

ELNI EIA Conference – Wroclaw 2013

EIA Directive as a model for EIA in Near East and Africa

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Question: EIA Directive as a model for EIA in Near East and Africa

- What are the main objectives and specialities of the EIA Directive and what are the differences to Near East and African countries (tendencies; might differ in different countries)
- EIA Directive serves often as a model for EIA implementation

EIA Directive	Near East	Africa
Listed projects	x	x
EIA as precautionary tool	x	x
Integrated approach	-	-
Included into licensing procedure	-	-
Public information and participation	-	(x)
Access to information	-	(x)
EIA document/report	x	x

Background:

- gtz/giz-project from 2004-2009 on development and implementing an EIA system in the Syrian Arab Republic

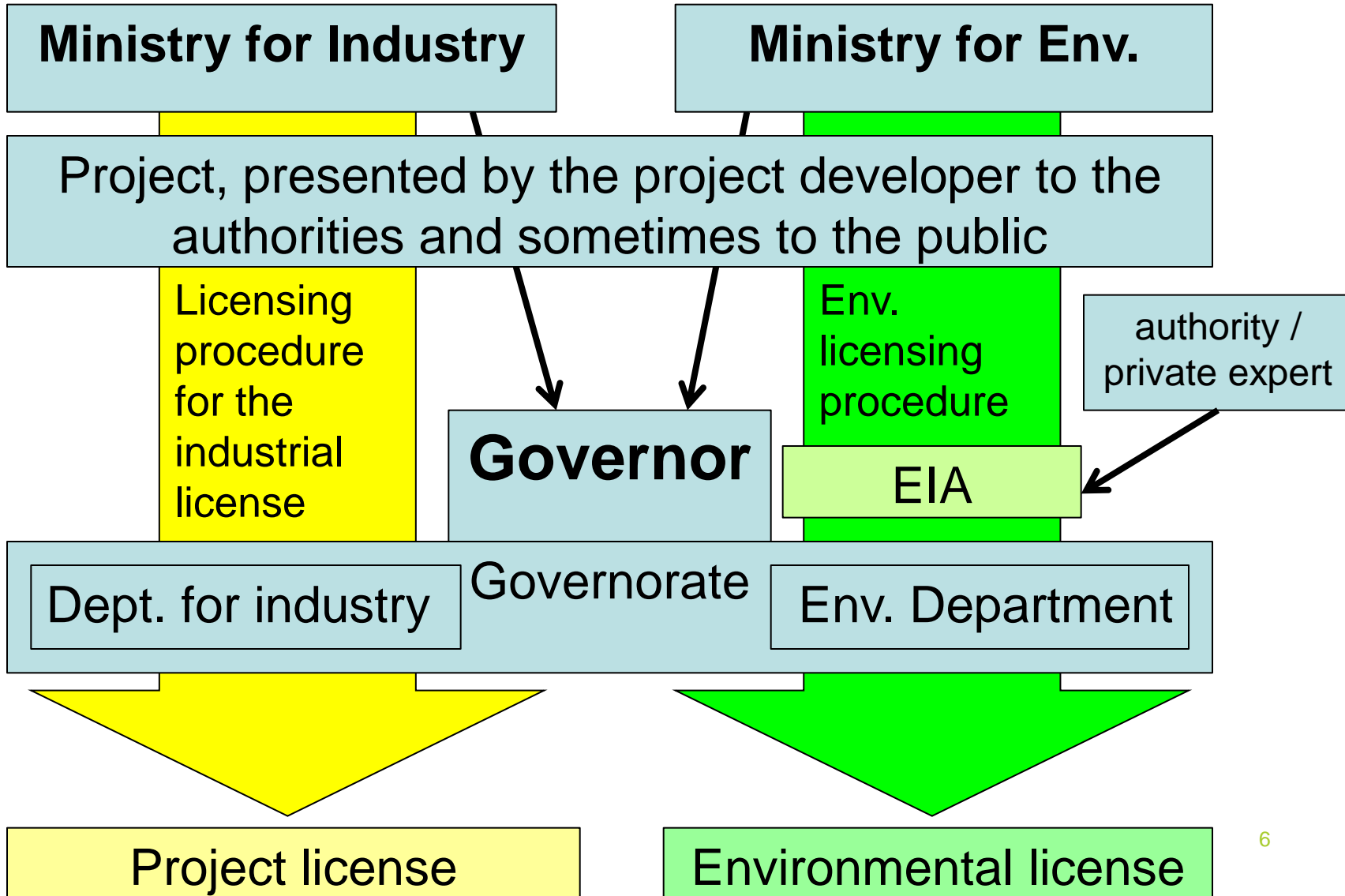
Situation:

