Acronyms

AMCEN	African Ministerial Conference on the Environment
CITES	Convention on International Trade in Endangered Species
DBSA	Development Bank of Southern Africa
DFI	development finance institution
DRC	Democratic Republic of Congo
EA	Environmental assessment
EAC	East African Community
ECOWAS	Economic Community of West African States
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EMS	Environmental Management System
IA	impact assessment
IAIA	International Association for Impact Assessment
NAPA	National adaptation plan of action
SADC	Southern African Development Community
SAIEA	Southern African Institute for Environmental Assessment
SDGs	Sustainable Development Goals
SEA	Strategic Environmental Assessment
SSA	Sub-Saharan Africa
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change

Table of contents

1   INTRODUCTION

1.1   Background to the Handbook

The fourth edition of the 'Handbook on Environmental Assessment Legislation in the SADC Region' is published by the Southern African Institute for Environmental Assessment (SAIEA) and the Development Bank of Southern Africa (DBSA). This edition follows on from earlier editions published in 2007, 2009 (second edition), and 2012 (third edition). Regular updates of the Handbook have been undertaken to keep pace with the rapidly evolving environmental legislation and landscape.

As with the previous versions, the fourth edition of the Handbook includes the institutional, legal and procedural frameworks for Environmental Assessment (EA) in 26 countries in Sub-Saharan Africa (SSA) (Figure 1.1)[1]. New aspects added to the fourth edition include:

- Climate change policies, programmes and strategies in each country
- Strategic Environmental Assessment (SEA)
- Trans-boundary impacts
- Legislation on gender, health, occupational health and safety, working conditions and cultural heritage
- Translation of the five Francophone country chapters into French and the two Lusophone chapters into Portuguese

While all efforts have been made to ensure that the legal frameworks and details of the required Environmental Impact Assessment (EIA)[2] procedures in each country were accurate as at the time of writing, the reader should check with the relevant authorities in each country as to whether the information is up to date. Contact details are provided at the end of each chapter.

---

[1] Note that although Zanzibar forms part of the United Republic of Tanzania, it has its own institutional, legal and procedural system for environmental management and has, therefore, been included as a separate country system.
[2] Most countries covered in this Handbook use the term EIA, rather than Environmental *and Social* Impact Assessment (ESIA), thus the default is the use of 'EIA' unless countries specifically use the term 'ESIA'. In most cases, the environment is defined in the law or the regulations as including the social component.

Figure 1.1: Countries included in this Handbook

By addressing the content and extent of environmental policies and legislation in Africa, the Handbook aims to assist policy makers and practitioners to enhance sustainable development impacts and outcomes in the 26 countries reviewed. This Handbook is intended for use by commercial banks, development finance institutions (DFIs), prospective developers, government authorities, non-governmental organisations, EA practitioners, and anyone interested in EIA legislation and the administrative arrangements for EIA in each country.

Each country chapter of the Handbook is structured as follows:

- The constitutional requirements for environmental protection
- The institutional and administrative structures for EIA
- The policy and legal framework for EIA, including information on the relevant policies, Acts, regulations, guidelines, penalties, fees and environmental standards, and whether environmental consultants need to be registered to practise in the country

- The EIA procedural framework, including the steps to be followed through screening, scoping, EIA and environmental management plans (EMPs), as well as the review process followed by the authorities and the appeal procedures
- A summary of other potentially applicable environmental legislation
- Appendices containing lists of projects that require EIA

The country chapters are arranged in alphabetical order from Chapter 3. Chapter 2 provides an overview of the DBSA's policy and procedures for the environmental appraisal of projects.

1.1.2 Transformative Environmental Policy

The ever changing political, institutional and administrative landscape of governance within post-colonial societies has played a key role in informing the evolution of environmental law in Africa. The United Nations 2030 Agenda for Sustainable Development articulates the global commitment to achieving sustainability and identifies measures to achieve sustainability through the realisation of the Sustainable Development Goals (SDGs), including effective constitutional governance, policy and legislation. Sustainable development, as enshrined in the SDGs, relates not only to the sustainable use and exploitation of natural resources, but also to the enhancement of the quality of peoples' lives. To ensure that environmental policies and supporting legislation do indeed deliver the necessary benefits to the environment and people's well-being, legislation continually requires revision to address dominant production and consumption systems and related societal power relationships, which if left unchallenged may result in environmental degradation, social externalities and rising inequality.

Law alone is not able to trigger and steer a transformation to sustainability. Societal transformations are triggered by a multiplicity of role players. Purposeful environmental policies and practices, none the less, can play a significant role in supporting the societal transformations. This Handbook does not provide a critical assessment of the current state of environmental law in any country. It rather provides a summary of a country's existing EIA policy, legal and institutional frameworks and practice. This forms the baseline from which new advances can emerge to promote systemic changes in socio-technical and socio-economic and environmental management and governance systems. Ultimately responsibility rests upon decision makers in public and private sectors to ensure environmental issues are integrated into decision making and that over and above policy, we are all seeking to promote new tools, metrics, mechanisms and incentives to catalyse the achievement of global conservation goals and redirect the economy towards sustainability.

1.2 Summary of the constitutional, legal and policy requirements for EIA

1.2.1 Constitutional direction regarding health, wellbeing and environmental protection

A key aspect to consider when seeking to understand environmental policy and legislation of a country is whether its Constitution addresses citizens' right to health and wellbeing and the protection of the environment and life it supports. The Constitution of a country provides direction for all subsequent policies and laws. The Constitutions of most of the countries considered give an inalienable right to health, wellbeing and environmental protection. The right to a clean and healthy environment is absent from the Constitutions of Botswana, Ghana, Madagascar, Mauritius and Nigeria.

Where the constitutional rights to a healthy and clean environment have been articulated, they have been given effect through a variety of national environmental action plans, visions and strategy documents compiled for each country. EIA is one of the main tools identified to manage and protect the environment, and it has been formalised into law in all 26 states (see Table 1.1).

