

SUSTAINABLE DEVELOPMENT SERIES No.1

**A GUIDE TO THE ENVIRONMENT IMPACT
ASSESSMENT PROCESS IN
UGANDA.**

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Abbreviations

EIA	Environment Impact Assessment
NES	National Environment Statute
EIS	Environment Impact Study
EA	Environmental Audit
NEMA	National Environment Management Authority
ToR	Terms of Reference
LECs	Local Environment committees

Definitions

Environment Impact Assessment is a process of analyzing the positive and negative effects of a proposed project, plan, or activity on the environment. This may include studies on the weather, flora and fauna, soil, human health including physical, social, biological, economic and cultural impacts. It is one of those measures taken to ensure that development is sustainable.

Environment Impact Study is a study conducted to determine the possible environmental impacts of a proposed policy, project or activity and measures to mitigate any such impacts.

The Environment Impact Statement is a report made when an environment impact study has been conducted.

Environment Monitoring: Is the continuous assessment and determination of the actual potential effects of any activity on the environment.

Environmental Auditing: Is the process undertaken to check compliance with environmental policies and legislative environmental requirements to check risk and expose them for correction.

A Developer refers to a person or group of persons, agency or firm developing a new project or proposing to extend an existing project, which is subject to the EIA process.

The Impact is the adverse or beneficial effect of any action on one or more elements of the natural, social and economic environment.

Direct Impacts are caused by actions, which generally occur at the same time and place as the activity of the project in question.

Indirect Impacts are those that induce changes in the natural environment, population, economic growth, land use etc. as a result of actions not directly linked to the project in question.

Indirect Impacts are those that induce changes in the natural environment, population, economic growth, land use etc. as a result of actions not directly linked to the project in question.

The Lead Agency is defined as any ministry, parastatal or Local Government system in whom any law vests functions of control or management of any section of the environment.

Mitigation measures refers to actions which reduce, avoid or off set the potential adverse environmental consequences of a project for example, engineering works, technological developments, management ways and means of making better the effects to the environment and losses suffered by individuals including compensation where damage has been done and resettlement in case of displacement.

Screening is the process of determining what level of environment impact assessment is required for a particular activity or project.

Significant effects are substantial or potentially substantial adverse changes in any of the physical factors of the surroundings of humans including water, soil, atmosphere, biological factors of animals and plants and the social factor of beauty which includes both the natural and built environment.

Stakeholders refer to those who are affected or likely to be affected by the outcome of a proposed project, whether positively or negatively.

Public hearing is a public inquiry into the environment impact statement.

A "**no action alternative**" describes the option of not proceeding with any action and provides a vital baseline for the comparison with other alternatives.

Project defines an action or activity that leads to projects with an impact on the environment.

Project brief is a summary statement of the likely environmental effects of a proposed development.

Executive Director refers to the Executive Director of the National Environment Management Authority (NEMA).

Executive Summary

EIA is a process used to predict the environmental consequences of proposed projects, activities or actions of development. EIA should be conducted before the commencement of a project to study the possible impact that a proposed project or activity may have on the environment and hence eliminate, reduce or avoid adverse impacts and costs that would be met after damage is inflicted by either redesigning the project or instituting mitigation measures.

The concept of EIA is incorporated in different legislation, which includes the Constitution of the Republic of Uganda, the National Environment Statute, the Water statute, Wildlife statute, to mention but a few. Some pieces of legislation were implemented in a way that does not promote an in- depth assessment of environmental issues in planning although they provide some opportunities that incorporate environmental considerations into development.

The Third schedule to the National Environmental Statute (NES) and the 1st Annex to these Guidelines lays out the developmental activities or projects for which an EIA is a prerequisite.

The NES provides for public input in the EIA process and environmental audit through the right to participate and the right to bring actions to discontinue or prevent an act with effects that are harmful to the environment. It also empowers the Local Environmental Committees to take action to redress environmental concerns. NEMA adopted Guidelines regarding the EIA process in 1997 which include the form and content of EIAs, how an EIA should be carried, public participation, post assessment audits and Environmental Impact Statements.

The Guidelines establish three major phases through which the EIA should be conducted namely; the Screening phase, the environmental impact study phase and thirdly, the decision making phase. The Screening phase is the preliminary assessment whose objective is to determine if a proposed project or activity will or will not have a significant impact on the environment and whether the adverse impacts have mitigation measures which can readily be incorporated into the environmental impact review. If such measures can not be readily identified then a detailed environmental impact study will be conducted.

The second phase (environmental impact study) deals with the identification of possible impacts and involves a lot of consultation with the public generally and the communities to be affected by the proposed project. It also involves undertaking a detailed description of the existing environment and the activities of the locals resident in the area to be developed. Public involvement is crucial as it gives those who will be affected by the proposed development an opportunity to present evidence about potential consequences of a project and make contributions and suggestions on ways to minimize such adverse impacts.

The third phase is the decision making stage during which a decision to either approve or reject a proposed project is reached. The developer will be allowed to proceed with implementing the project once it is approved by the concerned authorities.

The EIA Regulations of 1998 require of the developer to prepare a project brief stating the nature of the project, its area of land and the kinds of activities that are to be undertaken during and after the development of the project. It is also required of the developer to carry out an evaluation or audit of the project to address issues set out in the EIA.

Chapter One

1.1 Introduction

Monitoring of projects after EIA has been conducted is essential as this will ensure that the mitigation measures and other conditionalities set out by the developer in the EIA are complied with.

