of pollutants below which, environment is not seriously affected or they can be population standards, requiring the protection of certain species that have become threatened or endangered.
- **Emission standards** identify the amount of certain substances a facility may emit. Emission standards can have a significant impact on production processes and is generally easier and cheaper to avoid /minimise at the input side rather than at the output side of production processes.
- **Product standards** specify certain characteristics that are deemed necessary to avoid environmental harm from the use or disposal of products. Product standards are often used to protect human health.
- **Process and production standards** specify how products are to be produced and what kind of impacts the production may have on the environment. These standards are increasingly internationalised and affect the setting of national standards.
- **Performance standards** require certain actions, such as Environmental Assessment (EA), which are expected to improve environmental management.

2.1.6 Many trade transactions will not need lengthy assessment procedures as they do not relate to environmentally or socially sensitive issues or areas, or have impacts that are narrow in scope, well defined, well understood, and straightforward to relate to certain predetermined performance standards, guidelines, or criteria.

## 2.2 Tasks of the different parties in the process

2.2.1 **The applicant** must complete the Environmental Information Note (EIN) enclosed as annex 1 to this manual. The applicant or his/her environmental expert is required to provide all information, necessary for a screening of possible direct and indirect environmental impacts of the products/services and their intended use. Insufficient or misleading information might delay the application process or, if discovered after the application has been processed, result in an invalid insurance. This information will be sent to the ATI.

<sup>6</sup> <http://www.unep.ch/etu> UNEP and IISD: Environment and Trade. A Handbook, 2000

2.2.2 If **the applicant**, during completion of the EIN finds that the transaction will be categorised as a category D, he/she might save time and resources by discontinuing the application process. If the transaction seems to be a category A, he/she should be aware that a somewhat time consuming and costly environmental assessment (EA) is necessary before the application can be further processed.

2.2.3 If **the applicant** finds that the activity may be modified or new information come available before the approval, he/she is obliged to submit this information as soon as possible to the ATI, who will decide if the chosen procedure should be changed.

2.2.4 **The ATI** will, based on this information, perform a screening as described in [chapter 3](#), and assign the transaction in question into one of four categories. There are five answers this screening might give:

- Category A: There may be significant environmental and/or social impacts associated with the products/services as such, or the use of these and an EA is needed. The application will be forwarded to the NEAA who will advise and guide the applicant on performing an environmental assessment (EA). If the transaction should be allowed, mitigating measures may be required.
- Category B: The products/services as such or the use of these may have environmental implications and may need permits or licences. The application will be forwarded to the NEAA to verify licenses/ permits and seek advice whether additional assessment is required.
- Category C: The products/services are perceived to have no or negligible environmental impacts. An information note is sent to the NEAA, and the ATI will continue to process the application.
- Category D: The transaction is not eligible for insurance cover due to international and/or national environmental laws or regulations and/or excluded or goods or products mentioned in this manual. An information note is sent to the applicant and the NEAA, and the application process will be concluded.
- Need for more information: The information supplied was not sufficient for assigning the product/services or its use to either of the categories mentioned above. The application is returned to the applicant with directions for further information.

**If category A ►**

2.2.5 **The applicant** will communicate and co-operate with the NEAA for carrying out an EA. Some countries have a prescribed application form, which must be completed before an EA may be started. The applicant will need to hire an experienced consultant to carry the EA process through and write a report. In most countries this consultant needs to be approved by the NEAA.

2.2.6 **The applicant** will need to perform a scoping as described in [chapter 4](#). The scoping process will identify the scale and character of the perceived impacts of the transaction and suggest instruments of assessment and the terms of reference (TOR) for the EA process. The suggested scope of assessment and draft TOR need to be approved by the NEAA. Involvement of affected stakeholders through public disclosure and communication is also part of an EA procedure, described in [chapter 5 and 6](#), or according to special national regulations described in [chapter 7](#). The applicant will have to pay for the EA process.

2.2.7. **The NEAA** will need to decide if the scope of assessment and the TOR, as suggested by the applicant, are acceptable. The NEAA should provide the applicant with the necessary

documentation, particularly on the legal and administrative requirements, relevant environmental standards and applicable guidelines. In most countries, the issue of public participation in EA processes is a shared responsibility between the applicant and the NEAA. The NEAA should therefore participate actively with and guide the applicant in the process of public disclosure and communications with affected groups and NGO's. A guide is enclosed in annex 6.

2.2.8. After **the NEAA** has received the EA report, it will normally be made available to affected stakeholders and NGO's, and a public hearing will be held. On the basis of the final EA report, in which the public response is taken into account, the NEAA will approve or disapprove of the transaction, or in special cases, ask for more information. If appropriate, the NEAA will also need to establish a monitoring schedule of mitigation measures.

2.2.9 **The NEAA** will, when satisfied send the EA report to the ATI with its approval.

**If category B ►**

2.2.10 For category B transactions, the environmental impacts are perceived to be moderate. None of these impacts will be irreversible and remedial measures may be designed. The trade transaction has a sound probability of being implemented, some times with modifications, extra safeguards or mitigating measures.

2.2.11 It is the **applicant's** responsibility to ensure that he/she has complied with national environmental legislation and regulations. If an applicant states that he/she does not have the necessary licenses/permits, ATI will advise the applicant to obtain these licenses before the application may be processed.

2.2.12 The **NEAA** will receive the application and the EIN for verification of the validity of the permits and/or licences obtained. The NEAA will also decide if the assessment of the products/services and their properties relating to national/international environmental standards represent a sufficient assessment, or if the application needs to go through a limited EA process like a hazard or risk assessment. If there are no relevant national environmental standards in place for a given product, but still reason for concern from a technical environmental point of view, the NEAA should ensure that the applicant abide with relevant internationally recognised guidelines, such as the Bank's Pollution Prevention and Abatement Handbook.

2.2.13 If the **NEAA** deems the applicant to be in compliance with national/international legislation and no additional assessment is considered necessary, the NEAA will issue a letter of "no objection".

2.2.14 The **ATI** will have the authority to issue a policy of insurance subject to the "no objection" letter from the NEAA. Thus the insurance policy might be issued prior to hearing back from the NEAA, but the policy would be declared void if the NEAA states that the applicant is not in compliance, or might remain conditional with approval of the NEAA.

2.2.15 If the information disclosed by the **applicant** is later revealed as erroneous, the related insurance policy issued by ATI is void.

2.2.16 If **the NEAA** need to have a limited EA, it may, for example, be an environmental audit. An environmental audit is carried out on existing plants and focuses on two elements: (a) compliance of existing facilities and operations with relevant environmental (including occupational health and safety) and social laws, regulations, and World Bank requirements; and

(b) the nature and extent of environmental impacts, including contamination to soils, groundwater, and structures, as a result of past activities. A Corrective Action Plan is often an outcome of an environmental audit. Such environmental reviews or assessments might however take many forms, depending on the type of transaction proposed. Flexibility should be applied and efforts made to find the best instruments and procedures for the transaction in question. Sample contents of some limited environmental instruments are enclosed in annexes.

2.2.17 Although an application for necessary permits and licences will be forwarded by the ATI, it is **the applicant** that is responsible for the information given, and who might be requested to give additional information and/or must abide by other requirements as decided by the NEAA.

### **Further process ►**

2.2.16. **The ATI** will make sure that the national requirements are met and that the transaction also meets the standard requirements of the World Bank.

2.2.17 **The ATI** will make every effort to review the material thoroughly and take public comments into account. In circumstances where ATI confronts a particularly full project pipeline or complex and difficult issues, ATI may contract outside expertise to enable it to complete the review process in a timely manner. Any consultant hired to assist in the review would be required to sign a confidentiality agreement to protect business sensitive information.

2.2.18 **The ATI** will, when information is regarded as satisfactory, send a recommendation to the World Bank to obtain a “no objection” response.

2.2.19. **The ATI** may have to assume the duties of the NEAA, if the transaction is going to a country without satisfactory environmental legislation, standards and assessment procedures.

## 2.3. Response schedules

2.3.1 The ATI is a trade facilitation agency, and there is a need to deal with applications in an expeditious manner. **The ATI** should therefore respond to the applicant and the NEAA on an orientation basis on the environmental categorisation within 5 days of the applicants registered application and presentation of the EIN. In most cases, however, this categorization would not require more than 2 days.

2.3.2 If the ATI decide on a category A, **the NEAA** should make a clearance for an EA process within 15 days after receiving registered application and sufficient information from the ATI, and notify the ATI and the applicant accordingly.

2.3.3 **The NEAA** should allow a response time to affected stakeholders and NGO's on the EA report submitted by the applicant of at least 30 days. After this period, a response to the applicant and the ATI should be given within 15 days. Only in exceptional circumstances should these time limits be exceeded, and then with an explanation of why the NEAA need more time.

2.3.4 If the ATI decide on a category B, **the NEAA** should respond to the ATI within 15 days after receiving registered application and sufficient information from the ATI, with a letter of “no

objection” if all permits/licences are deemed valid and sufficient and no further assessment is required, or a decision of “need for further assessment” if requirements are not met.

2.3.5 If **the NEAA** requires a limited EA, a response to the applicant and the ATI should be given within 15 days after the review or assessment report has been presented or the deadline for public response has elapsed. Only in exceptional circumstances should this time limit be exceeded, and then with an explanation of why the NEAA need more time.