- EIA mentioned in law no. 50 of Syria (Environmental Protection Act)
- no detailed provisions; case-by-case decision if EIA is required
- current practice was: EIA as a short review without a methodological background
- no reliable assessment
- in reality (just) a formality
- no public participation, sometimes public information

Legal Background:

- for carrying out a project two licenses were required
 - project license from the responsible ministry, e.g. Industrial project → Ministry for Industry; Large farming project with irrigation → Ministry for Irrigation, etc.
 - environmental license from the Ministry for Environment Protection and Local Administration; since 2008 Ministry for Environment
 - Two licenses required
- problem: licensing authority in most cases the sub-department of the respective ministries in the Governorates, but high influence of the Governor on the decision if project is supported
- EIA often prepared by authority responsible for the environmental license

EIA in Near East – example Syria



Major weaknesses:

- low quality of EIA
- no expertise for EIA in authorities
- no willingness for real assessment because of costs
- no public participation
- even if experts were doing EIA, difficulties in access to data
- EIA as requirement for environmental license
- two separate licensing procedures, but in most cases in the same authority (governorate)

Solution by:

- low quality of EIA → private EIA expert system
- no expertise for EIA in authorities → dito
- no willingness for real assessment because of costs → clear regulation that developer is responsible for the costs
- no public participation → including public participation
- even if experts were doing EIA, difficulties in access to data → access to data regulated
- EIA as requirement for environmental license → attempt to shift EIA to the project licensing procedure as an integral part of it
- two separate licensing procedures, but in most cases in the same authority (governorate) → dito

Activities:

- EIA ordinance, including
 - requirements for project developer to engage licensed private EIA experts for EIA
 - public participation
 - access to environmental information
- Annex for projects requiring EIA
- Annex for public participation
 - regulation for the public participation procedure
- Annex for Licensed EIA Experts
 - requirements for expert licensing
 - requirements for teachers for expert training
 - development of a course programme

Successes:

- System started to work
- first licensed EIA experts were nominated
- EIA trainers for EIA experts nominated
- unfortunately no project assessment possible due to difficult political situation since March 2010
- but one workshop in October 2009 at University of Damascus indicated that systems worked

History:

- Before the enactment of the Cameroonian Environmental Management Framework Law in 1996, information on development projects simply circulated within the confines of concerned administrative bodies. However, EIA was part of the provisions of law no. 94/01 of 20th January 1994
- Law no. 96/12 of 5th August 1996 provided the main legislative bedrock for environmental management in Cameroon and prescribed EIA for all projects that could potentially degrade the environment
- This law, however, regulated mostly the participation of major stakeholders in the scoping and realization phase of EIA
- Between 1996 and 2005, regulations on Environmental Monitoring and Compliance were almost absent in Cameroon
- The EIA implementing Decree (Decree no. 2005/ no. 2005/0577/PM) was adopted on 23rd February 2005

Objectives and Procedure:

- According to the EIA regulations, Environmental Management Plans (EMP) elaborated during the Impact Assessment process should be subject to administrative and technical surveillance (as defined by Article 18 of the Decree)
- Since February 2013, decrees no. 2013/0171/PM and no. 2013/0172/PM of the 14th of February 2013 respectively regulating the realisation of EIA and Environmental Audits, not only require EMP implementation, but demand the production of semester reports by bodies or companies for projects whose implementation has been subjected to EIAs
- The EIA decree outlines the EIA process to be followed and list of projects subject to EIA
- The Decree makes EIA a statutory requirement, and a listed project cannot be licensed and implemented without the completion and approval of an EIA study