The environmental law framework lays down the basic legal provisions for Environmental Impact Study regulation among other things. The regulation of activities that have or are likely to have an impact on the environment is one of the vital components of environmental law. Principal issues related to this aspect include environmental impact assessment, environmental auditing and environmental monitoring.

Environmental legislation is however not the only tool for environmental management. Other factors such as general policy and education awareness are equally important.

This guide is intended to assist developers and the private sector to comply with the law and also help them understand EIA to avoid possible contravention of the law, to make informed decisions and to avoid losses by ensuring that they do not undertake environmentally harmful projects.

1.2 An Overview of the EIA Process in Uganda

The concept of EIA is not new in Uganda. Before the enactment of the National Environment Statute (NES) in 1995, EIA was not a legal requirement although there were some provisions that were contained in various enactments such as the Urban Planning Act and the Investment Code among others. These enactments provided opportunities to incorporate environmental considerations into development. However they have not been implemented in a way that promotes comprehensive assessment of environmental issues in planning and do not expressly tackle EIA but have provisions that embraced it.

EIA has become an increasingly familiar environmental management tool as a result of pressure that is mounted on companies, industries to improve upon their environmental performance. It is now a common tool in the developed countries and is increasingly being applied in Uganda and other developing countries by foreign and local investors. It is applied to a range of industrial and commercial activities; from small through medium to large scale establishments.

Until very recently, assessments were mainly done by foreign consultants and the costs met by the developers. NEMA now has a technical team which is charged with providing EIA expertise for all projects.

Most districts in Uganda now have environmental officers and committees charged with handling environmental matters in their jurisdictions. Some municipalities, Ministries and government departments have established environmental offices to handle environmental matters. Such environmental committees are also found in schools and institutions all over the country. This kind of awareness raising will greatly improve upon the efficiency and effectiveness of the EIA process, its monitoring and compliance in the country.

1.3. Environment Impact Assessment (EIA).

EIA is a process of analyzing the positive and negative effects of a proposed project, plan, or activity on the environment. This may include studies on the weather, flora and fauna, soil, human health including physical, social, biological, economic and cultural impacts. It is one of those measures taken to ensure that development is sustainable. An EIA should be conducted before the commencement of a project. By studying the possible impact that the project may have on the environment, it is possible to eliminate or avoid adverse impacts or costs that would be met after damage by either redesigning the project or by taking mitigation measures.

EIA must be exhaustive and comprehensive and must give due consideration to all alternatives including the "no action" alternatives.

1.3.1 For whom is EIA written?

EIA is made for the:

- i) developers /Project Proponents;
- ii) Project Approving Agency /lead agency;
- iii) Public; and
- iv) Private sector including bankers or financiers

If written for the public, an EIA must be in a language simple and brief enough to be understood by the ordinary person, otherwise it will not serve its purpose. Its purpose is to inform these actors about the project, its environmental consequences, environmentally friendly options and why the project is preferred to those options.

If an EIA is meant to inform, it must be written in a simple and brief language, in a fully representative format. If meant for the developer, it must be formatted in such a way that complicated scientific and other technocratic information is easy to digest.

EIA must contain enough information to enable decision-makers to make a well-informed decision, or else it can be challenged in courts as being inadequate.

1.3.2 Functions of EIA

i) The primary function of EIA is to avail to both the developer and the authorities such as NEMA and the Town Planners, the opportunity to choose projects with full knowledge of their impact on the environment. It also enables the relevant authorities to decide whether to allow the project to proceed or not. This will save the developer time and costs that would have been incurred and enables him to develop plans and policies for the mitigation of such impacts.

ii) EIA enables developers and decision makers to predict and assess the potential impacts of the project on the well-being of the natural environment and also helps them identify alternatives through recommending the implementation of appropriate modifications / actions that integrate economic, social and environmental concerns.

iii) EIA can help improve the credibility and also portrays a good corporate image for an

organization as an environmentally responsible organization to the general public including government agencies and employees. For instance, the City Pharmacy uses recycled paper for its packaging, MTN now uses environmental friendly airtime cards which when disposed of, are not a threat to the environment.

iv) The EIA process is also of great benefit to banks and other financial institutions that extend credit to their clients. It is a means by which the institution can protect its investment by ensuring that the project fulfils all planning and legal requirements, particularly with regard to environmental concerns.

There have been instances where credit has been extended to developers with no assessment of the environmental impact and in due course the project is stopped from operating for failing to meet the requisite standards, with significant losses to the lending institution.



For example, The Freba Tannery pictured above in Kakoba, Mbarara was closed down for failure to prevent pollution of the environment by untreated effluent (see adjacent pond). An EIA would have identified the need to put into place a system for the treatment and disposal of effluent.

An EIA is also important to ensure the safety of both the workers and the public.

v) An EIA is designed to enable the environmental effects of a project to be weighed on a common yardstick with economic costs and benefits. EIA is good for planners as it enables them to make environmentally and economically viable decisions during planning and to choose whether to continue or discontinue with such projects that are likely to have an impact on the environment.

vi) It is a legal requirement for any project that is likely to have adverse effects on the environment to carry out an EIA. Hence any developer found to contravene the law will have legal action taken against him or her.

Chapter Two

2.0 Legal Framework of the EIA Process in Uganda.

2.1 Constitutional Aspects related to EIA

The Constitution of the Republic of Uganda of 1995 provides among its National Objectives, (Objective No. XXVII) that:

- i) Utilization of natural resources shall be managed in such a way as to meet the development and environmental needs of the present and future generations of Uganda, particularly taking all measures to prevent or minimize damage and destruction to land, air, water resources resulting from pollution or any other kind of natural resource degradation.
- ii) the state shall promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced manner for present and future generations.