2.3.6 **The ATI** will however have the authority to issue a policy of insurance subject to a “no objection” from the NEAA. Thus the insurance policy might be issued prior to hearing back from the NEAA, but the policy would be declared void if the NEAA states that the applicant is not in compliance, or may remain conditional with the NEAA’s response, pending the issuance of the required permit/licenses or approved assessment report.

2.3.7 The **ATI** can submit a request for "no objection" to the World Bank prior to receiving feedback from the NEAA for all transactions it has categorised B or C. In such cases, ATI will subsequently advise the Bank that NEAA clearance has been received (either explicitly or through non-response). In the contrary case, ATI should advise the Bank of cancellation of the policy and/or any remedial measures agreed. For Category A transactions, the ATI must receive a letter of "no objection" from the NEAA before it submits a request for "no objection" to the World Bank.

2.3.8 This manual for the African Trade Insurance Facility (ATI) provides a framework for how it should to deal with its environmental screening, assessments and monitoring. A main source of guidance on the nature and scope of environmental requirements will be the relevant national laws, regulations and assessment of national environmental assessment authorities. Therefore, if an applicant is in compliance with national environmental laws and regulations, the transaction would normally be eligible for issuance of an insurance policy under the ATI.

Table 2. Schematic procedure for an EA for category A transactions

Step	Description	Who is responsible *)		
		Applicant	NEAA	ATI
1	Description of transaction and completion of the EIN	X		
2	Screening and categorisation of transaction			X
3	Scoping and formulation of TOR	X	X (approve)	
4	Hiring of environmental consultant (This might also happen at an earlier stage)	X	X (approve)	
5	A baseline study will describe the current environmental situation	X		
6	Environmental Assessment Process <ul style="list-style-type: none"> <li>○ Gather information</li> <li>○ Analyse information</li> <li>○ Analyse mitigation options with cost estimation</li> <li>○ Present information on impacts</li> <li>○ Get response from the affected public, NGO's and others</li> <li>○ Present a mitigation and monitoring plan where appropriate</li> </ul>	X		
7	Present information and response in a report	X	X (approve)	
8	Public disclosure and hearing	X	X	
9	National approval, disapproval or need for more information, issuing of permits and licences		X	
10	Confirmation of whether national requirements are met and an assessment of whether the World Bank standards and requirements are satisfied			X
11	Send a recommendation to the World Bank for "no objection"			X

\*) In those situations where countries don't have satisfactory environmental legislation, standards and assessment procedures, the ATI will assume the responsibilities normally assigned to the NEAA

## CHAPTER 3 ENVIRONMENTAL SCREENING

### 3.1 Principles and Methods of Screening

3.1.1 Screening is the first step in the process of an EA, which will assign the product/services in question and their use to one of the four categories. This categorisation will decide the nature of further environmental assessment and identify transactions to be excluded from insurance cover at an early stage to save costly and time-consuming procedures and analysis.

3.1.2 Use of generic checklists that cover different types of products or services can often facilitate the screening. If the nature of the products or services is modified or new information becomes available, the ATI may demand reclassification. If a category B-transaction is later changed to a category A-transaction, additional resources will be required for environmental studies, public consultation, and report preparation. The time-schedule for the assessment process will almost certainly be adversely affected.

3.1.3 The significance of impacts may be formulated in different ways. The most simple is the presence or absence of impacts or a qualification of the degree of impact *i.a* as moderate, significant or highly significant. In some cases a more complex quantification and/or qualification need to be introduced. The assignment of the transaction to either of the categories depends on:

- The **type** and **scale** of the products/services and its use;
- The **location** and **sensitivity** of environmental issues; and
- The **nature** and **magnitude** of potential impacts.

3.1.4 In the process of impact prediction, one will address the issue of whether the impact is reversible, and if so, the potential rate of recovery. The magnitude is considered to be serious if a major adverse impact cannot be mitigated. A major adverse impact would affect the potential subsistence, ecological, recreational or commercial use of biophysical resources. The spatial extent of influence of the impact should always be determined. If the impact is limited to a particular and relatively small area, it is categorised as a local impact, but transactions may have, regional, national or even global impacts.

3.1.5 A numerical scale is often used to provide a quantitative assessment of various types of predicted impacts. One example is:

<i><b>Magnitude</b></i>	<i><b>Extent</b></i>	<i><b>Duration</b></i>
High/Major	Global	Indefinitely
Moderate	National	Long-term
Minor	Regional	Medium-term
Negligible	Local	Short-term

If values are assigned to each of the categories above, a summary of the seriousness of the impact may be quantified.

**Guidance:**

- Screening is performed by the environmental officer of the ATI on the basis of information presented in the Environmental Information Note (EIN).
- Screening should be based on as professional judgement, and may be assisted by use of the generic checklists in this chapter 3.
- If in doubt, the ATI should consult with the NEAA or seek advise from external environmental expertise.

## 3.2 Screening Categories

### 3.2.1 Category A

3.2.1.1 The following characteristics of possible impacts of the products/services or their application should make the applicant consider a category A <sup>7</sup> The transaction **and its operative setting** must be explained to be able to determine the appropriate environmental category.

**Examples where the location for the use of the products or services may be:**

- Near sensitive and valuable ecosystems, protected areas and habitat of endangered species;
- Near areas with archaeological and/or historic sites or existing cultural and social institutions
- In densely populated areas, where resettlement may be required or potential pollution impacts and other disturbances may significantly affect communities;
- In regions where there are conflicts in natural resources allocation;
- Near watercourses, aquifer recharge areas or in reservoirs used for potable water supply; and
- In or close to lands or waters containing valuable resources.

**Examples of sensitivity issues where the products or services or their application of can:**

- Cause adverse global or regional environmental impacts;
- Concern the rights of indigenous people or vulnerable minorities;
- Lead to involuntary settlements; and
- Lead to toxic waste disposal.

**Examples where the nature of the products or services or their use may:**

- Cause irreversible degradation of natural resources; and
- Pose risks to human health and safety.

**Examples of the magnitude of the application of the products or services where:**

- A high amount of scarce resources may be to be at risk;
- The timing and duration of the negative impacts are long; and
- The cumulative effects of many similar, but individually small transactions together lead to serious impacts.

3.2.1.2 Products/services or their use determined to be in category A are perceived to have significant adverse environmental and/or social impacts, and mitigating measures might be necessary to allow for this transaction to be supported. Transactions that might involve or cause one or more of the following attributes may make the impacts “significant”:

<sup>7</sup> World Bank: Revised Environmental Assessment Sourcebook Update, Environmental Screening, November 1996

- Direct pollutant discharges causing degradation of air, water or soil;
- Large scale physical disturbances of a site and/or surroundings;
- Extraction, consumption or conversion of large amounts of natural resources;
- Measurable modification of the hydrological cycle;
- Hazardous materials in more than incidental quantities; and/or
- Involuntary displacement of people and other significant social disturbances.

3.2.1.3 Transactions involving products or services that are applied with effects as described, must, due to their scale, complexity and/or specific characteristics, be subject to a full EA carried out by an independent expert/entity that are not affiliated with the applicant. For those transactions that are perceived as highly risky or contentious or involve serious and multidimensional environmental concerns, the applicant should consider engaging internationally recognised environmental specialists to advise on relevant aspects of the effects of the transaction.<sup>8</sup>

3.2.1.4 Examples of products/services in this category are:

Import/export of:

- Hazardous substances; Chemical and petrochemical products; Pesticides and herbicides; or products or equipment for tanning and dyeing of hides.
- Equipment or products for manufacture of cement, plaster and lime; fertilisers; synthetic detergents, cleaning agents, paints, varnishes, lacquers; leaded glass or glass products; ferrous and non-ferrous metal; metal casting; pharmaceuticals; and waste management projects and disposal operations.
- Equipment and services for use relating to mineral, coal, oil and gas extraction and building of oil and gas pipelines; thermal and hydropower development or expansion, including dams and reservoirs; large transportation projects, airports, highways, and long distance railway lines; large scale industrial plants and estates; large scale tourism development; port, harbour and inland waterway development and large scale groundwater extraction; and urban water supply, irrigation and drainage.

3.2.1.5 It should be underlined that the products of the transaction as such might not be the main decisive issue for categorisation, but rather the application and context of the products or services in question. Therefore might a transaction involving *i.a.* the sale of oil be categorised as an A, B or C category depending on the state of the power plant in which it will be used and whether the plant complies with national environmental laws and regulations.

Guidance:

- If the products/services falls within this category, go to chapter 4, 5 and 6

<sup>8</sup> [http://www.ifc.org/enviro/OP\\_401/op\\_401.html](http://www.ifc.org/enviro/OP_401/op_401.html)

### 3.2.2 Category B

3.2.2.1 Products/services or their use determined to be in category B often differ from category A only in scale. Transactions entailing products or services for rehabilitation, maintenance or upgrading, rather than new constructions are less likely to be “significant” and will often have impacts that are easily identified and quantified. The scope of the requirements or assessment instruments should correspond to the perceived environmental impacts. Assurance of compliance with existing environmental standards might be the most viable way of handling the application. In some cases an environmental audit, risk or hazard assessment might also be most appropriate.