Objectives and Scope of Application:

- EIA is mandatory for all major developmental projects e.g., mining and housing development.
- EIA legislation (Decree No. 86 of 1992) was passed in late 1992 under the defunct Federal Environmental Protection Agency (FEPA)
- Presently, National Environmental Standards & Regulation Enforcement Agency (NESREA) is the institution responsible for EIA administration in Nigeria
- NESREA was established in 2007 under the Federal Ministry of Urban Development
- NESREA responsibilities include:
 - enforcement of environmental regulations, rules, laws, policies & guidelines ;
 - enforcement of environmental control measures through registration, licensing and permitting system other than in the oil and gas sector
- Access to environmental information is given by the Decree No. 86/1992, but difficult in practice
- Full public participation is given, but only for 21 days and documents are not published in the internet, etc.

Problems and Challenges of EIA legal and institutional framework:

- No public access to final EIA reports
- Lack of credibility/transparency → if federal government has an interest in the project, part of the procedure may be let out (ex.: public participation) → access to justice is difficult and is time consuming
- Short time period for inspection for EIA reports for the public/NGOs
- Insufficient inter-agency coordination (overlapping of competencies; federal system's challenges)
- Cost and project delays especially in the oil industry
- Inadequate stakeholder/ public participation, i.e. because of poverty and illiteracy
- Lack of adequate capacity building

EIA Regulations:

The legal requirements for EIA appeared first in Kenya in the Environmental Management and Coordination Act (EMCA) of 1999.

Later appeared in Environmental Assessment Audit Regulations of 2002

Article 18 of the Environmental (Impact Assessment and Audit) Regulations 2002, an environmental impact assessment study report should contain at least the following information:

- the proposed location of the project
- a concise description of the national environmental legislative and regulatory framework, baseline information, and any other relevant information related to the project
- the objectives of the project
- the technology, procedures and processes to be used, in the implementation of the project
- the products, by-products and waste generated by the project
- a description of the potentially affected environment