1.2.2   Environmental laws and regulations

Environmental laws

The legislative landscape is in a constant state of flux, with policies, laws, regulations and guidelines revised and updated in response to political, social and economic transformations within society.

The environmental laws currently in force in the countries included in this Handbook range in date from 1992 (the EIA Decree of Nigeria) to Uganda's National Environmental Act, No. 5 of 2019 (Table 1.1 and Figure 1.2). . Both Kenya and South Africa have old laws dating back to the 1990s, but have amended their Acts over time. Kenya's latest amendment to the Environmental Management and Co-ordination Act (EMCA), No. 8 of 1999, was in 2015, while South Africa has made no less than eight amendments to the National Environmental Management Act, No. 107 of 1998, with the latest being in 2014.

Nine countries have laws dating back to the 1990s decade (Figure 1.2). These need to be continuously updated to include emerging, cross-cutting issues such as climate change, gender, health, occupational health and safety, as well as concepts such as sustainable development, strategic environmental assessment and trans-boundary assessments.

The environmental laws of a further nine countries were developed during the first decade of the 21st century, but some of these are nearly 20 years old (as of late 2019) (e.g. Burundi, Senegal, Eswatini, Ethiopia and Zimbabwe) and could also benefit from an update. Only eight environmental laws have been promulgated since 2010, with five of these since 2015 (Figure 1.2).
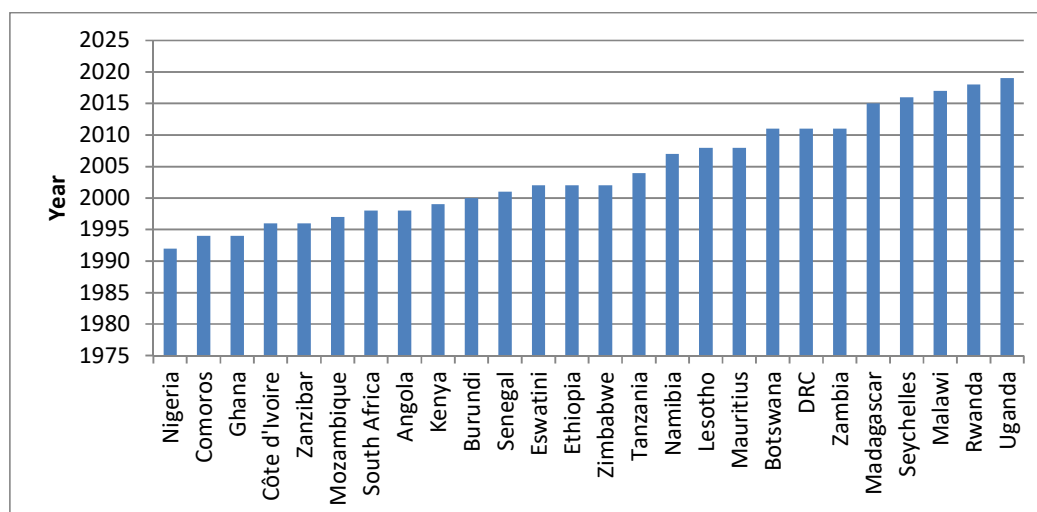
Figure 1.2: Date of original promulgation of environmental laws

EIA regulations

The aim of regulations is to operationalise the legal requirements set down in the law. Some environmental laws are merely 'framework laws' and rely on the development of regulations to give them effect, whereas other environmental laws are more comprehensive and can be implemented as they stand.

Comoros, Mauritius and Nigeria do not have any specific regulations on EIA, while those for Lesotho and Malawi are currently (end of 2019) in draft (Table 1.1). The EIA regulations for Eswatini, Namibia, Uganda, Seychelles, Zambia and Zanzibar are currently being revised. Once they are gazetted, the old regulations (explained in this Handbook) will be repealed.

Table 1.1: Summary of administrative and legal structures

Country	Ministry responsible for environmental management	Authority responsible for EIA	Name of EIA Act
Angola	Ministry of Culture, Tourism and Environment	National Directorate for Prevention and Environmental Impact Assessment	Environment Framework Law, No. 5/98 of 1 June 1998
Botswana	Ministry of Environment, Natural Resources Conservation & Tourism	Department of Environmental Affairs (DEA)	Environmental Assessment Act, No. 10 of 2011
Burundi	Ministry of Environment, Agriculture & Livestock (MINEAGRIE)	Burundi Office for Environmental Protection	The Environment Code, Law No. 1/010 of 30 June 2000
Comoros	Ministry of Agriculture, Fisheries & Environment (MAFE)	Directorate-General of Environment	Environmental law, No. 94-018/AF of June 1994 (as amended by Law No. 95-007/AF of 19 June 1995
Côte d'Ivoire	Ministry of Environment & Sustainable Development (MESD)	National Environmental Agency	The Environment Code, Law No. 96-766 of 3 October 1996
Congo, Democratic Republic of the	Ministry of Environment & Sustainable Development (MESD)	Congolese Environmental Agency	Environmental Protection Act, No. 11/009 of July 2011
Eswatini	Ministry of Tourism & Environmental Affairs (MTEA)	Eswatini Environmental Authority (EEA)	Environmental Management Act, No. 5 of 2002
Ethiopia	Environment, Forests & Climate Change Commission (EFCCC)	Regional State environmental authorities (see list in Chapter 10)	Environmental Impact Assessment Proclamation, No. 299/2002
Ghana	Ministry of Environment, Science, Technology & Innovation (MESTI)	Environmental Protection Agency (EPA)	Environmental Protection Agency Act, Act 49 of 1994
Kenya	Ministry of Environment & Forestry (MEF)	National Environment Management Authority (NEMA)	Environmental Management and Co-Ordination Act (EMCA), No. 8 of 1999, amended in 2015
Lesotho	Ministry of Tourism, Culture & Environment (MTCE)	Department of Environment	Environment Act, No. 10 of 2008
Madagascar	Ministry of Environment & Sustainable Development (MESD)	National Office for the Environment (ONE)	Environment Charter, Law No. 2015-003 of February 2015
Malawi	Ministry of Natural Resources, Energy & Mining (MNREM)	Environmental Affairs Department (EAD) (*to be*	National Environmental Management Act, No 19 of 2017