3.2.2.2. As mentioned in the previous section, the application and context of the products or services might be as important as the transaction or the products as such. Therefore a transaction, *i.a.* involving the import of equipment for fruit and vegetable processing might be an B or C category depending on the state of affairs of the pollution prevention equipment, previous permits and licences etc. Some examples of products where a category B should be considered are:

Import/export of:

- Refrigeration equipment; film processing establishments; fleet cars, motorcycles, tractors, spare parts and equipment, parts and equipment for constructing electrical transmission lines and energy efficiency and energy conservation; instruments and material for rehabilitation and maintenance of roads, watersheds, rural water supply and sanitation; and purchase of equipment for metal industries.
- Rubber products (not rubber itself); basic industrial chemicals (dry ice, inorganic salt, alcohol); waxes and polishes; plastic products (not the plastics themselves) from PVC, HDPE, LDPE;
- Irrigation equipment; agricultural inputs by individual farmers, equipment for manufacture of wines and other fermented beverages; equipment related to livestock industries; meat and poultry industries; fruit and vegetable processing, preserving and canning; fish processing, preserving and canning; and vegetable/animal oil production and processing.
- Equipment for manufacture, assembly and repair of engines and machinery; manufacture, assembly and repair of electrical equipment, not refrigeration and air-conditioning units and oil-cooled transformers and capacitors; manufacture and assembly of optical instruments and equipment; manufacture of laser lenses; and manufacture of jewellery, gold-smiting and precious metal plating.
- Equipment for manufacture of clay products; manufacture of glass products (excluding glass containing lead); manufacture of structural clay products; spinning, weaving and finishing of natural and synthetic fibres; manufacture of textile goods; manufacture of leather products and clothing.
- Equipment used for processing of pulp to paper and board; manufacture of paper and board products; publishing of books, newspapers etc.
- Equipment used for saw milling; manufacture of veneer, plywood and other wood-based materials; treating preserving wood; manufacture of wood products (carving, crafting, cooperage).
- Equipment used for manufacturing, alteration and repair of small boats and ships; repair and maintenance shops and garages<sup>9</sup>; and manufacture and/or assembly of vehicle parts and bodies.

Guidance:

- If the product/services falls within this category, the applicant should obtain the required permits and /or licences or initiate a limited EA as decided by the NEAA.

<sup>9</sup> In some cases, e.g. in such operations when discharge of machine oil and other toxic substances is involved, the vehicle repair shops might be attached to Category A of high environmental risk

### 3.2.3 Category C

3.2.3.1 This category comprises products/services that are perceived to have none or minimal environmental impacts. Approval of these types of trade transactions generally does not require preparation of environmental documentation by the applicant other than the EIN.

3.2.3.2 Examples in this category are:

Examples of products and services in this category may be:

- Training and education (except school construction); Management development and technical assistance (e.g. pre-feasibility studies); Establishment of business services (business consulting; accountancy; auditing, etc.); and Software development and production.

Import/export of equipment or goods for:

- Manufacture of wood products (small-scale furniture manufacturing, carving, crafting, etc.); small scale stone crafting; small scale metal fabrication and upgrading; small scale communication upgrading; health (except hospital construction) and family planning; Small scale instruments and hardware replacement; Establishment and equipping of art, design, telecommunications studios; Broadcasting (TV, radio, satellite); Recreational facilities (except construction); Establishment of restaurants and other food premises; Establishment and stocking of retail kiosks; Establishment or renovation of retail shops; Import/export of food, horticultural products and agricultural crops; Computer equipment; Warehousing and archiving of materials and documents; Manufacture, assembly, and repair of watches and clocks; as well as sport-related equipment and establishment of sport facilities;
- Transportation (not including transport of hazardous materials or construction of new roads).

#### Guidance:

- If the project falls in this category, no other information on environmental aspects than the EIN is required.

### 3.2.4 Category D

3.2.4.1 This category comprises products/services deemed illegal by national or international laws or agreements, most often because of environmental and health hazards, and are not eligible for coverage. A list of excluded products and substances is given in annex 9

3.2.4.2 Examples of such transactions are:

- Trade in weapons and munitions;
- Goods or services related to manufacturing of tobacco products;
- Trading in wildlife or wildlife products prohibited by the Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Goods or services involving radioactive materials;
- Projects involving the production or use of products containing chlorofluorocarbons (CFCs) or other materials prohibited under the Montreal Protocol on Substances that Deplete the Ozone Layer;
- Goods involving production of electric products containing polychlorinated biphenyls (PCBs);

- Trade in products containing asbestos;
- Products and services related to the production of lead paint; and
- Equipment or services related to the introduction of genetically altered organisms.

3.2.4.3 Six of the most important multilateral environmental agreements (MEA) in the context of the ATI are presented below, while annex 7 is giving information in greater detail.

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)—1975 \*)
- The Vienna Convention on Substances that Deplete the Stratospheric Ozone Layer, with the Montreal Protocol—1987 \*)
- Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal—1992 \*)
- Convention on Biological Diversity—1993, with its Cartagena Protocol on Biosafety—2000 \*)
- Framework Convention on Climate Change (FCCC)—1994; with its Kyoto Protocol —1997 \*)
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC)—1998 \*)

\*) The dates indicate entry into force, except for the PIC Convention, the Cartagena Protocol and the Kyoto Protocol, which have not yet entered into force. Here, the dates refer to the completion of negotiations.)

3.2.4.4 In addition to the categorical prohibitions outlined above there are several circumstances under which ATI will decline support for a transaction on environmental grounds:

- a) The applicant fails to provide the NEAA and/or the ATI with a satisfactory EA to conduct a review sufficient to determine project eligibility on environmental grounds.
- b) The EA has identified negative impacts of a significant size that can not be mitigated;
- c) The transaction will, in ATI's *a priori* or subsequent determination, result in direct, indirect or cumulative impacts that violate the following prohibitions:
  - Significant degradation of a national park, similar protected area or tropical rainforest;
  - Destruction of or significant degradation in the habitat of an endangered species; and/or
  - Other "unreasonable or major environmental, health or safety hazards."

3.2.4.5 Knowledge about environmental impact of various substances and processes increases over time. Thus, any categorisation of economic activities based on environmental criteria shall always be partially arbitrary. Today, the world scientific community is extensively involved in life cycle analysis of environmental impact of various products. Based on these research findings countries and institutions are designing different environmental policy models. Therefore, the ATI, before covering a transaction, should be aware of potential failure of the product because it is banned due to newly discovered negative environmental impact.

**Guidance:**

- If the transaction falls in this category, it is not eligible for insurance cover under the ATI.

## **CHAPTER 4**

### **ENVIRONMENTAL SCOPING FOR CATEGORY A-TRANSACTIONS**

#### 4.1 Principles for Scoping

4.1.1. Once a decision is taken to proceed with an environmental assessment, a scoping process should start. This process will identify the geographical extent of the likely impacts, the scale of impacts and basically all relevant issues to be taken into account in the assessment. A key product coming out of the scoping is a detailed Terms of Reference (TOR) for the preparation of an EA report.

4.1.2. A careful scoping may benefit the EA process by identification of significant issues and the most important impacts and avoid delays and additional costs in the later process. The early appraisal of environmental issues is also important in assessing and mitigating the financial risks of an operation. Failure to take sufficient account of the costs of compliance with applicable environmental legislation and standards may significantly increase the time schedule for processing the application.

#### 4.2 Defining TOR and choice of assessment instruments

4.2.1 A task force under the Development Assistance Committee of the OECD presented a definition of a TOR for a development co-operation project.<sup>10</sup>

“A set of administrative, procedural, and technical requirements in sufficient detail to ensure the completion of a full environmental assessment and the presentation of the results in a manner which meet the legal and decision-making requirements of the sponsoring donor agency and the recipient country.”

4.2.2 While the applicant will provide a draft TOR, it is the NEAA that has the authority to accept or modify the TOR. This process is often a co-operation between the applicant and/or his consultant and the NEAA. A generic TOR is difficult to provide while giving due credit to different kinds of specific environmental situations and types of transactions under the ATI.

4.2.3 The NEAA will normally be able to assist in the selection of environmental consultants. In most countries, the consultants will also need to be approved by the NEAA. The authority should assist the applicant and the consultants, as necessary, during the conduct of the investigations.

4.3.4 An environmental scoping will result in a choice of appropriate of assessment instrument(s). Environmental investigations or assessments are undertaken with the objective of providing information to the concerned stakeholders and to identify possible mitigating actions before the

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<sup>10</sup> OECD: Coherence in Environmental Assessment, Paris 1996

activity is considered for approval. Under the general concept of “environmental assessment” (EA), there is a long range of more specific instruments. Some of those considered most relevant for the kind of transactions expected under the ATI, are presented below.<sup>11</sup> Some operations will require a combination of these instruments, while some transactions or perceived impacts may require other instruments not described in this manual.

4.3.5 Different instruments can be used to satisfy environmental assessment requirements. These include environmental impact assessment; environmental audit; hazard or environmental risk assessment; and an environmental action plan. Environmental assessment applies one or more of these instruments, or elements of them, as appropriate.

4.3.6 Sample contents of some assessment instruments and guidance on preparation of a public consultation and disclosure plan are enclosed as annex 2 –6.

Guidance:

- The TOR should be a clear and concise “working order” to the applicant/consultant to avoid unnecessary work and time delays.
- Go to chapters 5 and 6 for further guidance on the EA process.

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<sup>11</sup> <http://www.miga.org/screens/projects/disclose/envIRON.htm>

## **CHAPTER 5**

### **ENVIRONMENTAL ASSESSMENT OF CATEGORY A-TRANSACTIONS**

#### 5.1 Guidance on Environmental Assessment

5.1.1 The applicant is responsible for carrying out the EA guided by the TOR as approved by the NEAA. For category A-transactions the applicant should hire an independent environmental assessment expert, not affiliated with the transaction in question, to avoid a potential conflict of interest. If the applicant has completed the EA with in-house expertise prior to the time ATI considers insurance coverage, independent expertise must be engaged to review the EA.