Article 39 provides that every Ugandan has a right to a clean and healthy environment. Article 237(b) in turn, provides that the government or Local Government as determined by Parliament by law shall hold in trust for the people and protect natural lakes, rivers, wetlands, forests, game and forest reserves, National Parks and any land to be reserved for ecological and to touristic purposes for the common good of all citizens. This right carries with it the duty of the citizen to protect the environment.

2.2 The National Environment Statute (NES) No.4 of 1995

The NES provides for public input in EIA, and environmental audits through the rights to participate, to information and the general right to bring actions to prevent or discontinue an activity or project with effects that are harmful to the environment. It also empowers local environmental committees to take action to redress local environmental concerns.

The Statute creates a duty on the developer to take all measures necessary to seek the views of the people in the communities, which may be affected by the project during the process of conducting the study.

Major provisions for the EIA process in the NES are contained under part V that defines and sets out the role and procedures of the EIA process for all activities likely to harm or have an impact on the environment.

The EIA legal framework under the NES is summarized as follows;

1. A developer of a project is required to submit a project brief to the Lead Agency.
2. Where the development described in the brief is considered to have or likely to have any impact on the environment, an EIA shall be undertaken by the developer of the project.

3. Where the project is likely to have an impact on the environment, an environmental impact evaluation shall be conducted.

4. Where an environment impact assessment finds that the project will have a significant impact on the environment and after considering the environmental impact review or the environmental impact evaluation, an environmental impact study shall be conducted.

Section 4 gives every person a right to a healthy environment and a duty to maintain and enhance the environment including the duty to inform the authority of all activities likely to harm the environment. Therefore the public has a right to know what a developer is doing or intends to do. Furthermore, the Local Environmental Committees are empowered to:

- bring actions against any person whose activities are likely to have a significant impact on the environment to prevent, stop or discontinue such acts,
- to compel any public officer to take measures to prevent, stop or discontinue such acts,
- request that a court order for taking measures that would ensure that environment does not suffer damage is issued,
- and to ensure that such activities are subjected to environmental monitoring.

Environmental Restoration orders

Section 72 obliges court in any proceedings brought by any person, to issue an environmental restoration order against any person who has harmed, is harming or is likely to harm the environment. An environmental restoration order may act as an anticipatory measure when used as a means of preventing persons from taking any action which would or is reasonably likely to cause harm to the environment.

The order is used as a means of redress when issued to cause restoration of the environment as near as it may be to the state in which it was before the action was taken; or when issued to award compensation to persons harmed by the said action, or authorized persons who have incurred costs in the restoration of the environment.

However, where it is satisfied that an environmental impact review or an environmental impact evaluation conducted does not disclose possible significant impact on the environment, then the environmental aspects of the project may be approved.

Implementation of the above summarized provisions can only be possible if there are implemented regulations that are expressed in a precise, practical and understandable manner.

2.3 The National Environment (Wetlands, Riverbanks and Lake-Shore Management) Regulations, No.3 of 2000.

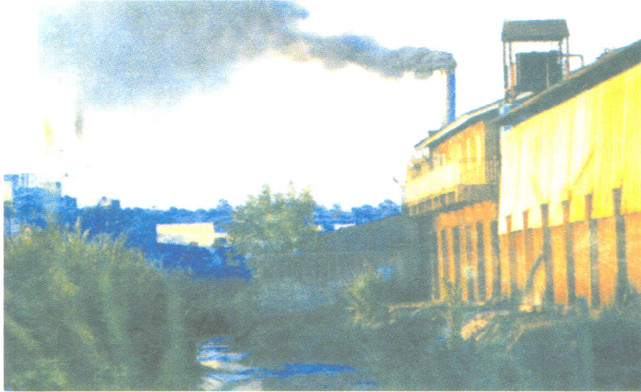
Provisions of the EIA under these regulations are contained in Part IV.
These provide that;

a developer desiring to put up a project which may have a significant impact on a wetland, riverbank or lakeshore, is required to carry out an EIA [reg.34].

the developer shall carry out annual audits and monitoring of such activities that may impact on the environment and submit reports to the Executive Director and the Lead Agency.

the Executive Director shall require that a wetland, riverbank or lakeshore which has been degraded be allowed to regenerate or issue an environment restoration order.

4. Where an inspector has reasonable cause to believe that any person is violating the provisions as stated in these regulations, he or she may issue against such a person an improvement notice or take any measures as may deem appropriate.



5. Anyone who reclaims or drains a wetland; creels, constructs or demolishes any structure that is fixed in or over a wetland; disturbs a wetland, deposits in or under a wetland a substance in a manner likely to have an adverse effect on it; destroys or damages a wetland or fails or neglects to protect a lake shore or a river bank from environmental degradation, commits an offence.

2.4 The National Environment (Waste Management Regulations), No. 52 of 1999.

Section 15 of these regulations requires that a waste treatment plant or disposal site carry out an EIA in accordance with these regulations before a licence is issued.

Sub section 2 of the same section, requires that an operator of a waste treatment plant or disposal site carry out an annual audit of the environmental performance of the site /plant and submit a report to NEMA.



Section 17 makes it mandatory for every person who operates a waste treatment plant / disposal site to take all necessary steps to prevent pollution from the site or plant, which include among

others, instituting mitigation measures.

2.5 The Water Statute, No.9 of 1995.

This Statute does not expressly deal with EIA but has some provisions that are related to EIA. These are contained in Division 4 of the statute and are laid out as follows:

Section 22 provides for the suspension or variation of a water permit by the Executive Director where the water available in an area is or is likely to become insufficient in quality or quantity for the needs of the people using or seeking to use it. This may be done by notice in writing to the holder of the water permit for that area.