Country	Ministry responsible for environmental management	Authority responsible for EIA	Name of EIA Act	EIA Regulations
		replaced by the Malawi Environmental Protection Authority (MEPA) (when new EMA in effect))		
Mauritius	Ministry of Social Security, National Solidarity, & Environment & Sustainable Development	Environmental Assessment Division (of the Department of Environment)	Environmental Protection Act, No. 19 of 2002 (amended in 2008)	None
Mozambique	Ministry of Land, Environment and Rural Development (MITADER)	National Environmental Directorate (at national and provincial levels	Environmental Law, No. 20/97 of 1 October 1997	Regulations on the Environmental Impact Assessment Process, Decree No. 54/2015 of 31 December 2015)
Namibia	Ministry of Environment & Tourism (MET)	Directorate of Environmental Affairs (DEA)	Environmental Management Act, No. 7 of 2007	Environmental Impact Assessment Regulations of 6 February *2012 (under revision)*
Nigeria	Federal Ministry of the Environment (FMEnv)	Environmental Assessment Department	Environmental Impact Assessment Decree No. 86 of 1992 *(new Bill proposed)*	None specifically for EIA
Rwanda	Ministry of Environment (MoE)	Rwanda Environmental Management Authority (REMA)	Law No. 48/2018 of 13/08/2018 on Environment	EIA Order, Ministerial Order No. 001/2019 of 15/04/2019
Senegal	Ministry of Environment & Sustainable Development (MESD)	Department of Environment & Classified Installations, EIA Division	The Environment Code, Law No. 2001-01 of 15 January 2001	Decree No. 2001-282
Seychelles	Ministry of Environment, Energy & Climate Change (MEECC)	Environmental Appraisal Committee (EAD)	Environment Protection Act, No. 18 of 2016	Environmental Protection (Impact Assessment) Regulations of May 1996
South Africa	Department of Environment, Forestry & Fisheries (DEFF)	National DEFF or provincial departments (see Chapter 23 for list)	National Environmental Management Act, No. 107 of 1998, as amended in 2002, 2003, 2004, 2008 (twice), 2009, 2013 & 2014	Environmental Impact Assessment Regulations GNR982, GNR 983, GNR 984 & GNR 985 of 2014 (as amended in 2018)
Tanzania	Vice-President's Office: Division of Environment	National Environmental Management Council (NEMC)	Environmental Management Act, No. 20 of 2004	Environmental Impact Assessment & Audit Regulations, Government Notice No. 349 of November 2005
Uganda	Ministry of Water & Environment	National Environmental Management Authority (NEMA)	National Environment Act, No. 5 of 2019	National Environmental Impact Assessment Regulations, SI No. 13/1998
Zambia	Ministry of Water Development, Sanitation & Environmental Protection	Zambian Environmental Management Agency (ZEMA)	Environmental Management Act, No. 12 of 2011	Environmental Protection & Pollution Control (Environmental Impact Assessment) Regulations, Statutory Instrument No. 28 of 1997 *(new Regulations in draft)*
Zanzibar	Second Vice-President's Office: Department of Environment	Zanzibar Environmental Management Authority (ZEMA)	Zanzibar Environment Management Act, No. 2 of 1996	Environmental Impact Assessment Regulations, 2002 *(to be replaced by EIA Regulations, 2017)*
Zimbabwe	Ministry of Environment, Tourism & Hospitality Industry	Environmental Management Agency (EMA)	Environmental Management Act, Chap 20:27, of 2002	Environmental Management (EIAs & Ecosystems Protection) Regulations, Statutory Instrument No. 7 of 2007

<u>Definition of the term 'environment'</u>

The 26 countries reviewed in this Handbook apply 22 different definitions of the term 'environment' with only Kenya, Lesotho, Uganda and Tanzania using an almost identical definition (see Table 1.2 below).

Table 1.2: Definitions of the term 'environment' in EIA legislation

Angola	Any change to the environment, either to better or worse, especially with effects on the air, water, soil and subsoil, biodiversity, health of persons and cultural heritage, resulting directly or indirectly from human activities
Botswana	The physical, ecological, archaeological, aesthetic, cultural, economic, institutional, human health and social aspects of the surroundings of a person
Burundi	All natural and man-made elements as well as economic, social and cultural factors that condition the existence, transformation and development of the environment, organisms and human activities
Comoros	The soil and sub-soil, water resources and marine environment, the atmosphere and biodiversity
Côte d'Ivoire	The assemblage of all natural and man-made elements and the biological and geochemical systems in which they operate, as well as economic, social and cultural factors which promote the existence, transformation and development of the milieu, living organisms and human activities
Democratic Republic of the Congo	The living environment and spatial planning, where the natural environment is defined as the soil and sub-soil, water resources, atmosphere, biological diversity, landscapes, sites and monuments
Eswatini	The whole or any component of: • Nature including air, land, water, soils, minerals, energy (other than noise), and living organisms (other than humans); • The interactions between the components of nature and between those components and humans; • Physical, aesthetic and cultural qualities or conditions that affect the health and wellbeing of people
Ethiopia	The totality of all materials whether in their natural state or modified or changed by humans; their external spaces and the interactions which affect their quality or quantity and the welfare of humans or other living beings, including but not restricted to, land, atmosphere, weather and climate, water, living things, sound, odour, taste, social factors and aesthetics
Ghana	Any direct or indirect, positive or negative change in the environment caused by man-made works or activity [sic] when such change affects life in general, biodiversity, the quality or significant quantity of natural or environmental resources and their use, wellbeing, health, personal safety, habits and customs, the cultural heritage or legitimate means of livelihood
Kenya	The physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment
Lesotho	The physical factors of the surroundings of the human beings *(sic)* including land, water, atmosphere, climate, sound, odour, taste,