5.1.2 The hiring of an environmental consultant might be well advised also for some category B-transactions and will in some countries be required by the NEAA. The hiring of experienced personnel will often be a cost-effective way of clarifying the environmental impacts and to run a smooth procedure that is acceptable to the authorities.

5.1.3 A sample set of steps for carrying out an EA is listed below. National regulations and procedures might vary, and are presented in chapter 7. Not all procedures for environmental assessments are appropriate to the nature of applications for insurance cover. Flexibility should be applied and efforts made to find the best instruments and procedures for the transaction.

5.1.4 In exceptional circumstances where a category A transaction is highly risky or contentious or involves serious and multidimensional environmental and social concerns, the applicant should engage an advisory panel of independent, internationally recognised environmental specialists to advise on all aspects of the project relevant to the EA. ATI should independently consider whether a category A trade transaction might require such a step in light of applicable World Bank policies.

5.1.5 As with economic, financial and technical appraisal, environmental appraisal is, essentially, the responsibility of the applicant. If the EA report is not acceptable to the NEAA or the ATI, the authorities may require additional work before it can be accepted as a basis for decision-making.

5.1.6 IFC and the World Bank Group have developed a set of sectoral guidelines - environmental, health, and safety guidelines specific to particular industries, sectors, or types of project. These guidelines are derived from years of extensive experience developing projects around the world, and give the applicant a powerful tool for avoiding mistakes, reducing development costs, and improving project sustainability.

5.1.7 IFC is currently using two sets of guidelines for its projects:

- IFC is using all the environmental guidelines contained in the “Pollution Prevention and Abatement Handbook” (PPHA). This Handbook went into official use on July 1, 1998.
- IFC is also using a series of environmental, health and safety guidelines that were written in 1991-1993 and for which there are no parallel guidelines in the PPHA. Ultimately new guidelines, incorporating the concepts of cleaner production and environmental management systems, will be written to replace this series of IFC guidelines. When completed these new guidelines will also be included in the PPHA.

5.1.8 Where no sector specific guideline exists for a particular project then the World Bank “General Environmental Guidelines” and the IFC General Health and Safety Guidelines will be applied, with modifications as necessary to suit the project. These are shown in the table below:

Figure 3 General Environmental Guidelines.

World Bank Group Guidelines	IFC guidelines
<ol style="list-style-type: none"> <li>1. Aluminium Manufacturing</li> <li>2. Base Metal and Iron Ore Mining</li> <li>3. Breweries</li> <li>4. Cement Manufacturing</li> <li>5. Chlor-Alkali Plants</li> <li>6. Coal Mining and Production</li> <li>7. Coke Manufacturing</li> <li>8. Copper Smelting</li> <li>9. Dairy Industry</li> <li>10. Dye Manufacturing</li> <li>11. Electronics Manufacturing</li> <li>12. Electroplating Industry</li> <li>13. Foundries</li> <li>14. Fruit and Vegetable Processing</li> <li>15. General Environmental Guidelines</li> <li>16. Glass Manufacturing</li> <li>17. Industrial Estates</li> <li>18. Iron and Steel Manufacturing</li> <li>19. Lead and Zinc Smelting</li> <li>20. Meat Processing and Rendering</li> <li>21. Mini Steel Mills</li> <li>22. Mixed Fertiliser Plants</li> <li>23. Monitoring</li> <li>24. Nickel Smelting and Refining</li> <li>25. Nitrogenous Fertiliser Plants</li> <li>26. Oil and Gas Development (Onshore)</li> <li>27. Pesticides Formulation</li> <li>28. Pesticides Manufacturing</li> <li>29. Petrochemicals Manufacturing</li> <li>30. Petroleum Refining</li> <li>31. Pharmaceutical Manufacturing</li> <li>32. Phosphate Fertiliser Plants</li> <li>33. Printing Industry</li> <li>34. Pulp and Paper Mills</li> <li>35. Sugar Manufacturing</li> <li>36. Tanning and Leather Finishing</li> <li>37. Textiles Industry</li> <li>38. Thermal Power Guidelines for New Plants</li> <li>39. Thermal Power Rehabilitation of Existing Plants</li> <li>40. Vegetable Oil Processing</li> <li>41. Wood Preserving Industry</li> </ol>	<ol style="list-style-type: none"> <li>1. Airports;</li> <li>2. Ceramic tile Manufacturing;</li> <li>3. Construction Material Plants;</li> <li>4. Electric Power Transmission and Distribution;</li> <li>5. Fish Processing;</li> <li>6. Food and Beverage Processing;</li> <li>7. Forestry Operations and Logging;</li> <li>8. Gas Terminal Systems;</li> <li>9. General Health and Safety Guidelines;</li> <li>10. Geothermal Projects;</li> <li>11. Hospitals;</li> <li>12. Office Buildings;</li> <li>13. Offshore Hydrocarbon Projects;</li> <li>14. Polychlorinated Biphenyls (PCB's);</li> <li>15. Pesticide Handling and Application;</li> <li>16. Plantations;</li> <li>17. Port and Harbour Facilities;</li> <li>18. Rail Transit Systems;</li> <li>19. Roads and Highways;</li> <li>20. Telecommunications;</li> <li>21. Tourism and Hospitality Development;</li> <li>22. Wild land Development;</li> <li>23. Wind Energy Conversion Systems;</li> <li>24. Wood Product Industries;</li> <li>25. Waste Management Facilities;</li> <li>26. Wastewater Reuse.</li> </ol>

5.1.9 The EA report has the objective of providing the NEAA and other stakeholders with sufficient information to enable judgement on whether to issue or refuse an authorisation of the transaction. The scope and level of detail in the report should correspond with the transaction's potential impacts and include the following basic items:<sup>12</sup> A sample content of an EA report is enclosed as annex 2.

An executive summary; Description and objective of the transaction; The setting in which the transaction will take place; The environmental baseline conditions; environmental regulatory framework; major environmental concerns associated with the transaction, taking into account direct, indirect and cumulative impacts; any opportunities for environmental enhancement or compensatory measures; mitigation plan, monitoring plan, as well as institutional arrangements for the implementation of environmental safeguards.

5.1.10. Failure to take sufficient account of the costs of ongoing compliance with applicable environmental legislation and standards may significantly increase overall operation costs, both in terms of capital expenditure for investments needed to achieve compliance, as well as enforcement measures in case of non-compliance, e.g. increased charges, fines or even the closure of the operation by environmental authorities. There may be an additional financial risk resulting from legal uncertainties in connection with liabilities for historical pollution whether or not these were caused by the enterprise itself. At the same time, the incorporation of environmental enhancement measures into the operation design is likely to improve the overall efficiency of an enterprise and thus increase its medium to long-term profitability.

## 5.2 The Environmental Assessment Process

5.2.1 After previous work related to screening and scoping, the EA process will continue with a number of steps described below. Flexibility should be observed to best fit the nature of the products/services in question and their intended use.

**Step 1. The applicant will, based on the preliminary findings of the scoping process and views expressed, plan the EA process**

5.2.2 The TOR should guide the process, and be the basis for choice of assessment instrument(s), information and analysis that are required to assess environmental risks, liabilities, regulatory compliance and any adverse environmental impacts, as well as to comply with the applicable environmental legislation and standards.

**Step 2. The applicant will normally engage an environmental expert to perform the assessment.**

5.2.3 The NEAA will be able to assist the applicant in choosing among consultants with internationally recognised qualifications. To ensure that the studies are conducted according to acceptable standards, national law usually employs a variety of mechanisms. In most countries, participating under the ATI, the designated national authority is required to approve the names

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<sup>12</sup> [http://www.ifc.org/enviro/OP\\_401/op\\_401.html](http://www.ifc.org/enviro/OP_401/op_401.html)

and qualifications of persons to undertake the study and require that they sign the report before it is submitted. Such a measure will help to discourage production of reports that are below acceptable standards.

**Step 3. The applicant will produce a draft assessment report.**

5.2.4 The EA report should present the products/services and their intended use along with presentation of the existing environmental (“baseline”) situation. It will present the analysis, findings, and recommendations clearly and concisely, in a non-technical language, so that it may be easily to reproduce, disseminate and understand for affected peoples and societies.

5.2.5 The EA report is prepared for the use of effective communication with its audience and should be brief. The World Bank provides further guidance in the Environmental Assessment Sourcebook: that has been issued, with updates, periodically since 1993. This information is available electronically and in hard copy from the World Bank. It may be found on the internet at <http://www.worldbank.org>

5.2.6 The Pollution Prevention and Abatement Handbook describe pollution prevention, abatement measures and emission levels that are normally acceptable to the World Bank. However, taking into account national legislation and local conditions, the transaction may have to comply with other emission levels and approaches to pollution prevention and abatement. The EA report must provide full and detailed justification for the levels applied and how it relates to applicable standards. Levels lower than the WB standards are not acceptable to the ATI.

5.2.7 If any of the World Bank policies listed in table 3 below, are relevant to the transaction in question, special attention should be placed on ensuring compliance with them.