Where the holder of the permit:

- i) fails to comply with the provisions of the statute;
 - ii) fails to make beneficial use of the permit within the preceding two years;
 - iii) uses water for purposes other than those for which the permit was issued or more water than he is entitled to;
- the Director may cancel such a permit (sec. 25).

2.6 The Wildlife Statute (No. 14, 1996).

Section 16 of this statute requires a developer desiring to undertake a project which may have a significant impact on any wildlife species or community to carry out an EIA in accordance with the National Environment Statute.

Section 17 of the same statute obliges the Uganda Wildlife Authority in consultation with NEMA to carry out audits and monitor such projects that may have an impact on wildlife.

2.7 The Land Act, 1998.

The Land Act does not expressly deal with EIA but has some provisions that embrace it. It does however, regulate the ownership of land and controls land use.

Section 44 obliges any person who owns or occupies land to manage and utilize it in accordance with the Water statute, the National Environment Statute, the Forest Act and any other law. Section 45 entrusts all natural resources to the Government to hold for the benefit of the people. It also prohibits the Government or local authorities from leasing out or otherwise alienating natural resources.

Section 46 of the Act requires that any use of land should conform with Town and Country Planning Act and other laws. An EIA is therefore a useful tool to guarantee that the proposed land use does not contravene any law.

2.8 The Investment Code, No. 18 of 1987.

This Code empowers the Uganda Investment Authority (UIA) to, among other things, attract and coordinate all local and foreign investments in the country to enhance economic development. Section 19 of the code requires every investment licence to take necessary steps to ensure that the operation of its business enterprise does not cause any injury to the ecology or the environment.

2.9 The Wetlands Policy, 1995.



This policy provides that all proposed modifications and restorations on wetlands be subjected to EIA and that damaged wetlands be rehabilitated in accordance with the findings of the EIA.

It also requires that all planned new wetland developments be subjected to EIA to determine the environmental controls.

Those which have been subjected to EIA will continually be monitored to assess their impact on the environment where the impact is detrimental, government will require that such development be halted.

3.0 The Environment Impact Assessment Regulations, No. 13 of 1998.

These regulations apply to;

- i) all projects included in the Third Schedule to the statute
- ii) any major repairs, extensions or routine maintenance of any existing project which is included in the Third schedule to the statute.

Chapter Three

3.1 PROJECT BRIEFS

a) Preparation of the project briefs

A developer is required to prepare a project brief stating the nature of the project, the projected area of land, water and air that may be affected, the activities that shall be undertaken during and after the development of the project, design of the project, the materials that the project will use and to submit ten copies of the brief to the Executive Director.

If found complete, a copy of the project brief is transmitted to the Executive Director of the Lead Agency for comments within seven days of receiving the project brief.

The Lead Agency comments and these are transmitted to the Executive Director within a period of fourteen days from receiving the project brief (reg. 7).

b) Approval of the project

Where the project brief reveals significant impacts on the environment with no sufficient mitigation measures to cope with the anticipated impacts, then the developer may be required to carry out an environmental impact study.

After reviewing the project brief and where it discloses no significant impact on the environment or where it reveals sufficient mitigation measures to cope with the anticipated impacts, the project may be approved and a certificate of approval issued.

Where an environmental impact study is to be undertaken, the developer should be notified within twenty one days from the date of submission of the project brief.

3.2. ENVIRONMENT IMPACT STUDIES AND STATEMENTS

This is covered under regulation 10 of the EIA regulations.

a) Terms of Reference (ToR) for Environmental Impact Assessment and other related matters.

An environmental impact study is conducted in accordance with the ToRs prepared by the developer in consultation with the Lead Agencies and the Authority. The ToRs must include all matters as provided for in regulation 14.

All Environmental Impact Statements are conducted in accordance with the guidelines adopted by NEMA in consultation with the Lead agencies. For purposes of quality control, the Executive Director approves the persons or firms who will undertake the studies (reg 11).

A code of conduct shall be established to regulate the conduct of those persons who will carry out the studies.

b) Public Participation in preparing the study.

Modern environmental operations require the involvement of the public in all activities since the environment is a public good. The public demands that all activities be in accordance with good environmental practices.

Public involvement is critical in identifying a project's potential environmental impacts and possible mitigation measures. As users of potentially affected resources, local people are quite knowledgeable regarding their sustainable use. They often present evidence about potential consequences of a project and can make suggestions to scientists or decision-makers on ways to minimize the adverse impacts and how to capture potential benefits.

Public involvement gives those who will be affected by a project an opportunity to shape its construction and operation, thereby ensuring a more harmonious long-term relationship between the project and the surrounding community.

Involving the public may increase the time and resources required to perform and review an EIA. Failure to involve the public in impact assessment can however result in increased costs to the developers. Public participation should also be critical at the scoping process to ensure that issues concerning the community are addressed in EIA.

While seeking the views of the people, the developer shall;

- publicise the intended project, its anticipated effects and benefits through the media in a language that the affected communities understand
- hold meetings with the affected communities to explain the project and its effects in places convenient to the affected people and agreed by the local leaders

c) *Environment Impact Statement*

An environment impact statement is a report made when an environmental impact study has been conducted.

In making an environmental impact statement, the developer is required to pay attention to;

- i) ecological considerations with emphasis on biological diversity, sustainable use, ecosystem maintenance;
- ii) social considerations with emphasis on immigration and emigration effects, social disruption, effect of culture and objects of cultural value, and effects on human health
- iii) Land use
- iv) Landscape and such other issues as laid down in Annex 3 to these Guidelines and in the First schedule to the EIA regulations.