	biological factors of animals and plants and the social factors of aesthetics and includes both natural and built environment
Madagascar	The assemblage of natural and man-made environments including the human environment and the social and cultural factors relevant to national development
Malawi	The physical factors of the surroundings of the human being including land, water, atmosphere, climate, sound, odour, taste and the biological factors of fauna and flora and includes the cultural, social and economic aspects of human activity, the natural and built environment
Mauritius	The environment comprises: a) land, air water or any combination of these media; b) all living organisms; and c) any built-up environment
Mozambique	Environment means the medium in which humans and other beings live and interact among themselves and with the medium itself, including: • Air, light, land and water • Ecosystems, biodiversity and ecological relationships • All organic and inorganic matter • All socio-cultural and economic conditions which affect the lives of communities
Namibia	The complex of natural and anthropogenic factors and elements that are mutually interrelated and affect the ecological equilibrium and the quality of life, including: • The natural environment, i.e. the land, water, and air, all organic and inorganic material, and all living organisms • The human environment, i.e. the landscape and natural, cultural, historical, aesthetic, economic and social heritage and values
Nigeria	The components of the earth, and includes- (a) land, water and air, including all layers of the atmosphere; (b) all organic and inorganic matter and living organisms; and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b)
Rwanda	A diversity of things made up of [the] natural and built environment, including chemical substances, biodiversity as well as socio-economic activities, cultural, aesthetic and scientific factors likely to have direct or indirect, immediate or long-term effect on the development of an area, biodiversity and on human activities
Senegal	The assemblage of natural and artificial elements as well as the economic, social and cultural factors which affect the existence, transformation and development of the environment, living organisms and human activities
Seychelles	The air, water and land and the inter-relationship which exists among and between air, water and land, and human beings, other living creatures, plants, micro-organisms and property
South Africa	The surroundings within which humans exist and that are made up of: the land, water and atmosphere of earth; micro-organisms, plant and animal life; any part or combination of [the aforementioned] and the inter-relationships among and between them; and the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and wellbeing
Tanzania	The surroundings of human beings including air, land, water, climate, sound, light, odour, taste, micro-organisms, the biological factors of

	animals and plants, cultural resources and the social economic factor *(sic)* of aesthetics and includes both the natural and the built environment and the way they interact
Uganda	The physical factors of the surroundings of human beings, including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factors of aesthetics and includes both the natural and the built environment
Zambia	Natural or manmade surroundings at any place, comprising air, water, land, natural resources, animals, buildings and other constructions (sic)
Zanzibar	The physical surroundings or conditions along with the atmospheric, land and aquatic components that support life and livelihoods and where human beings, flora, fauna and nature co-exist
Zimbabwe	• The natural and man-made resources, both biotic and abiotic, occurring in the lithosphere and atmosphere, water, soil, minerals and living organisms whether indigenous or exotic, and the interaction between them • Ecosystems, habitats, spatial surroundings and their constituent parts whether natural or modified or constructed by people and communities, including urbanised areas, agricultural areas, rural landscapes, and places of cultural significance • The economic, social, cultural or aesthetic conditions and qualities that contribute to the value of the matters set out in points above

Over half of these definitions provide a holistic interpretation of the term 'environment' to include the natural, social and cultural environments. The rest consider the environment to be the *physical surroundings* of the human being and the influence that these physical components have on humans, rather than seeing human beings as an integral part of the environment and agents of change within that environment. In some cases (e.g. Lesotho and South Africa), this rather limited interpretation of the term 'environment' is clarified in the EIA guidelines, regulations or guiding principles. If the social component is not defined as part of the term 'environment', social impacts could be at risk of being overlooked.

For projects funded wholly or in part by many of the DFIs, project sponsors and borrowers are required to implement agreed Environmental and Social Safeguards Standards (ESSS). These ESSSs explicitly require Borrowers to consider social, cultural, gender, community health, and workplace occupational health and safety considerations (see Chapter 2). When EIAs are aligned with ESSS requirements, they can support the achievement of comprehensive best practice in sustainable development beyond compliance with national laws and regulations.

1.2.3 Environmental and climate change policies

<u>Environmental policies</u>

At the UN Conference on Environment and Development held in Rio de Janeiro, Brazil in 1992, every nation was urged to draw up its own 'Agenda 21' or national environmental action plan on how it will achieve sustainable development into the 21st Century. Most countries developed a National Environmental Action Plan in the years immediately after the Rio

conference. Some of these morphed into more general national environmental policies, but some countries have not produced a new policy since. Figure 1.3 shows the dates on which the latest environmental policies were published. The environmental policies of thirteen countries pre-date 2000, and only six countries have implemented new environmental policies since 2010, with the most recent being the National Environmental and Climate Change Policy of Rwanda, dated 2019. Rwanda is the only country which has combined its environmental and climate change policies into one document.

During the 17th Ordinary Session of the African Ministerial Conference on the Environment (AMCEN), in 2019[3], environment ministers discussed the need for African countries to take practical actions, including implementing policies and relevant regional and global frameworks, towards achieving the SDGs and Africa's Agenda 2063. The Conference focused on greening the economy in Africa; advancing the circular economy; the development of a blue economy; biodiversity loss; land degradation; desertification, drought and climate change.

"As environment ministers, we must shoulder the responsibility for mobilizing the global community to act on climate change, food insecurity, poverty and environmental pollution. There is, therefore, still a lot of hard work ahead of us as we make efforts to implement the sustainable development goals and the Paris agreement, among other global frameworks" (Lee White, President of AMCEN 2019).