*Table 4 List of safeguard policies of the World Bank*

- 4.04 - Natural Habitats
- 4.07 – Water Resources Management
- 4.09 - Pest Management,
- 4.10 – Indigenous Peoples, (forthcoming)
- 4.11 - Cultural Property,
- 4.12 – Involuntary settlements, (forthcoming)
- 4.20 - Indigenous Peoples
- 4.36 - Forestry
- 4.37 - Safety of Dams
- 7.50 - Projects on International Waterways
- 7.60 - Projects in Disputed Areas
- 8.50 – Emergency Recovery Assistance,

**Step 4. The applicant organises consultation with, and encourages a response from affected people, local communities and NGO’s**

5.2.8 The assessment process must be transparent. The applicant should take the added value that locally affected people can bring to the assessment process into account. NGO's and individuals have often access to information and perceptions about potential environmental impacts and resulting social, economic and cultural impacts that need to be carefully considered as early as possible in the assessment process. Calling attention to environmental and related social issues by involving stakeholders helps avoid costs and delays in transaction implementation and reduces the need for project conditionality to the extent that appropriate measures are incorporated into the application.

**Step 5. An EA report, containing responses from the public disclosure is submitted to the NEAA**

5.2.9 The EA report is submitted to the NEAA with the prescribed number of copies, and one copy to the ATI with information of the date of delivery. In addition to referring to comments made, responses to these comments should also be reflected in the EA report, *i.a.* in the Mitigation Plan.

**Step 6. The NEAA might arrange a public hearing on the basis of the EA report or assist the applicant to do so.**

5.2.10 Before making a final decision on whether to allow transaction, the NEAA may wish to disclose the applicant's EA to the public.

**Step 7. The applicant needs to obtain the required permits and licenses.**

5.2.11 The applicant has to obtain a permit for the use of natural resources and pollution discharges prior to final appraisal of the project. The planned transaction needs to comply with the environmental standards and requirements defined in this permit. Usually, the permits comprises the following issues and respective parts: water supply, consumption and discharge; pollution discharges to wastewater; air emission from stationary sources; solid waste generation and management; extraction of raw materials and re-cultivation of damaged soil. Different kinds of permits may be grouped in three:

- Permit for Design;
- Permit for Construction;
- Permit for the Use of Natural Resources and Discharge of Pollutants.

The issuance of those permits most often requires environmental approval by one or several governmental authorities.

**Step 8. The NEAA reviews the report and public response and, if satisfactory, issue a "letter of clearance" to the applicant**

5.2.12 It is the responsibility of the NEAA to review the EA report, the results of public consultation, regulatory compliance issues and the adequacy of mitigation plans. References to standards often need to be incorporated in the legal documentation, and the covenants will, in such cases specify conditions to ensure compliance with the relevant standards, regulations and laws. The review should draw attention to any outstanding environmental issues needing

clarification. If the EA is not completely satisfactory, the NEAA may recommend that certain issues should be re-examined. In those cases where the need for an environmental management plan (EMP) is required, the EA report alone should not be acceptable as a basis for appraisal by the NEAA.

#### **Step 9. The NEAA considers the need for monitoring**

5.2.13 In some cases, the NEAA may reserve the right to monitor the environmental effect of the transaction, and possible compliance with environmental requirements. There are three main types of monitoring that may be established: Compliance monitoring, mitigation monitoring and impact monitoring. Monitoring may also take the form of self-reporting by the investor of summaries and, in specified cases, raw data obtained from monitoring a project's environmental performance (emissions, effluents or other waste discharges) as well as its environmental impacts (e.g., on ambient conditions and biological resources).

5.2.14 The NEAA may require applicants to submit annual self-monitoring reports. Such annual reports will provide the designated authority with regular testing results for any emission standards, effluent standards, ambient air limitations or water quality limitations where relevant. Monitoring may also take the form of third party evaluation, including compliance information developed by national government authorities.

5.2.15 It may be required to conduct certified independent audits if the applicant fails to submit contractually required annual self-monitoring reports in a timely manner or if other information indicates a need for further independent audits. Business confidential information in these audits will be accorded confidential treatment to the full extent permitted by national law.

5.2.16 Monitoring may form an important aspect of the environmental assessment process and may serve two purposes. The first is to ensure that the applicant complies with applicable environmental standards and regulations, included in legal agreements. The second is to keep track of ongoing environmental impacts associated with the transaction in question, and the effectiveness of mitigation measures as a "feedback" mechanism. Where environmental monitoring is required, specific provisions should be included in the legal documentation.

#### **Step 10. The ATI will review the documentation from national institutions and assess the information with respect to World Bank standards and regulations**

5.2.17 The ATI will review the application and documentation from the applicant when he/she has the environmental clearance from the NEAA. The ATI will make certain that the national requirements are met, and may in some cases need to consult with the NEAA. ATI will also review the application and the documentation given in light of World Bank's standards and requirements. In some cases additional environmental assessment work may be required.

#### **Step 11. The ATI send the information to the World Bank and request a "no objection" response.**

## CHAPTER 6

### MANAGEMENT AND MONITORING

#### 6.1 Principles of Management and Monitoring

6.1.1 Where environmental monitoring is required, specific provisions should be included in the legal documentation, such as requirements for periodic environmental reports, environmental audits by independent experts and the inclusion of environmental performance criteria.

6.1.2. Monitoring is often an important aspect of the environmental appraisal process. It serves two purposes. The first is to ensure that the applicant complies with the relevant environmental standards and mitigation components that are required. The second is to keep track of the ongoing environmental impacts associated with the products/services and the effectiveness of mitigation measures as a "feedback" mechanism. The environmental monitoring requirements may exist until the time at which the insurance period has elapsed or the transaction is cancelled.

6.1.3. Changes can occur in the nature and scope of trade transactions following final approval and signing, and have significant environmental implications. When such changes are envisaged, the ATI should co-operate with the NEAA to determine if a re-appraisal is needed for the modified/restructured transaction. A re-appraisal will be required if a change in the physical components associated with the transaction may involve environmental issues which were not subject to the initial appraisal. The NEAA may determine which additional investigations, if any, are needed, and agree with the applicant on the time schedule for carrying them out. Based on the outcome of the environmental investigations, the ATI will determine which, if any, conditions need to be included in the agreements on insurance cover for the transaction.

6.1.4. The NEAA will normally reserve its right to monitor compliance with environmental mitigation requirements and given standards throughout the term of the insurance period. Monitoring may take the form of self-reporting by the applicant in the form of summaries and, in specified cases, raw data obtained from monitoring a project's environmental performance (emissions, effluents or other waste discharges) as well as its environmental impacts (e.g., on ambient conditions and biological resources). Monitoring might also take the form of third party evaluation. Annual self-monitoring reports might often be the preferred choice of reporting, and where impacts are less serious, monitoring might be on a random or selective basis. Copies of monitoring reports should also be sent to the ATI.

6.1.5. The NEAA may require applicants to conduct, and certify that they have conducted, third-party independent audits for all category A-transactions. The purpose of such audits is to evaluate a the compliance with all environmental conditions that are reflected in national and Bank environmental requirements with respect to the transaction and to validate the methodology used for all self-monitoring reports.

6.1.6 Category A transactions will be required to conduct further certified independent audits if the applicant fails to submit contractually required annual self-monitoring reports in a timely manner or if information indicates a need for further independent audits. Business confidential information in these audits will be accorded confidential treatment to the full extent permitted by national law. Independent third-party compliance audits allow ATI-supported projects to be evaluated in an objective and systematic manner based on defined criteria. Proper execution of an

audit requires active co-operation of applicants, good co-ordination of all stakeholders in order to reduce costs and a carefully documented inspection to support all findings and recommendations.

6.1.7. Material misrepresentation or non-compliance with environmental undertakings may constitute an event of default under the terms of ATI insurance contracts. Depending on the severity and reversibility of the environmental impact and the applicant's responsibility and due diligence in attempting to prevent the default and in curing the problem, the NEAA may in consultation with ATI, treat the default as curable or incurable. In the case of a curable default, NEAA/ATI works with the applicant to develop a feasible timetable for remediation. In the case of an incurable default, NEAA/ATI may require contract termination in the case of insurance. Additionally, failure to meet contractually required reporting requirements can constitute a default. In all cases, NEAA/ATI seeks to work co-operatively with applicants to arrive at an equitable resolution of the situation, taking into account the requirements of other insurers.

## CHAPTER 7

### COUNTRY SPECIFIC NATIONAL ENVIRONMENTAL REGULATIONS

#### 7.1 Burundi

##### **Environment policy and Legal Framework**

7.1.1 The government has adopted regulations which introduce environmental management and environmental protection against all forms of degradations. These regulations are aimed to prevent exploitation of the natural resources, to fight against the various forms of pollution and harmful effects and to improve the living conditions of the population, while respecting the balance of the ecosystem.

7.1.2 Protection and enhancement of the environment are integral parts of the Environment National Strategy (ENS) in Burundi. The action plan identified within this framework will contribute to the integration of the issues of environment and of sustainable development in policies, sectoral and economic strategies.

##### **Environmental Assessment**

7.1.3 When installations, projects or activities might, because of their dimensions or character, damage the environment, the applicant must develop and submit an environmental assessment (EA) to the Administration of the Environment in order for them to be able to assess the direct or indirect project impacts on the ecological balance, the quality of the life of the population and the issue of the protection of natural resources in general

7.1.4 The EA must include the following sections:

- Analysis of the initial state of the site and its environment;
- Evaluation of the foreseeable consequences of the implementation of the project/activity on the site and on its natural and human environment;
- The statement and the description of the measures considered by the applicant of the activity to remove, reduce, and/or if possible to compensate for the detrimental consequences of the project;
- The estimated corresponding expenditure; and
- Presentation of possible alternative solutions and the reasons why the suggested project/activity is preferred.