In addition to the terms of reference, an environmental impact statement provides a description of the project and the activities likely to be undertaken among other things laid down in Regulation 14 and such matters as the Executive Director may deem necessary.

d) *Contents of the Environment Impact Statement [reg. 14]*

In addition to the terms of reference, an environmental impact statement must provide the following;

- a description of the project and of the activities it is likely to generate,
- the proposed site and reasons for rejecting the alternative sites,
- the material in-puts into the project and their potential environmental effects,
- the technology and processes that shall be used and a description of the alternative technologies and processes and reasons for selecting them,
- an economic analysis of the project,
- the measures proposed for eliminating, minimizing or mitigating adverse impacts among other

things as shown in regulation 14 and such other matters as the Executive Director may deem necessary.

3.3 THE REVIEW PROCESS OF THE ENVIRONMENTAL IMPACT STATEMENT

a) *Submission of the Environmental Impact Statement [reg.1]*

The developer is required to submit twenty copies of the environmental impact statement to the Executive Director.

b) *Comments of the Lead Agency [reg. 18]*

The Executive Director is required to transmit the EIS report to the Lead agency and requests them to comment on it. The Lead Agency then makes comments on the EIS and transmits them back to the Executive Director within thirty days of receiving the EIS.

In the case where the Lead Agency is the developer, it shall not be accepted to make comments under sub-regulation (2). It shall instead be required to submit an environmental impact statement to the Executive Director who will make comments or invite other Lead Agencies to make comments.

3.4. PUBLIC PARTICIPATION IN THE ENVIRONMENT IMPACT STATEMENT

The Executive Director shall within ten days of receiving the comments of the Lead Agency invite the general public to submit written comments on the environmental impact statement if found to be complete and satisfactory.

The invitation of the general public to make written comments shall be published in a Newspaper having national and/or local circulation.

The notice must state the nature of the project, its location, and the anticipated negative and positive impacts as well as the proposed mitigation measures to address the negative effects.

The Executive Director on receiving the comments of the Lead Agencies invites the comments of those persons who are most likely to be affected by the proposed project.

3.5. PUBLIC HEARINGS

A public hearing is a public inquiry into the environmental impact statement.

A public hearing shall be called if the Lead Agency recognizes a need to hear opinions of the public in concerned areas. It shall be held in consultation with the NEMA and the stakeholders in the days mentioned in the notice. The Executive Director determines whether a public hearing should be held or not after considering the comments from the environmental impact statement. If there is controversy or where the project to be discussed has Trans-boundary effects, a public hearing shall be called. The public is then notified of a public hearing in the following ways;

- through a letter posted in or near the affected community
- in a publication in a daily news paper in a local language understood by the affected community
- or published in an official language or through any other suitable media.

The notice shall contain full information about the location, time of proposed meeting and items

to be discussed in the meeting.

Public hearings can be held at the project site, social centre, meeting place within Lead Agency quarters, or any other convenient place identified for this purpose.

3.5.1 Purpose of the public hearings

The objective of holding the hearings is to enable the Executive Director make a fair and just decision in either approving or otherwise dealing with the environmental impact study.

This involves two types of decision making and processes;

- ✓ Where the Executive Director has considered the EIS and all the comments received, he may make a decision either to approve or not to approve it without a public hearing or hold a public hearing. Or where the Executive Director considers it necessary for the protection of the environment and the promotion of good governance.

Or

- ✓ Where there is controversy or where the project may have Trans-boundary impact, a public hearing must be held.

The presiding officer over the public hearing makes a report at the end of the public hearing of the views that were presented by the public to the Lead Agency within a period of thirty days from the day on which the hearing was concluded.

The Lead Agency then makes a report to the Executive Director containing the findings and recommendations from the public hearing within twenty one days from the public hearing.

3.6. DECISION OF THE EXECUTIVE DIRECTOR ON THE ENVIRONMENT IMPACT STATEMENTS.

a) Basis of Decision

In making a decision regarding an EIA, the following have to be taken into account;

- i) the validity of the predictions made in the environmental impact statement.
- ii) the comments made by the public
- iii) the report of the presiding officer
- iv) an analysis of the economic and the social / cultural impacts of the project and
- v) other factors which the Executive Director may consider crucial to the project.

Failure to take any of the above may lead to a cause of action on appeal or review.

b) Decision of the Executive Director

The Executive Director may;

- ✓ approve the project or part thereof
- ✓ require that the project be redesigned including directing that different technology or an alternative site be chosen
- ✓ refer back the project or part thereof to the developer where there is insufficient information for further study or submission of additional information as may be required to make the Executive Director make a decision or
- ✓ reject the project

c) *Conditions of approval of a project*

In making his decision to approve the project, the Executive Director shall;

- i) give approval subject to such conditions as it deems necessary
- ii) state a period for which the approval shall remain valid
- iii) issue a certificate of approval of the project in the form contained in Second schedule to Regulations.

It is important to note that the conditions of approval are legally binding on the developer and can be used to take any necessary legal action against the developer.

d) *Rejection of the project*

If the Executive Director makes a decision to reject a project, he shall state in writing, the reasons for which the project was rejected.

e) *Cancellation of the approval for the environmental impact assessment*

In order to safeguard against unscrupulous developers, the Executive Director may at any time after the issuance of the certificate of approval of the project revoke the approval where:

- i) there is non-compliance with the conditions set out in the certificate;
- ii) there is substantial modification of the project implementation or operation which may lead to adverse environmental impacts
- iii) there is a substantive undesirable effect not contemplated in the approval

3.7 Other provisions

a) *Offences*

In order that these EIA requirements are enforced, penalties were set up to deal with those developers who wouldn't comply with the requirements of the law.