"The solutions are in our hands – whether it is to halve emissions by 2030; craft out a new relationship with nature; or transform the way we live, produce and consume. And we also know that time is of the essence. The window for environmental action is shrinking". (Joyce Msuya, Deputy Executive Director of the United Nations Environment Programme, which hosts the AMCEN Secretariat).

These calls for action may result in a new generation of environmental policies in future which prioritise sustainable development and climate change.

---

[3]In its 34 years in existence, AMCEN has grown to become the central forum for environmental policy making in Africa
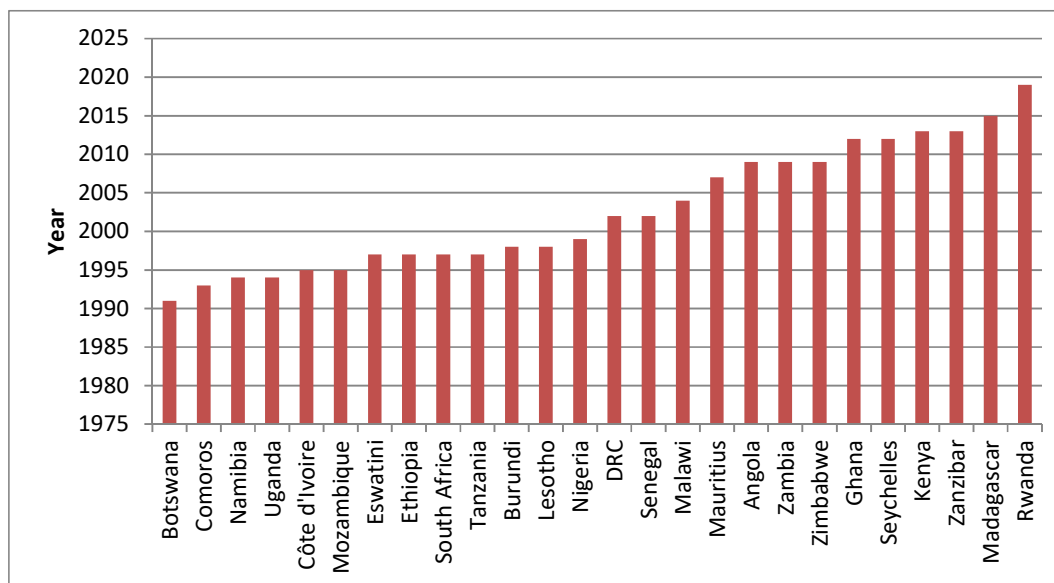
Figure 1.3: Date of latest environmental policy

Climate change policies and action plans

The countries analysed in this Handbook have significantly different levels of vulnerability, readiness and preparation towards climate change adaptation and mitigation. While all countries have ratified the United Nations Framework Convention on Climate Change (UNFCCC) and have made nationally determined commitments to the Paris Agreement,[4] (Table 1.3), only thirteen countries have a national climate change policy in place. Fifteen countries have submitted their national adaptation plans of action (NAPA) in terms of the UNFCCC, with some countries such as Eswatini, South Africa and Mozambique having developed numerous climate related strategies, sector guidelines and reports, and have mainstreamed climate change into all line ministries. Because most environmental laws (see Table 1.1 and Figure 1.2) pre-date climate change policies and action plans, few countries require climate change to be addressed in an EIA. Any project being funded by any DFI such as DBSA, will require climate change assessments and plans to be addressed in the EIA, EMP and Environmental Management System (EMS) – both in terms of how the project is likely to affect climate adaptation and mitigation, and how climate change will affect the resilience of the project itself (see Chapter 2).

---

[4] Paris Agreement. is an agreement within the United Nations Framework Convention on Climate Change(UNFCCC) dealing with greenhouse gas emissions mitigation, adaptation and finance signed in 2015. . The Agreement aims to respond to the global climate change threat by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

Table 1.3 List of parties to the Paris Agreement[5]

Party	Percentage of greenhouse gases for ratification	Date of entry into force
Angola	0.17%	
Botswana	0.02%	11 December 2016
Burundi	0.07%	16 February 2018
Comoros	0.00%	23 December 2016
Côte d'Ivoire	0.73%	24 November 2016
Democratic Republic of the Congo	0.06%	12 January 2018
Eswatini	0.05%	4 November 2016
Ethiopia	0.13%	8 April 2017
Ghana	0.09%	4 November 2016
Kenya	0.06%	27 January 2017
Lesotho	0.01%	19 February 2017
Madagascar	0.08%	4 November 2016
Malawi	0.07%	29 July 2017
Mauritius	0.01%	4 November 2016
Mozambique	0.02%	4 July 2018
Namibia	0.01%	4 November 2016
Nigeria	0.57%	15 June 2017
Rwanda	0.02%	5 November 2016
Senegal	0.05%	4 November 2016
Seychelles	0.00%	4 November 2016
South Africa	1.46%	1 December 2016
Tanzania	0.11%	17 June 2018
Uganda	0.07%	4 November 2016
Zambia	0.04%	8 January 2017
Zimbabwe	0.18%	6 September 2017

1.3 Summary of EIA administrative structures

Most countries have a ministry responsible for the environment. In Tanzania and Zanzibar, environmental matters fall under the Vice-President's office. In Ethiopia, a Commission, under the Prime Minister's office, is responsible for environmental matters.

An increasing number of countries have stand-alone environmental agencies/authorities, which nominally fall under the minister responsible for the environment, with separate

---

[5] https://en.wikipedia.org/wiki/List_of_parties_to_the_Paris_Agreement

statutory status and report to a Board of Directors. Such institutions are found in Burundi, Côte d'Ivoire, DRC, Eswatini, Ethiopia (Regional States), Ghana, Kenya, Madagascar, Malawi (once the new Environment Management Act comes into effect), Rwanda, Tanzania, Uganda, Zambia, Zanzibar and Zimbabwe. This helps to avoid ministerial conflicts of interest which can arise when environmental matters fall under the same ministry as development sectors, such as energy, mining, agriculture, tourism, and water (see Table 1.1).