7.1.5 Non-observance by the applicant of the previous measures authorizes the administration to warn the applicant by giving him a term, which cannot exceed 3 months, during which the applicant have to comply with the measures listed in EA. If at the expiry of the fixed period, the formal warning was not followed, the administration will be able to order the suspension of the operations or to withdraw the authorization. The applicant can claim no allowance.

7.1.6 In collaboration with the concerned Ministry, the Administration of the Environment will control the project execution by monitoring the measures listed in the EA.

7.1.7 Maintenance of installations and the major repairs are not subjected to an environmental assessment.

**Environmental Standards**

7.1.8 The statute part III “Protection et mise en valeur des ressources naturelles” provides a framework for the establishment of environmental standards to govern air, water, soil, forest. Wildlife, protection of the human environment, is also covered under the statute.

7.1.9 Control of pollution and the harmful effects are developed under part V “Lutte contre les pollutions et nuisances” and are relatively complete.

**7.2 Malawi****Environment Policy and Legal Framework**

7.2.1 The government has developed a national environment action plan, the purpose of which is to promote and facilitate the integration of strategies and measures for the protection and management of the environment. In the context of this plan, Malawi adopted the Environment Management Act in 1996. This framework is governed by certain basic principles, the most important of which centre on the need:

- To conserve and ensure sustainable use of natural resources.
- To prevent any act or omission which is deleterious or injurious to any segment of the environment.
- To provide public awareness and participation in the formulation and implementation of environmental and conservation policies of the government.

7.2.2 The Environment Management Act makes provision for establishment of the National Council for the Environment (NEC) whose main task is to advise the Minister on all matters and issues affecting the protection and management of the environment. Basically, the Council, though subordinate to the Minister, is responsible for the implementation of the provisions of the Act through the Director of Environment Affairs. The Council has a Technical Committee whose members are appointed on the basis of their qualifications in environmental matters.

**Environmental Assessment**

7.2.3 The Act is comprehensive and covers the environment assessment (EA) process. The Minister under the Act can by notice publish in the Gazette and specify the types and sizes of projects that cannot be implemented unless an environmental impact assessment (EIA) is carried out. Before implementing any project for which an EIA is required, the developer must submit to the Director a project brief which, must include:

- Description of the project;
- Location;
- Purpose and scope of the project;
- Potential impacts on the environment: and
- Any such matter that the Director may in writing require from the developer.

7.2.4 The Director will determine from the project brief whether a full scale EIA should be conducted. If a full scale EIA is needed, the Minister will, based on the advice of the Director set the terms of reference (TOR) for the study, which is published in the Gazette, making the guidelines or TOR public.

7.2.5 The developer is required to submit to the Director an environmental impact assessment report or statement (EIS) giving:

- a description of the project and the activities to be undertaken to implement the project;

- the description of the segment or segments of the project likely to be affected by the project;
- the means of identifying, monitoring and assessing the environmental effects of the project;
- the description of the technology to be used;
- the reasons for selecting the proposed site and other available alternative site;
- likely impact the project may have on the environment;
- measures proposed for eliminating, reducing or mitigating any anticipated adverse effects on the environment; and
- an indication of whether the environment of any other country will be affected.

If the Director is satisfied with the project, the developer will be issued with a letter of approval from the Minister.

### **Public Participation and Disclosure**

7.2.6 The environmental assessment report when submitted is open to public inspection. The Director is required to invite written and oral comments from the public on the report. He can also conduct where necessary; a public hearing at such place or places for the purpose of assessing public opinion and to obtain a fair and just decision. It is underlined in the Act, section (52), that every person has access to any information submitted to the Director or any lead agency relating to the provisions of the Act.

### **Monitoring**

7.2.7 Under the Act the Director may carry out or caused to be carried out periodic audit of any project for the purpose of enforcing the provisions of the Act. The developer is required to keep accurate record, which should be made available for inspection. To ensure compliance with the provision of the Act, inspectors appointed under the Act have the power to examine any activity, which they consider to be detrimental to the environment.

### **Enforcement**

7.2.8 There are specific provisions under part (XI) of the Act relating to the giving of false information in an environmental assessment reports, the keeping of reports and violation of environmental standards and guidelines which can lead to heavy fines and even imprisonment.

### **Environmental Standards**

7.2.9 Malawi like other countries in East Africa is in the process of developing environmental quality standards generally, and in particular for air, water, soil, noise, vibrations, radiation, effluent and solid waste. The environmental framework law is relatively complete. Environmental assessment regulations need however, to be developed to guide developers in all the phases of the assessment process. Meanwhile the Authority can use the powers provided by the Act under section 43(1) to grant licence for the discharge of pollutants into the environment as well as the power to regulate water, pesticides and hazardous substances and enforce guidelines they have developed.

## 7.3 Kenya

### **Policy and Legislative Framework**

7.3.1 Kenya has articulated a comprehensive policy on the environment embodied in the Sessional paper No 6 of 1999 entitled Environment and Development. The government's policy on the environment is based on some fundamental principles, objectives and goals, which echo the Bank's own policies on the environment. The Kenya government recognises that environmental protection as integral to the process of sustainable development. In this context a multi-sectoral approach to environmental planning is adopted to ensure consistency and to address the totality of the environment in all its aspects.

7.3.2 To achieve the many objectives the government has set for itself in the Sessional paper, it has developed an environmental action plan and has adopted a framework Act, The Environmental Management and Co-ordination Act of 14<sup>th</sup>, January 2000 through which it hopes to achieve the objectives outlined in the policy document.

### **Environmental Assessment**

7.3.3 The operational measures set out in the Act recognises in part (vi), the need for environmental assessment. The provisions in the Act state that "any person being a proponent of a project shall before financing, commencing or proceeding with, carrying out, executing or conducting or causing to be financed, commenced, proceeded with, carried out executed or conducted by any other person any undertaking specified in the second schedule of the Act, submit a report to the Authority in the prescribed form giving the prescribed information etc."

7.3.4 The Act went on to specify under Clause 58(5), that environment impact assessment studies required under the Act must be conducted or prepared respectively by individual experts or a firm of experts authorised in that behalf by the Authority. The Authority is required to maintain a register of all individual experts or firms of all experts duly authorised by it to conduct or prepare environmental impact assessment studies and reports respectively. The register shall be a public document. The Act also provides that the proponent shall undertake at his own expense an EIA study.

7.3.5 The assessment report should contain:

- Title, with a description of the project;
- Description of the project initiator;
- Statement of need for the project;
- Project description;
- Description of existing environment;
- Description of the results of preliminary assessment:
- Detailed examination of the impacts;
- Suggested mitigation and abatement measures;
- Description of residual impacts;
- Evaluation of the project; and
- Indication of data sources, consultation and public participation.

7.3.6 The Act provides that the Director General shall respond to the applications for impact assessment within three months. The Authority may ask the proponent to carry out at his own expense further evaluation or environmental impact assessment to ensure that the EIA study, review or evaluation report is as accurate and exhaustive as possible. The Authority will issue an

environmental assessment licence to the proponent on such terms and conditions as may be appropriate if satisfied as to the adequacy of the environmental assessment study.

### **Public Participation and Disclosure**

7.3.7 The procedure laid down in the Act under Section (59) requires the Authority on receipt of an environmental impact study to publish the report in for two successive weeks in the Gazette and a newspaper circulating in the area or the proposed area of the project a notice which shall state:

- A summary description of the project;
- The place where the project is to be carried out;
- The place where the environmental impact statement. Evaluation or review report may be inspected; and
- A time limit of not exceeding sixty days for the submission of oral or written comments on the study, evaluation and review.

7.3.8 The period stipulated above can be extended to afford reasonable opportunity to any person to submit comments on application to the Authority. Members of the public are involved at the decision making stage. It is not clear at all whether the public is consulted at the crucial scoping stage. This issue may be clarified when the EIA regulations and guidelines are issued

### **Monitoring**

7.3.9 The Act is strong on environmental audit and monitoring. Parts (vii) and (x) cover these aspects in terms of compliance with the terms and conditions of an environmental impact assessment licence issued under the Act. The Authority is responsible for carrying out environmental audit on all activities that are likely to have significant effect on the environment. The Authority is expected to ensure that the project conforms in operation with the statement made in the environmental impact assessment study report. The operator of the project is expected to take all reasonable measures to mitigate any undesirable effects not contemplated in the environmental impact study.

7.3.10 The owner or operator of a project for which an environmental impact assessment study report has been made shall keep accurate records and make annual reports to the Authority describing how far the project conforms with the environmental impact statement. The Authority may cancel, review or suspend an EA licence for up to twenty-four months. The developer can appeal against the Authority's decision to the National Environmental Tribunal.

### **Environment Standards**

7.3.11 The Act part (viii) establish a Standards and Enforcement Review Committee as a committee of the Authority. Its main function is to recommend to the Authority minimum quality standards on air, water for different uses, waste of all kinds, noise and pesticide and toxic substances. The Act provides for penalties against water pollution (section 72(1), discharge of effluents without licence section 75(1), air pollution (section 78(2), 86(9) (98)) on the treatment of waste and pesticide and toxic substances.