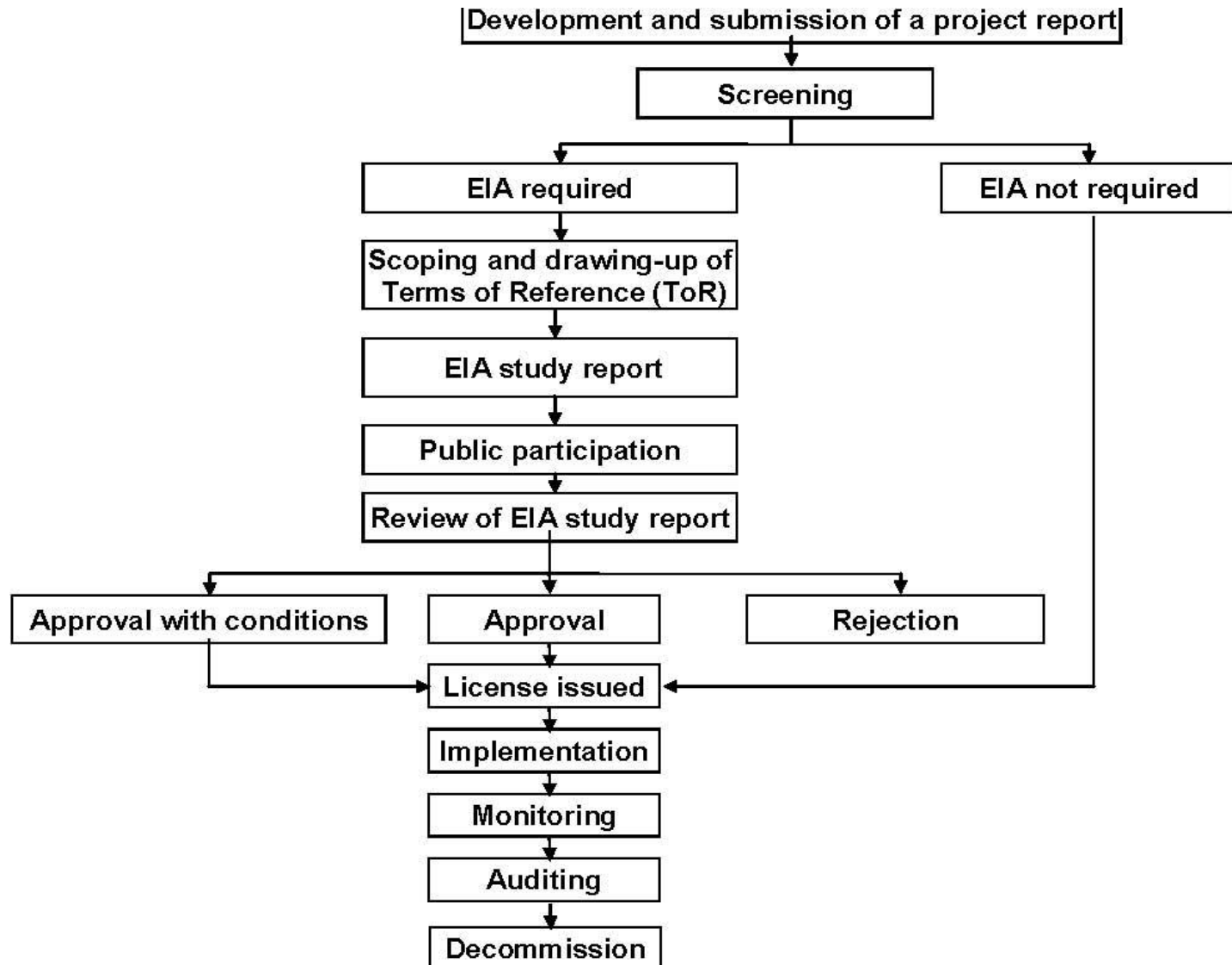
EIA Procedure in Kenya



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- environmental effects of project incl. social and cultural effects; direct, indirect, cumulative irreversible, short-term and long-term effects anticipated
- alternative technologies and processes available and reasons for preferring the chosen technology and processes
- analysis of alternatives including project site, design and technologies and reasons for preferring the proposed site, design and technologies
- an environmental management plan proposing the measures for eliminating, minimizing or mitigating adverse impacts on the environment, including the cost, time frame and responsibility to implement the measures
- provision of an action plan for the prevention and management of foreseeable accidents and hazardous activities in the case of carrying out activities or major industrial and other development projects;
- measures to prevent health hazards, to ensure employee safety within the work environment and for emergency management; -an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information;
 - an economic and social analysis of the project
- such other matters which the authority may require.

EIA Procedure in Kenya



Problems and Challenges of EIA in Kenya:

- Lack of public participation
- Lack of manpower and technical know how in carrying out EIA
- Lack of enforcement of EIA laws in the country.
- Poor reporting of EIS.
- Poverty and Illitracy in the country

History:

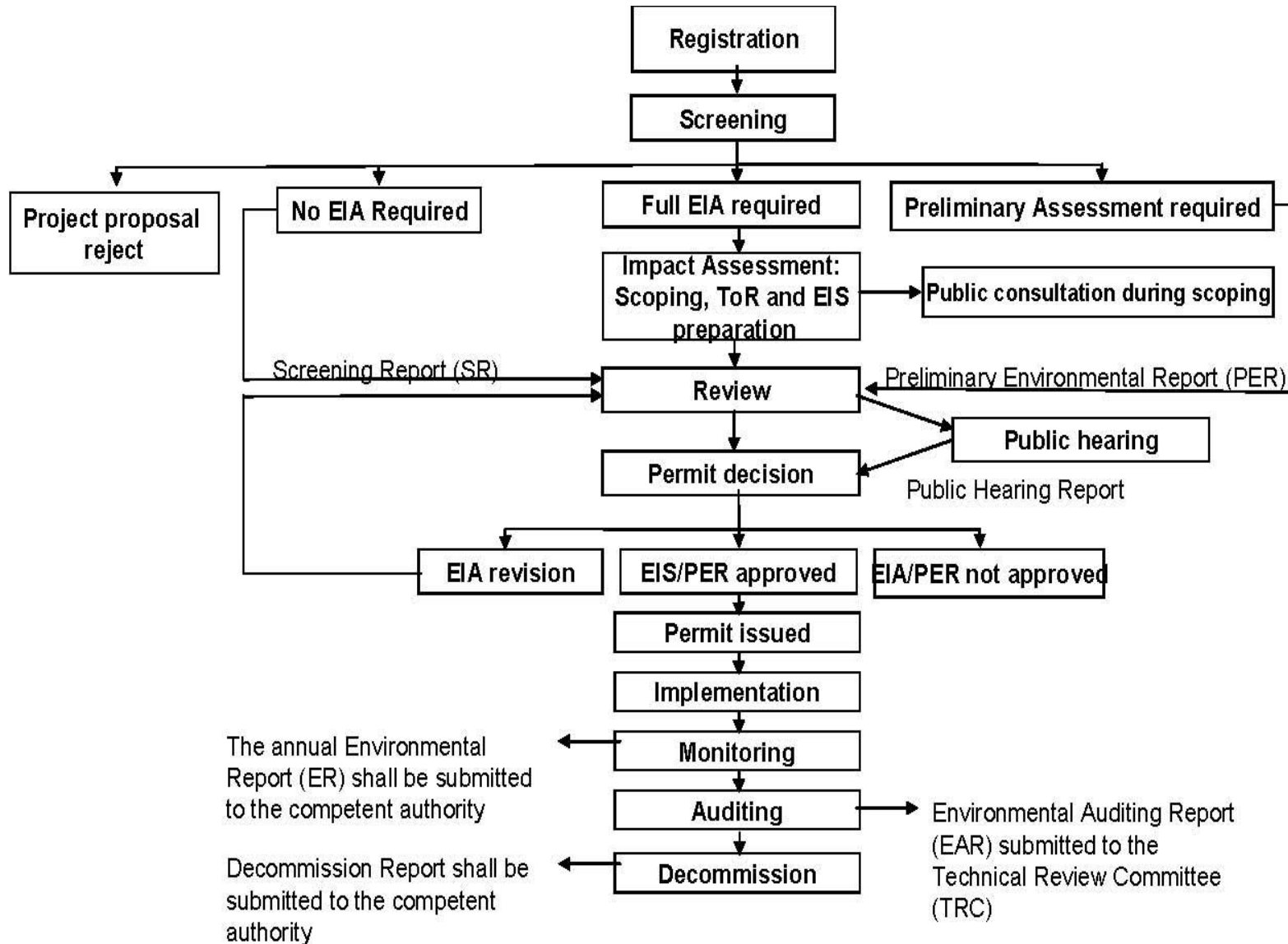
- EIA legal provisions first appeared in 2004.
- The EIA Procedure and Guidelines were drafted by the National Environmental Management Council (NEMC) in 2002.
- The National Environmental Management Council in consultation with a cross-sectoral Technical Review Committee is responsible for determining the appropriate level of environmental assessment.

EIA in Tanzania Act/Law Date Factors Considered

The following factors are taken into consideration in the EIA process:

- Project location and scale
- Applied technology
- Public concerns
- Land use considerations
- Environmental impacts and any factors relevant to the particular project

EIA Procedure in Tanzania



Tanzanian EIA Procedure and Guidelines are as follows:

- a non-technical summary
- a description of the proposed activity
- its purposes and rationale including raw materials
- a description of the local environment and baseline conditions including socioeconomic, biophysical and cultural aspects;
- identification, prediction and assessment of potential impacts from environmental, social, economic and cultural perspective for different phases of developments;
- analysis of those impacts as they relate to human health; -
consideration of alternatives and mitigation measures including commitment to mitigation
- environmental management plan, monitoring and auditing programme;
how public consultation in respect to the undertaking was implemented
- any other necessary information to assess the proposed activity
- conclusions and recommendations.

Problems and Challenges of EIA in Tanzania



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Problems and Challenges of EIA in Tanzania:

- Institutionalised corruption in the system of administration and implementation of EIA
- Lack of public awareness and participation
- Too much of bureaucratic bottlenecks in the system of implementation of EIA
- Lack of adequate manpower and technical know how in the execution and implementation of EIA

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Thank you very much
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