Section 36 of these regulations provides that any person who carries out a project without approval from NEMA commits an offence contrary to S. 97 of the NES and is liable on conviction to imprisonment for a term not exceeding 18 months or a fine of not less than 180,000/= and not more than 18,000,000/= or both.

b) *Fees*

Depending on the size of the project and the circumstances of each particular case, the authority shall charge a fee on the developer for the following;

Project briefs and EIAs

access to records under subsection (1) of Section 86 any other amount that is necessary

Fees payable for project briefs and environmental impact assessment under regulation 37(1) are as follows:

1. Where the total value of the project does not exceed Shs. 50,000,000/=, the amount payable shall be Shs. 250,000=;

2. Where the total value of the project exceeds Shs. 50,000,000= but does not exceed Shs.100,000,000=, amount payable shall be Shs. 500,000=;
3. Where the total value of the project is more than Shs.100,000,000= but does not exceed Shs.250,000,000= the amount payable shall be Shs.750,000=;
4. Where the total value of the project is more than Shs. 250,000,000= but does not exceed Shs. 500,000,000= the amount payable shall be Shs.1,000,000=.
5. Where the total value of the project is more than Shs.500,000,000= but does exceed 1,000,000,000= the amount payable shall be Shs.1,250,000=;
6. Where the total value of the project is more than Shs.1,000,000,000= but does not exceed 5,000,000,000=, the amount payable shall be Shs.2,000,000=;
7. Where the total value of the project is more than Shs.5,000,000,000= the amount payable shall be 0.1 % of the total value of the project.

(Note: Exchange rate at the date of publication; 1 US D is equivalent to 1,745 Uganda Shs.)

Chapter Four

4.0 THE EIA PROCESS: PROCEDURE TO BE FOLLOWED IN CARRYING OUT AN EIA.

The main EIA process is made up of three phases namely;

4.1 Phase I ; *Preliminary activities/ Screening process*

EIA law usually requires that all projects which are listed in Annex 2 of these guidelines, undergo a preliminary assessment to determine whether a full EIA is required. However, not all development projects will necessarily cause adverse effects to the environment, and hence not all proposed projects that require EIA may undergo the entire EIA process or the same level of assessment.

The objective of the screening phase is to determine if a proposed project;

- 1 has or does not have significant impact. If it is found to have no potential of causing adverse effects to the environment, it shall be excluded from further EIA and an appropriate decision shall be made to either approve or implement the project.
- 2 has adverse environmental impacts for which mitigation measures can readily be identified either directly or through an environmental impact review. If found that adequate mitigation measures have been incorporated for the identified impact, the environmental aspects of the project may then be approved.
- 3 has significant impact whose mitigation measures can not readily be identified hence requiring a detailed EIS.

The developer gives a description of the project he intends to undertake and its impacts in the preliminary report. The report is submitted to the National Environment Management Authority, a Statutory body which is mandated by law to approve a project where upon it is decided whether a full EIA should be undertaken or not.

4.2 Phase II ; *Environment Impact Study(EIS)*

This stage deals with the identification of possible impacts

a) *Scoping*

This exercise should as much as possible involve consultation with the potentially affected communities as well as Non-Governmental Organisations, the private sector and other interested parties. Meetings should be arranged to obtain their comments on what to include in the study and what alternatives to be considered.

The team under the guidance of the coordinator identifies all the possible environmental impacts of the proposed project. The team in conjunction with the authority determines the scope of the study based on the magnitude of the project, extent of the impact, significant impacts which

include specific local economic, social and ecological setting.

b) ***Baseline Study***

This involves undertaking a detailed description of the existing environment including the social and economic activities of the local population resident in the area to be affected.

c) ***Impact Evaluation***

The various impacts that the project may have on the environment are evaluated by the team and ranked according to two criteria;

- i) quantitative or measurable change, where the impact can be measured and
- ii) qualitative change where the impact cannot be measured but depends on the environmental acceptability of the project.

Quantitative changes provide a numerical representation of a measure and include the following;

- Water quality and hydrology: whether the proposed project will contaminate a public water supply, alter the course or flow of flood water, or deplete ground water supply;
- population and housing: whether the proposed project will displace large numbers of people, induce substantial growth or concentration of people
- geology; whether the proposed project will expose structures and human to major hazards such as earth quakes, landslides or result in changes in deposition of soils;
- Biological resources: whether it will eliminate plant and animal communities, cause fish or wildlife population to drop below self-sustaining levels;
- Air quality: whether the intended project will result in substantial air emissions or decrease in ambient air quality.

Qualitative changes on the other hand refer to measures that are more descriptive and represent the presence of something reported and not necessarily measurable. These changes would subsequently lead to the degradation of the visual quality and sense of beauty of the natural environment. This considers such issues as, whether:

- the proposed project will significantly alter the existing natural view sheds including changes in natural terrain;
- it will greatly reduce sunlight or introduce shadows in areas used extensively by the communities;
- it will comply with local guidelines or goals related to visual quality;
- it will significantly increase light and glare on the project vicinity.

d) ***Identification of Mitigation Measures***

The EIA process seeks to compare various alternative options that may be available for any project and hence determine which one represents the most desirable balance between environmental and economic costs and benefits. Analysis and discussion of a range of alternatives to the proposed project should include an evaluation of the merits of each alternative with respect to:

- technology and engineering design;

- associated environmental costs of each alternative; interference and harmony with the surrounding features;
- conformity to the existing laws;
- constraints and benefits of each alternative;
- nature of the alternative/ locations of project.