Another positive development is that five ministries link the environment and sustainable development under the same ministry, enabling greater inter-sectoral cooperation (Table 1.1). Climate change is included in the titles of the Ethiopian Environment and Climate Change Commission and the Seychelles Ministry of Environment, Energy and Climate Change.

Most EIA review and decision-making takes place at national level, despite several efforts in the past to devolve this to regions or provinces (e.g. Malawi, DRC). Countries with effective state, region or provincial level environmental administration include Ethiopia, Mozambique, South Africa and to a degree, Zambia.

While all countries covered in this Handbook, have a legal, policy and institutional structure for EIA, the level of functioning of the EIA process in the countries varies considerably. The integrity of the institution is an essential determining factor in assessing the environmental impacts of project proposals and in applying effective mitigation. All countries included in this handbook face major challenges such as inadequate funding, which affects the capacity of ministries to carry out all mandates and tasks.

1.4   EIA procedures

While it is recognised that each country included in this Handbook has its own EIA system which broadly follows international best practice, as espoused by the International Association for Impact Assessment (IAIA),[6] there are some significant differences in terminology (Table 1.4), approach, public participation, environmental management plans (EMPs), compliance monitoring and auditing, strategic environmental assessment (SEA) and professional registration. These are explored in more detail below. Providing an overview of each individual EIA system with all its variations is the main purpose of this Handbook. However, for any project being funded in whole or in part by DFIs, those commissioning, conducting or reviewing EIA reports should refer to the ESSSs of the DFI(s) involved to ensure that all required elements and processes are included in the EIA (which may be over and above the national requirements). Comprehensive resources relating to current and emerging best practice in EIA may be found on the IAIA website.[7]

1.4.1   EIA process

---

[6] IAIA is the leading global network on best practice in the use of impact assessment for informed decision making regarding policies, programmes, plans and projects. IAIA was established in 1980 to bring together researchers, practitioners, and users of various types of impact assessment from all parts of the world. IAIA provides the international forum to advance best practice and innovation in impact assessment and advocates for its expanded use for the betterment of society and the environment.
[7] www.iaia.org

Table 1.4 below shows that almost every country has some form of screening process. This is important because the next steps in the EIA process depend on the outcome of screening, with many countries adopting some form of preliminary, initial or simplified process for projects which may not have highly significant impacts on the environment (Burundi, Côte d'Ivoire, Eswatini, Ethiopia, Ghana, Madagascar, Malawi, Mozambique, Senegal, South Africa, Tanzania, Zambia and Zanzibar). The remaining countries have a more binary system with all listed projects having to go through the scoping and EIA stages to obtain a licence or permit to operate, while those not listed are exempt from further study.

Table 1.4: EIA steps and terminology

Country	EIA stage				
	Screening	Scoping	EIA Report	Permit, licence authorisation	Follow-up
Angola	Screening	Environmental Pre-feasibility Study and Scoping Report	Environmental Impact Statement (EIS) and environmental management Plan (EMP)	Environmental Licence	Monitoring of implementation by authorities
Botswana	Screening	Project Brief & ToR	EIS & EMP	Environmental Authorisation	Monitoring & auditing by authorities & proponent
Burundi Annex I projects	Screening form	Scoping & ToR	EIA report & EMP	Decision	Monitoring of implementation by authorities
Annex II projects	Screening form	-	-	Decision	-
Comoros	-	-	EIA report & EMP	Environmental Authorisation	-
Côte d'Ivoire Annex I & III Annex II Not listed	Screening Screening Screening	ToR for EIA Impact Statement Categorical Exclusion Statement	EIA & EMP - -	Approval Order Approval Order Approval Order	Audits by proponent Audits by proponent -
DRC	Screening	ToR for EIA	ESIA & ESMP	Environmental Certificate	Compliance monitoring by proponent
Eswatini Category 1	Screening	-	-	Environmental Authorisation Letter	-
Category 2	Screening	Initial Environmental Evaluation & Comprehensive Mitigation Plan	-	Environmental Clearance Certificate	Compliance monitoring by proponent
Category 3	Screening	Scoping report	EIA report & Comprehensive Mitigation Plan	Environmental Clearance Certificate	Compliance monitoring by proponent
Ethiopia Schedule 1	Screening	Scoping report & ToR	EIS & EMP	Authorisation	Auditing by authorities
Schedule 2	Screening	Scoping Report	-	Authorisation	Auditing by

