



Unit 1 - Introduction

Unit 1 - Introduction

Site: UNITED NATIONS INFORMATION PORTAL ON MULTILATERAL ENVIRONMENTAL AGREEMENTS

Course: Introductory course to the international legal framework on Environmental Impact Assessment

Book: Unit 1 - Introduction

Table of contents

1. Development and environmental degradation
2. EIA Functions
3. International and National Laws
4. EIA steps
5. Social Impact Analysis

1. Development and environmental degradation

Development can have, and has had over the years, major impacts on the environment, by degrading soils and waterways, altering landscapes and threatening biodiversity. In addition to harming our surroundings, these impacts can and do have significant economic costs and negatively affect human health. Environmental Impact Assessments (EIA) provides a tool that would assist in the anticipation and minimization of development's negative effects. Undertaken in the early stages of project planning and design, EIA could help shape development in a manner that best suits the local environment and is most responsive to human needs.

EIA arose out of the pollution and unnecessary degradation of natural resources caused by rapid population growth, industrialization, agricultural development, and technological progress. EIA recognizes that natural resources are finite and incapable of absorbing the unchecked demands of modern society.

2. EIA Functions

EIA assesses the impacts of a proposed project before work on the project begins. In some circumstances, where the impact of policies, plans and programmes is under consideration, EIA is carried out as a Strategic Environmental Assessment (SEA) and provides decision makers with information about the consequences of the development programmes under consideration. In addition to helping formulating proper development policy, EIA also provides for public involvement in the decision making process. Thus, EIA serves three main functions:

1. Integration of environmental issues into planning and decision-making;
2. Anticipation and minimization of environmental damage; and
3. Public participation in decision-making and environmental conservation.

3. International and National Laws

The conservation ideas that gave rise to EIA are central to international environmental law. In the wake of public outcry about environmental degradation from development, the United States passed the first EIA-related legislation in 1969. Since then, most countries have adopted some form of EIA legislation, policy or practice.

EIA concepts are also supported at the international level. In 1987, the United Nations issued the Goals and Principles of Environmental Impact Assessment. Similarly, in 1989, the World Bank issued its Environmental Assessment Directive and has routinely screened funded projects for their potential domestic, transboundary and global environmental impacts. In 1991, the United Nations Economic Commission for Europe, further developing the EIA Guidelines adopted by UNEP, adopted the Convention on Environmental Impact Assessment in a Transboundary Context, the most comprehensive international agreement on EIA.

EIA's focus on environmental conservation and sustainable development echoes general principles and concepts of customary law. The focus is embodied in many Multilateral Environmental Agreements, including the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea.

Environmental Principle 17 of the UNCED Rio Declaration states that "*Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.*" Thus, EIA reflects the "no-harm" obligation of customary law in the transboundary context.

4. EIA steps

One of EIA's strengths is its ability to be tailored to meet specific needs of any development situation. Nevertheless, the steps included in EIA are similar across many applications and include:

- Screening to determine whether a certain project should be subject to EIA;
- Scoping to decide which impacts should be taken into account by EIA;
- Impact analysis to evaluate the type of likely environmental impacts;
- Mitigation and impact management to develop measures to avoid, reduce or compensate for negative environmental effects;
- Reporting to catalogue and track the results of EIA for decision makers and other interested parties, including the public;
- Review of EIA quality to examine whether the EIA report includes all of the information required by decision makers and the public;
- Decision making to approve or reject project proposals and, if needed, to set the terms and conditions under which a certain project can proceed; and
- Implementation and follow-up to ascertain whether the project is proceeding as planned, monitor the effects of the project, and take actions to mitigate problems that arise during the course of the project.

In many cases the steps as above are embodied in national legislation, regulations and policies. National legislation might be specific on EIA, or an integral part of environmental management and coordination additionally buttressed by EIA regulation. Numerous framework laws of developing countries do take such an approach.

5. Social Impact Analysis

Development projects may not only have environmental impacts but may also have social, cultural and economic effects, which can be analyzed through a Social Impact Analysis (“SIA”). Decision makers often undertake EIA and SIA at the same time, defining the “environment” and “environmental impacts” broadly to include social and cultural aspects of development. For example, the construction of a hotel complex will not only have environmental impacts depending on the site selection but will also have social and economic impacts through the creation of jobs or the displacement of traditional commerce. SIAs generally include the analysis of impacts on local lifestyle, culture, community dynamics, and human health.

Both social and environmental issues can be addressed in SIA, which assesses the impacts of a proposed policy, plan or programme, and their alternatives. Recent developments in international environmental law seek to promote the adoption of SIA as a planning tool during the initial stages of decision-making.