7.3.12 The Authority is developing standards in all the areas mentioned above. Meanwhile guidelines have been developed on water pollution. The Authority for this media has adopted the British Royal Commission standards on the protection of water and WHO standards. The Guidelines cover the discharge of effluents in aquatic environment and industry specific effluent discharge standards. These guidelines are technical guidelines. They are yet to be gazetted and therefore do not have the force of law.

7.3.13 Nevertheless, Kenya has several pieces of current laws and regulations that address air and water pollution. For water there is the Water Act and the Water (General) Rules (legal notice of 1964), which subject the discharge of effluents, trade and solid waste in or near a water body to strict control. The Public Health Act concerns itself mainly with domestic water supplies and sources of water used for humans. The Merchant Shipping Act focuses on the pollution of coastal and marine waters. The Penal Code section (191) penalises the corruption of waters of any public spring or reservoir. Several laws cover air pollution. The control and prevention of air pollution is dealt with under the Public Health Act, The Traffic Act (ch.403), the Fisheries Act (ch.514) and the Penal Code.

7.3.14 The quality of soils is managed under the Agricultural Act (ch.318), the Land Planning Act (ch.303) and the Fertiliser and Animal Foodstuffs Act (ch.345). In part (viii) stringent quality standards have been set to cover pesticide management, control, packaging, labelling, distribution, storage as well as the handling of chemicals and materials destined for domestic and industrial use.

### **Institutional Arrangements**

7.3.15 The Act establishes a National Environmental Council (NEC) as the policy making and coordinating institution and a National Environmental Management Authority (NEMA) as the administrative arm of the Council. The Authority is supported at the District level by District Environment committees, which work through the District Development committees. Inter District projects are regulated through the Provincial Environmental Committees, which work at the planning level under the provincial Monitoring and Evaluation Committee.

## **7.4 Rwanda**

### **Policy and Legal Framework**

7.4.1 Rwanda has yet to develop the required environmental laws and regulations. Nonetheless, the government is, in its effort to normalise Rwandan society, developing policies in all sectors. In the context of the transitional programme of the Government, the Ministry of Agriculture, Livestock, Environment and Rural Development is beginning to address the issue of resource management, the development and conservation of resources for sustainable development. In this regard it has developed a National water resources management policy (1998) to address the country's most abundant natural resource, water. In the policy document the government has shown a keen awareness of the need for environmental assessment for the sustainable use of natural resources. The government has to develop the necessary legal framework and regulations to govern the management of the environment to put these ideas into effect.

## **7.5 Tanzania**

### **Policy and Legal Framework**

7.5.1 Tanzania has a national environment policy, which was developed and issued from the Vice President's Office in 1977. The policy document spells out the objective of the policy, which seeks to ensure sustainability, security and equitable use of resources for meeting the basic needs of present and future generations without degrading the environment or risking health and safety. The policy recognises the relationship between poverty and environment degradation and accepts

the challenge of integrating environmental issues into the core of national development policy making.

7.5.2 The government recognises that many individuals, interest groups including indigenous people have an interest in the environment. The implementation of the environment policy therefore requires co-ordinated action. In this respect the government recognises that the multi-focus approach will be central to environmental management and an institutional mechanism has to be established to foster and enhance effective co-operation and co-ordination among relevant organs of the government.

7.5.3 The government has therefore designated the Ministry responsible for the environment as the authoritative voice and catalyst for action on behalf of government and shall exercise overall policy, planning and implementation oversight on environmental matters. In furtherance of this policy the National Environmental Management Council (NEMC) was established under the National Environment Act No 19 of 1983.

7.5.4 This Act as it stands cannot govern the entire pattern of environmental management as spelt out in the National Environment Policy (NEP). The Act needs to be replaced by a more comprehensive legal framework, which will take into consideration the structure and division of government functions and the many stakeholders involved in the various sectors affecting the environment. Environmental management in Tanzania is today carried by a myriad of institutions contrary to the integrated management approach put forward by the NEP. Currently, there is no integrated system to enforce standards and issue licences to projects.

### **Environmental Standards**

7.5.5 One of the functions of the NEMC according to the Act, clause 4(h) is to specify standards, norms and criteria for the protection of beneficial uses and maintenance of the quality of the environment. The law did not specify that the NEMC have the mandate to enforce those standards. The government is giving priority to setting standards and the NEMC together with the Tanzania Bureau of Standards are jointly working with research institutions, universities, NGOs, government agencies and a cross section of industries to deal with specific areas of environmental standardisation.

7.5.6 There are current legislation which are still operational in respect of the pollution of water, air and the soil. Examples are the Water Supply Act and the Water Utilisation (Control and Regulations) 1981, which establish control and regulatory mechanism for water and water pollution. The Public Health (Sewerage and Drainage Ordinance (Cap. 336). The Act empowers urban authorities to prohibit the discharge of certain substances into the public sewers. The Fisheries Act provides regulatory powers on the flow of water into any lake, river, dam estuary or seawater. The Penal Code and the Local Government Acts No.788 of 1982 deal with air quality.

### **Environmental Assessment**

7.5.7 The National Environment Management Act needs to be amended to provide for the administration of the environmental assessment process and give enforcement powers to the NEMC in relation to the environmental management in general and the EIA process in particular. Management of environmental resources is conducted through a series of sectoral environmentally related legislation. Among these, the only Acts that make provision for the EIA process as a planning tool, are the Marine Parks Reserves Act of 1994 and the Mining Act of 1998.

7.5.8 Nonetheless NEMC has developed guidelines and specific criteria for the conduct of environmental impact assessment (EIA), and has in this context produced a list of projects that may require EIA. It has also produced a second list of small-scale activities and enterprises that require registration but may or may not require EIA. The guide covers all the steps required in the EIA process from registration, screening, preliminary assessment and any detailed study to follow.

### **Screening**

7.5.9 The screening process is important in the context of the Regional Trade Facilitation Project. The screening process will show whether a project is likely to have serious adverse environmental consequences and thereby establish whether the project require detailed assessment. The following factors are considered during screening:

- location and scale of project;
- technology used ;
- public concern ;
- land use consideration;
- environmental impacts; and
- any factors relevant to the project.

On the basis of the submission made a decision will be taken as to whether a full EIA is required or not or the proposal rejected

### **Scoping**

7.5.10 This aspect is used to determine information needs and review alternative options to the project. It is used also for the preparation of the terms of reference for the EIA. The EIS should contain the following:

- executive summary of the EIA findings;
- description of project;
- baseline data;
- statement of predicted impacts, their likely significance;
- statement of the proposed mitigation measures;
- statement of those impacts that are likely to remain after mitigation is implemented: and
- description of the monitoring procedures required to ensure that mitigation and unforeseen impacts are assessed once project implementation begins.

### **Monitoring**

7.5.11 The monitoring process will ensure that mitigation measures are carried out in time and in the manner prescribed in the environmental impact statement as well as in the environmental plan itself. The guide is silent as to who should carry out the monitoring

### **Public Participation**

7.5.12 The government is determined as indicated in the National Environment Policy that individuals, groups, and organisations participate in environmental impact issues and in decisions particularly those which affect the communities in which they live.

## 7.6 Uganda

### **Environmental Policy and Legal Framework**

7.6.1 The Uganda government developed a comprehensive environment policy in 1994. In the policy document entitled The Environmental Management Policy for Uganda, 1994, the government elaborated a strategy for integrating environmental concerns into the national socio-economic development process. The policy recognises the serious environmental problems the country was facing and set out broad objectives, principles, and strategies to address these problems. The policy document provides policy makers with a dynamic framework for sustainable use of resources and the basis for the establishment of an appropriate institutional and legal framework for the management of national environment policy. The country has since 1994 moved forward in this area and adopted the National Environment Statute in 1995. This statute made it possible for the government to develop an Environmental Impact Assessment Regulations in 1998.

### **Environmental Assessment**

7.6.2 The Environmental Impact Assessment Regulations (EIA) gives a comprehensive and detailed description of the EIA process. The Regulations apply to all projects included in the third schedule of the Statute which broadly cover; urban development, transportation, Dams, rivers and water resources, aerial spraying, mining, forestry, agriculture, natural conservation areas, processing and manufacturing industries, hydrocarbon, waste disposal, electrical infrastructure. The regulations are quite clear as to the distribution of tasks and is categorical as indicated under section (3) of the regulations that “ a licensing Authority under any law in force in Uganda shall require the production of a certificate of approval of environmental impact assessment before issuing a licence for any project under the third schedule of the Statute”. The officer designated for issuing the certificate of approval of environment Impact assessment under the regulations is the Executive Director of the National Environment Management Authority

7.6.3 According to the EIA, three important documents will be necessary for projects covered by the regulations: 1) A project brief. In the project brief the developer is required to prepare a brief statement on the nature of the project, the activities that shall be undertaken, the projected area of land, air and water to be affected, the activities of the project and the environmental effect of the project taking into account ecological and social considerations, land use and landscape. 2) An Environmental Impact Statement (EIS) stating the findings and recommendations of the environment impact study. 3) Certificate of Approval of Environmental Impact Assessment signed by the Executive Director under his seal.