Country	EIA stage				
	Screening	**Scoping**	**EIA Report**	**Permit, licence authorisation**	**Follow-up**
					authorities
Ghana Schedule 1	Registration form	Scoping report &ToR	EIS; EMP after approval	Environmental Permit	Monitoring & auditing by authorities & proponent
Schedule 2	Registration form	Preliminary EA & report	-	Environmental Permit	Monitoring by proponent
Kenya	Project Report	Scoping study & ToR	EIA & EMP	EIA Licence	Auditing by proponent. Check audits by authorities
Lesotho	Screening	Project Brief & ToR	EIS and EMP	EIA Licence	Compliance monitoring & auditing by authorities
Madagascar Annex I	Screening		EIA & EMP	Environmental Permit	Environmental monitoring by authorities
Annex II	Screening	Programme of Environmental Engagement	-	Environmental Approval	-
Malawi List A	Screening	Project Brief & ToR	EIA & EMP	EIA Certificate	Auditing by authorities
List B	Screening	Project Brief	-	Certificate of Exemption	-
Mauritius	Screening	Preliminary Environmental Report	EIA report & EMP	EIA Licence	Monitoring by authorities
Mozambique Category A+ /A	Application & pre-assessment	Environmental Pre-Viability Report & Scope Definition & ToR	EIS & EMP	Environmental Licence	Inspections & audits by authorities
Category B	Application & pre-assessment	ToR	Simplified Environmental Report & EMP	Environmental Licence	Inspections by authorities
Category C	Application & pre-assessment	-	-	Environmental Licence	-
Namibia	Registration & screening	Scoping report & Plan of Study for EIA (ToR)	EA Report & EMP	Environmental Clearance Certificate	Inspections & compliance monitoring by authorities
Nigeria	EIA Notification Form	Scoping & ToR	EIA report & EMP	EIA Approval followed by EIA Certificate	Monitoring by authorities
Rwanda	Project Brief	Scoping & ToR	Environmental impact report & EMP	Environmental Clearance Certificate	Environmental audit by proponent Inspections by authorities
Senegal Class 1	Screening	Initial Environmental Analysis & ToR	EIA report & EMP	Environmental Clearance Certificate	Compliance monitoring by authorities
Class 2	Screening	Declaration	-	Authorisation to proceed	-
Seychelles	Presentation to	Scoping report &	EIA report & EMP	Environmental	Monitoring by

Country	EIA stage				
	Screening	**Scoping**	**EIA Report**	**Permit, licence authorisation**	**Follow-up**
	Environmental Appraisal Committee	ToR		Authorisation	authorities
South Africa Listing Notice 1	Application form (registration)	Basic Assessment Report, EMPr & closure plan	-	Environmental Authorisation	Auditing by proponent
Listing Notice 2 & 3	Application form (registration)	Scoping	EIA report & EMPr	Environmental Authorisation	Auditing by proponent
Tanzania Type A	Registration & screening	Scoping & ToR	EIS & EMP	EIA Certificate	Environmental auditing by authorities
Type B	Registration & screening	Preliminary EA	-	Authorisation to proceed	-
Uganda	Project Brief	ToR	EIS & EMP	Certificate of Approval of the EIA	Compliance auditing by proponent
Zambia First schedule	Screening	Project Brief & EMP	-	Environmental Authorisation	Auditing by proponent
Second schedule	Screening	ToR & scoping	EIS & EMP	Environmental Authorisation	Auditing by proponent
Zanzibar Low impact projects	Application & Concept Note	Registration & Commitment Letter	-	Direct Clearance	-
Medium impact projects	Application & Concept Note	Registration & Environmental Report	-	Environmental Clearance Certificate	Monitoring by authorities
High impact projects	Application & Concept Note	Scoping and ToR	ESIA Report	ESIA Certificate	Monitoring by authorities
Zimbabwe	Prospectus	ToR	EIA report & EMP	EIA Certificate	Auditing by authorities
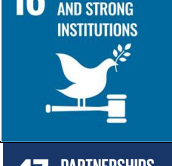
Comprehensive and integrated approaches that address the relationship between a project level environmental assessment and the SDGs are required. Table 1.5 presents (at a high level) how various impact assessment tools can be utilised to bolster project level efforts to support achievement of the UN SDGs.

Table 1.5 Impact Assessment Tools and UN Sustainable Development Goals[8]

Examples of Impact Assessment (IA) Tools – many of these relate to multiple goals	**Sustainable Development Goals (SDGs)**	
EIA, SEA EMPs and Environmental Management Systems (EMS) Social Governance Strategy and Action Plan	7 AFFORDABLE AND CLEAN ENERGY	Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all

[8] Morrison-Saunders, A. Sánchez, LE, Retief F, Sinclair, J, Doelle M, Jones, M, Wessels, J-A, & Pope, J (2019): Gearing up impact assessment as a vehicle for achieving the UN Sustainable Development Goals, Impact Assessment and Project Appraisal, DOI: 10.1080/14615517.2019.1677089 - https://doi.org/10.1080/14615517.2019.1677089

	12 RESPONSIBLE CONSUMPTION AND PRODUCTION	Goal 12. Ensure sustainable consumption and production patterns
	14 LIFE BELOW WATER	Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development
	15 LIFE ON LAND	Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
Climate Impact Assessment integrated into existing EIA practice Climate Adaptation Strategy and Plan Climate Mitigation Strategy and Plan Disaster Prevention Plan Sector scenario testing Climate Modelling	**13 CLIMATE ACTION**	Goal 13. Take urgent action to combat climate change and its impacts
Social Impact Assessment (SIA) and Action Plan Compensation and Social Value Add Plan	**4 QUALITY EDUCATION** **10 REDUCED INEQUALITIES**	Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all Goal 10. Reduce inequality within and among countries
Health Impact Assessment (HIA) Catchment Management Plan Watershed Assessment and Management Plan Landscape and Livelihood Assessment and Action Plan	**3 GOOD HEALTH AND WELL-BEING**	Goal 3. Ensure healthy lives and promote well-being for all at all ages
	6 CLEAN WATER AND SANITATION	Goal 6. Ensure availability and sustainable management of water and sanitation for all
Gender Impact Assessment and Action Plan –integrated into other IA processes	**5 GENDER EQUALITY**	Goal 5. Achieve gender equality and empower all women and girls

Poverty Impact Assessment and Action Plan	**1 NO POVERTY**	Goal 1. End poverty in all its forms everywhere
	2 ZERO HUNGER	Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture
Economic Impact Assessment Cumulative Impact Assessment Cost Benefit Analysis Full Cost Accounting Natural Capital Accounting Natural Capital (Ecosystem Services) Assessment and Action Plan Biodiversity Action Plan Water Resource Assessment and Plan Catchment Management Plan	**8 DECENT WORK AND ECONOMIC GROWTH**	Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
	9 INDUSTRY, INNOVATION AND INFRASTRUCTURE	Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
Territorial Impact Assessment Geographical and Sector based Strategic Assessment and Action Plan	**11 SUSTAINABLE CITIES AND COMMUNITIES**	Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable
Human Rights Impact Assessment and Action Plan	**16 PEACE, JUSTICE AND STRONG INSTITUTIONS**	Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
Integrated Impact Assessment and Action which calls for different types of IA to be brought together Partnership and Action Based Network Assessment and Action Plan Social Contract Agreements and Memorandum of Understanding and Memorandum of Agreements	**17 PARTNERSHIPS FOR THE GOALS**	Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