During such analyses, environmental losses and gains associated with the various alternatives are compared together with economic costs and benefits to provide a balanced and full picture of each alternative.

The team then identifies measures for the elimination (where possible), reduction of the potential impact, repairing damage or compensation for the various alternatives identified in the study and enhancing positive environmental benefits. The cost of the mitigation measures is also included in the evaluation.

4.3 Phase III; Decision-making

On the basis of whether the proposed project is exempt or appropriate mitigation measures have been incorporated for the identified impacts, a decision shall be made to either approve or disapprove the environmental aspects of the proposed project. If approved, the necessary action shall be undertaken by the developer. After reaching a decision on the proposed action, and if it is approved, the developer will be permitted to implement the project in accordance with the mitigation terms or conditions attached to the approval. In the decision given by the developer, he shall give one alternative and cite reasons for rejecting others. The alternatives rejected and their reasons for being rejected should also be included in the report.



When approving an EIA, the Lead Agency can give a directive to the developer before, during and after realization of the project with a view to remedying any adverse effects of the project and ascertaining what impact the project may have in the event of decommissioning.

4.4 Post Assessment Environmental Audits

Monitoring of projects after EIA has been conducted is essential as this will ensure that the mitigation measures and any other conditionalities set out by the developer in the EIA are complied with and also verifies the performance of existing plans in the face of new laws and

standards. The developer is required to ensure that all practicable measures to minimise any predictions as laid out in the project brief or EIS are complied with.

Environmental Audit means the systemic, documented periodic and objective evaluation of how well an environmental organisation, management and equipment are performing in conserving the environment and its resources.

Environmental Audits are therefore a monitoring mechanism, the responsibility of carrying out an environmental audit lies with NEMA and the Lead Agencies. After completion of the project or before the commencement of its activities, the developer is required to undertake an initial environmental audit of the project. It is required of the developer to prepare an environmental audit report after each audit and to have it submitted to the Executive Director.

a) ***Audit of the Authority***

An inspector shall be designated to carry out an audit of any land, project or facility for which a project brief or EIS has been made to determine how far the predictions made in the project brief or EIS are complied with.

b) ***Mitigation Measures***

A mitigation measure is that which a developer may carry out to reduce or minimize the impact to the environment that the proposed project may cause or may have caused. .

The purpose of this is to look for alternative and better ways of implementing the proposed project or associated activities so that the negative impacts are substantially eliminated or minimised while the benefits are enhanced.

A mitigation or management plan should include the following items;

- Identification and summary of all anticipated adverse' environmental impacts
- Description of each mitigation measures, including the type of impact to which it relates and the conditions under which it is required, together with designs, equipment descriptions and operating procedures
- Description of the elements of the monitoring programme
- Monitoring and reporting procedures that are designed to ensure early detection of conditions that necessitates corrective actions and provide information on the progress and results of mitigation and institutional strengthening measures.

c) ***Improvement Notices***

Where a developer fails to put in place mitigation measures as set out in his EIS, he will be issued with an improvement notice by an environmental inspector and or commence criminal or civil proceedings against him as laid out in the NES.

ANNEX 1

PROJECTS THAT REQUIRE EIA

1. Urban development:

- establishments of industrial estates
- shopping centres/malls
- expansion of recreational townships in areas like national parks or protected areas

2. Transportation:

- all major roads
- all roads in scenic, wooded areas
- railway lines
- airports / fields
- water transport, pipelines

3. Aerial spraying

4. Mining:

-quarrying and open cast extraction of precious metals, metalliferous ores, limestone etc.

5. Dams, rivers and water storage sources:

- storage dams
- river diversions and water transport catchment areas
- drilling for purposes of utilising ground water resources

6. Forestry activities:

- timber harvesting
- use of pesticides and fertilizers
- introduction of new crops

7. Processing and manufacturing products:

- mineral processing
- foundries
- glass works
- oil refineries
- tanning and dressing of hides and skins
- food processing
- brewing and malting

8. Electrical infrastructure:

Generation stations, Transmission lines, electrical substations, manufacturing storage schemes

9. Waste disposal:

- sites for disposal
- sewage disposal

- works offensive odours
- atmospheric emissions

10. Natural conservation areas:

- creation of buffer zones, national parks
- establishment of wilderness areas
- introduction of alien species of fauna and flora
- policies for management of ecosystems

ANNEX 2

PROJECTS LIKELY TO BE EXEMPTED FROM EIA

1. Clearing and Farm construction for subsistence use
2. Construction or repair of individual houses
3. Small/ minor land use changes in slopping areas
4. Information collection/ scientific and education , Environmental enforcement actions
5. Emergency repairs to facilities

ANNEX 3

ISSUES TO BE CONSIDERED IN MAKING AN EIA

1. Ecological Considerations;

a) Biological diversity including:

- i) effect of proposal on number, diversity, breeding habits etc. of wild animals and vegetation.
- ii) Gene pool of domesticated plants and animals e.g. monoculture as opposed to wild types.

b) Sustainable use including:

- i) effect of proposal on soil fertility.
- ii) breeding populations of fish and game or wild animals.
- iii) natural regeneration of woodland and sustainable yield.
- iv) wetland resource degradation or wise use of wetlands.

c) Ecosystem maintenance including:

- i) Effect of proposal on food chains.
- ii) Nutrient cycles,
- iii) Aquifer recharge. water run-off rates etc..
- iv) Aerial extent of habitats.
- v) Fragile ecosystems.