### **Environmental Screening**

7.6.4 The EIA regulations cover a wide range of projects under schedule (3) of the Statute. All developers are required to submit project briefs to the Executive Director. If the Executive Director is satisfied that the project will have no significant impact on the environment or that the project brief discloses sufficient mitigation measures to cope with the anticipated impacts, he may approve the project. If on the other hand the Executive Director finds that the project will have significant impacts on the environment and the project brief discloses no sufficient mitigation measures to cope with anticipated impacts, he shall require that the developer undertake an environmental impact study. The Executive Director takes these decisions after consultations with other agencies. The lead agency has to be satisfied that an environmental impact review has been properly conducted.

**Environmental Scoping**

7.6.5 The proponent will develop the terms of reference (TOR) for the project after consultation with the Authority. The TOR will have to include all matters required to be included in the environment statement as provided for in regulation (14) and such other matters as the Executive Director may in writing provide. The EIS shall provide a description of:

- the project and the activities it is likely to generate.
- the proposed site and reasons for rejecting alternative sites
- a description of the potentially affected environment
- the material inputs into the project and their potential environmental effect.
- an economic analysis of the project.
- the technology and processes that shall be used, alternative technologies and processes.
- the products and by products of the project.
- the environmental effects of the project including the direct, indirect, cumulative, short term and long term effects and possible alternatives.
- the measures proposed for eliminating, minimising or mitigating adverse impacts.
- an identification of gaps in knowledge and uncertainties encountered in compiling the required information
- an indication of whether the environment of any other state is likely to be affected.

The Authority has the right to approve or reject the names of persons presented to conduct the study.

**Public Participation**

7.6.6 The responsibility for ensuring that the public is consulted is shared between the proponent (developer) and the Authority. In the first place, the proponents are supposed to take the initiative to obtain the views of the people in the communities, which may be affected by the project during the process of the EIA studies. When the studies are completed and an environmental statement is submitted, the Executive Director in addition to seeking the comments of lead agencies will also invite the general public to make written comments on the proposal. The Executive Director will further seek the comments of those affected by the project. The invitation will state the nature of the project location, anticipated positive and negative impact of the project. The Executive Director could even go further, for the purposes of good governance, hold a public hearing presided over by a suitably qualified person to enable the Director to obtain a fair and just decision.

7.6.7 The environmental impact statement is a public document and may be inspected at any reasonable time by any person as provided for under section 21(5) of the Statute. In fact any project brief, environmental impact review report, environmental impact statement, terms of reference, public comments, reports of the presiding officer at a public hearing or any other information, except proprietary information, submitted to the Executive Director are regarded as public documents according to section (29) of the Regulations.

**Monitoring of Impacts and Mitigation Measures**

7.6.8 In executing the project, the developer shall take all practical measures to ensure that the requirements of the environmental impact statement is complied with. In this respect according to section (31) of the Regulations, the developer will undertake an initial environmental audit of the project within twelve and thirty six months after the commencement of the operations or completion of the project. The initial environmental audit has to be carried out by persons approved by the Executive Director. The developer may be required by the Executive Director to carry out such other audits as may be required subsequent to the initial audit. After each audit an environmental audit report is submitted to the Executive Director.

7.6.9 The Authority itself can carry out its own monitoring through an inspector designated under section (86) of the Statute. An inspector may at all reasonable times enter on any land, premises or facility related to a project for which a project brief or an environmental impact statement has been made to determine how far the predictions made in the project brief or the environmental statement are complied with.

7.6.10 A member of the public after showing reasonable cause may petition the Executive Director to cause an audit to be carried out on any project. The Director after studying the audit report may require the developer to take specific mitigation measures to ensure compliance with the predictions made in the project brief or environment statement. Where the developer fails to implement the mitigation measures, an inspector may issue an improvement notice to the developer under Section (81) of the Statute, which may result in civil or criminal proceedings taken against the developer if the developer fails to implement the recommended measures.

### **Enforcement of EIA Legislation and Regulations**

7.6.11 The National Environment Management Authority has the responsibility of enforcing the National Environment Statute 1995. At the policy level, a high-powered committee is responsible for setting of EIA legislation and policy. The National Environment Management Authority (NEMA) has the authority to delegate some of its functions to an agency, and any public officer. It has also the authority to provide guidelines for environmental management at the District level through District Environment Committees. The District Committees co-ordinate with NEMA on all issues relating to the environment, and assist in the development of by-laws relating to the management of the environment at the local government level. The Executive Director of the Authority acts as Secretary to the committee. The Authority is the principal agency in Uganda for the management of the environment and it is required to co-ordinate and monitor all activities in the field of environment. It has among its functions the authority to review and approve environmental impact assessments and environmental impact statements submitted in accordance with the Statute.

### **Environmental Standards**

7.6.12 The Statute part (vi) provides a framework for the establishment of environmental standards to govern air, water and soil quality for individual products in agriculture and products destined for domestic consumption as well standards for waste disposal. The government under part (vii) of the Statute take measures to protect natural habitats, the land, rivers and lakes, and wetlands. The management of the forests, rangelands and wildlife is covered under the Statute.

7.6.13 The Statute Section 58(4) provides for the control and regulation of pollution through licensing. The Section states that “ No person shall carry out any activity which is likely to pollute the air, the water or land in excess of any standards or guidelines prescribed or issued under the Statute except under and in accordance with a pollution licence.” This integrative approach to licensing incorporating all the affected media would help the Authority to regulate those emissions to which it has not developed complete standards on the basis of temporary guidelines.

7.6.14 Uganda has entered into a co-operation agreement on an environment management with its neighbours Tanzania and Kenya. The partner states under this agreement will co-operate to develop and harmonise national and sectoral laws, regulations, standards as well as environmental impact processes and procedures.

## 7.7 Zambia

### **Environment Policy and Legal Framework**

7.7.1 Zambia was among the first countries to develop a national conservation strategy in 1985. The national conservation strategy helped to identify and highlight key environmental issues and recommended a series of initiatives and programmes to address these issues. The strategy led to the development of a legal framework for the environment. The Environmental Protection and Pollution Act was passed in 1990.

7.7.2 The Environmental Council of Zambia is established under part (ii) of the Environmental Protection and Pollution Control Act, 1990. The Council (ECZ) has the main responsibility of enforcing the provision of the Act and the EIA regulations. The ECZ is expected to co-ordinate the activities of all agencies regarding environmental protection and advise the government on the formulation of policies relating to the good management of the environment. A Director is responsible for the overall management and administration of the Council. The work of the ECZ is further buttressed by an advisory committee whose membership is made of officers from all the competent Ministries as well as the National Commission for Development and Planning, the National Council for Scientific Research, Universities, representatives of the industrial sector and civil society (NGOs)

### **Environmental Assessment**

7.7.3 The environmental Impact Assessment (EIA) Regulations were developed and adopted in 1997. The EIA regulations give a comprehensive description of the EIA process and the formal requirements attached to the process. The proponent of a project under the regulations will require three documents before the project can be implemented: 1) A project brief providing information on the nature of the project, the environmental effect of the project. 2) An environmental impact statement (EIS) produced as a result of environmental impact assessment work. 3) A letter of approval from the Environmental Council of Zambia.

7.7.4 The EIA regulations cover a long list of projects. For projects listed in the first schedule, the Council will determine in each case if an EIA is required. If the project is expected to cause significant environmental impacts, the Council will require that an environmental impact assessment to be carried out. The EIA is required to address impacts regarding the ecology, natural resources and social and cultural impacts. Thresholds are given in the regulations for projects that fall under the following broad categories; urban development, transportation, dams, rivers and water resources projects, mining, agriculture, forestry related projects, nature conservation areas, processing and manufacturing industries, electrical infrastructure and waste disposal. The EIA process for most projects, from the initial brief to formal approval, takes three to five months. The ECZ can ask for EIA for projects not listed in the first and second schedule of the regulation.

### **Scoping**

7.7.5 The ECZ approves the terms of reference for the environmental impact assessments and consultants appointed to carry out the studies.

### **Monitoring and Enforcement**

7.7.6 An Environmental Management plan has to be incorporated in the Environmental Impact Statement. The plan should include suggestions for mitigating measures and a programme for monitoring impacts. It is incumbent on all developers to send progress reports to the ECZ

showing impacts and mitigation measures and that the project is progressing according to the environmental management plan. The Council itself should carry out its own audit three years after the commencement or completion of the project. The Act provides for an elaborate system of inspection on water and air quality, the disposal of waste and the control of pesticides and toxic substances.

### **Environmental Standards**

7.7.7 The Environmental Council of Zambia is responsible for conducting studies and making recommendations on standards relating to the improvement of the environment and the maintenance of sound ecological standards. In this respect the Council is giving priority to setting quality and pollution control standards for water, air, soil, waste and for the control and regulation of pesticides and toxic waste. Although Zambia lack clear environmental emission standards to use when considering impacts and effects of different projects, the National Environmental Council (NEC) can still enforce environmental standards through out the system through the powers given to it by the Act.

7.7.8 The NEC has the power to grant licences relating to the discharge of effluents, emissions, hazardous waste as well as licence for the operation of a waste disposal sites. The authority to register pesticide or toxic substances also rests with the Council. While the necessary standards are being developed, the country has to use current laws and regulations governing the exploitation of the country's natural resources to regulate environmental standards.

### **Public Participation and Disclosure**

7.7.9 According to the EIA regulations the public should be consulted at all levels of the decision making process and the different phases of that process. The responsibility of ensuring public participation is shared between the developer and the ECZ. The involvement of the public particularly those affected by the project are secured through the media, meetings, and public hearings where necessary to obtain a fair and just decision. All documents submitted to the Council are public documents and can be inspected by any interested person with the minimum of conditions.