2. Social considerations including:

- i) effects of proposal on generation or reduction of employment in the area,
- ii) social cohesion or disruption,
- iii) effect on human health,

- iv) immigration or emigration,
- v) Communication- roads opened up, re-routed.
- vi) Local economy.

ANNEX 4

IMPORTANT CONTACTS

Ministry of Agriculture, Animal Industry and Fisheries

Berkeley Lane, Entebbe

P.O Box 102, Entebbe.

Fax: 21047 Entebbe.

Agriculture: 320980/ 1/ 2/ 3/ 5/ 7/ 8

Veterinary: 320322/ 7

Fisheries: 320563

320578

National Agricultural Research Organisation (NARO)

Tel: 320341/ 2, 320324/ 5/ 6, 320264.

Ministry of Energy and Mineral Development

29/ 33 Kampala Road, Amber House

P.O Box 7063, Kampala

Tel: 234733

Energy Department:

P.O Box 7270 Kampala,

Commissioner; 235889/ 349010/ 230863

Ministry of Finance, Planning and Development

Apollo Kagga Road, Finance Building

P.O Box 6147, Kampala

Tel: 234700/ 1/ 2/ 3/ 4/ 5 , 235051/ 4

UGANDA REVENUE AUTHORITY

Nakawa Industrial Area

P.O Box 7297, Kampala

Tel: 221701/ 2, 221650/ 221723/221657/ 221768

Asst. Commissioner Revenue – 223382

PRO / Revenue and VAT Refund – 221651

Department of Customs and Excise

P.O Box 444, Kampala

Commissioner Customs: 222506

Internal Revenue Department

General line: 345565

Ministry of Foreign Affairs

Embassy House, Parliament Avenue.

P.O Box 7048, Kampala

General Lines: 257525/ 258252/ 259898/ 345661

Ministry of Internal Affairs**Department of Immigration**

Jinja Road, Kampala.

P.O Box 7165, Kampala

Tel: General – 231031

Commissioner -231641

Principal Immigration Officer – 342561

Ministry of Tourism, Trade and Industry

6/ 8 Parliament Avenue

P.O Box 7103, Kampala

P.O Box 4241, Kampala

General Lines: 343947/ 256395

Commissioner Industry: 041-257272

Commissioner Trade: 041- 232971

Commissioner Tourism: 041-348154

Uganda Wildlife Authority

P.O Box 3530, Kampala

General Lines: 346287/ 346288

Executive Director: 346289

Monitoring/ Planning & Research: 346280

Ministry of Water, Lands and Environment

13/ 15 Parliament Avenue

P.O. Box 7122. Kampala

General Lines: 041-342931/ 235372

Survey & Mappings Department:

P.O Box 1 Entebbe

Tel: 041-320301/ 2/ 3/ 4

Commissioner Surveys & Mapping: 041-320810

Uganda National Bureau of Statistics (UNBS)

P.O Box 6329, Kampala

Fax 286123

E-mail: unbs@starcom.co.ug

M217 Nakawa Industrial Area

Jinja Road, Kampala

Tel: 222367/ 222369

National Environment Management Authority (NEMA)

NEMA House, Plot 22/23 Jinja Road.

P.O Box 22255, Kampala

Tel: 041-251064, 236817.

Industrial and Municipal Waste Management,

National Water and Sewerage Corporation,

P.O Box 7053

Kampala.

Tel: 041-341144

Water Quality and Quantity Monitoring

Water Resources Management Department

P.O Box 19

Entebbe.

Tel: 041-320914, 320852.

Uganda National Chamber of Commerce and Industry

17/ 19 Jinja Road, Kampala

Tel: 258793/ 258792/ 258791

Uganda Manufacturers Association (UMA)

28/ 34 Jinja Road, Kampala

UMA Show Grounds, Lugogo.

Tel: 320698/ 220831

Uganda Investment Authority

28 Kampala Road, Bata Building

Tel: 342903/ 251/ 855/ 251854/ 251916/ 250906

NOTE: The names and addresses of approved EIA Consultants can be obtained from NEMA.

ANNEX 5

References

1. Lalanath de Silva; “*plain* Talk: EIAs for the people”
2. John Ntambirweki; *Environmental Impact Assessment as a tool for Industrial planning. In proceeding of a workshop on Industries and Enforcement of environmental Law in Africa*, pg 74-82. Kisumu, December 1987.
3. Y.J. Ahmed & G.K. Sammy; *Guidelines to Environmental Impact Assessment in Developing countries, Nairobi, UNEP Regional Seas Reports and Studies No. 85*, 1987.
4. Kenneth Kakuru, Benedict Mutyaba, Brian Rohan & Anne Ziebarth; *Roles and Best Practices of the Central Government of Uganda in Environmental Management*, Aug, 1995.
5. NEMA; *Environment Impact Assessment Guidelines*, 1997
6. United Nations Environment Programme (UNEP); *Compendium of Environmental Laws of African countries; Framework laws and EIA Regulations*, Vol. 1 of 1998.
7. _____, No. 4 of 1995, *The National Environment Statute*,
8. African Centre for Technology Studies (ACTS) & UNEP; *The making of a framework: Environmental Law in Kenya*, 2000.
9. NEMA; *Environmental Audit Guidelines for Uganda*, 1999.
10. John Ntambirweki; *Environmental Legislation in Uganda; Review of existing Legislation and Formulation of an appropriate Legal Framework for present and future environmental management*, NEMA/ IUCN, 1992, Kampala.