1.4.2 Terms of Reference

The compilation of comprehensive terms of reference (ToR) for an EIA is crucial to its success. Inadequate ToRs can result in poor EIA reports; this inevitably leads to lengthy and costly project delays, as the proponents are requested to provide more information or, worse, the EIA report is rejected because the information provided is insufficient to support decision

making for authorisation. Therefore, it is important to ensure that the ToRs provide a comprehensive consideration of the impacts of the proposed project.

Most countries require the proponent to obtain approval of the ToR from the authorities before commencing with the EIA (see Tables 1.4 and 1.6). This ensures a level of quality control but, too often, the authorities fail to check that the ToRs have been implemented. Two countries (Comoros and Madagascar) do not require any approval of the Terms of Reference before the EIA study is started. In Angola, Burundi, Côte d'Ivoire, Mauritius and Seychelles, the ToRs are drawn up by the authorities based on model ToRs, not the proponent (see Table 1.6).

Table 1.6: Methods used for developing Terms of Reference for EIAs by each country

Country	Proponent draws up ToR (no review)	Proponent draws up ToR (authority review)	Authorities drawn up ToR	Comments
Angola	-	–	Yes	General & sector-specific ToRs
Botswana	–	Yes	–	
Burundi	-	-	Yes	Model ToR customised with proponent's input
Comoros	Yes	-	-	Not specified
Côte d'Ivoire	-	-	Yes	ToR developed with proponent's input
DRC	–	Yes	–	
Eswatini	-	Yes	–	
Ethiopia	-	Yes	-	
Ghana	-	Yes	-	
Kenya	-	Yes	-	
Lesotho	–	Yes	–	
Madagascar	Yes	–	–	
Malawi	–	Yes	-	Guidance on preparing ToRs is available
Mauritius	–	–	Yes	
Mozambique	–	Yes	–	
Namibia	–	Yes	–	
Nigeria	-	Yes	-	
Rwanda		Yes		
Senegal	-	Yes	-	
Seychelles	-	-	Yes	Model ToR provided by Authorities
South Africa	–	Yes	–	
Tanzania	–	Yes	-	
Uganda	-	Yes	-	ToR to be developed with Authorities
Zambia	–	Yes	–	ToR to be developed with Authorities
Zanzibar	-	Yes	-	
Zimbabwe	–	?	–	Not clearly stated – assumed to be included in prospectus

1.4.3   Public participation

All countries (see Table 1.7) require some level of public consultation as part of the EIA process. The timing of this involvement and the mode of consultation vary significantly. Twelve countries require consultation with the public at the scoping **and** EIA stages, whereas three (Ethiopia, Ghana and Lesotho) only formally proscribe consultation during the scoping stage. Seven countries only require the public to be consulted once the draft EIA report has been completed (Table 1.7). In Mauritius, Seychelles and Zanzibar, public consultation only occurs during the authority review process through the medium of public hearings or public enquiries. Development processes are most effective where key interested and affected parties are empowered to engage at an early stage of the development process including assessing alternatives, identifying community issues and concerns and ensuring that these are taken up in the EIA report and addressed in the EMP.

The required mode of participation set out in the EIA laws, regulations and guidelines ranges from full engagement of interested and affected parties by various means, including public meetings and focus groups, to the passive placement of the EIA report for public review and comment. Public consultation procedures are not explicitly spelt out in many cases, which could result in uncertainty over what level of consultation is required and what may be considered meaningful engagement with all interested and affected stakeholders.

Table 1.7: Timing and responsibility for public participation in EIA processes

Country	Public consultation required in scoping	Public consultation required during preparation of EIA	Public review and/or public hearings after EIA report completed
Angola	Yes (proponent)[9]	Yes (proponent)	Yes (authorities)
Botswana	Yes (proponent)	Yes (authorities)	Maybe (authorities)
Burundi	Yes (proponent)	Yes (proponent)	Maybe (authorities)
Comoros	Required but no further details specified		
Côte d'Ivoire	No	Yes (proponent)	Yes (authorities)
DRC[10]	No	Yes (proponent)	Yes (authorities)
Eswatini	No (IEE) Yes (EIA) (proponent)	No (IEE) Yes (EIA) (proponent)	Public review of IEE and EIA (proponent) Optional public hearing for IEE and EIA (authorities)
Ethiopia	Yes (proponent)	No	Yes (authorities)
Ghana	Yes (proponent)	No	Yes (authorities)
Kenya	Yes (proponent)[11]	Yes (proponent)	Yes (authorities)
Lesotho	Yes (proponent)	No[12]	Maybe (authorities)
Madagascar	No	Implied (proponent)	Yes (authorities)
Malawi	Maybe (proponent)	Yes (proponent)	Maybe (authorities)
Mauritius	No	No	Yes (authorities)
Mozambique	Yes (proponent)	Yes (proponent)	Maybe (authorities)
Namibia	Yes (proponent)	Yes (proponent)	No
Nigeria	No (proponent) Optional public hearing (authorities)	Yes (proponent)	Maybe (authorities)
Rwanda	No[13]	Yes (proponent)	Yes (authorities)[14]

---

[9] Not required per the law, but included in the model ToR as a requirement
[10] In terms of the EIA Regulations of the Mining Code (this may change when Regulations in terms of the Environmental Protection Act are introduced).
[11] Not specified in law, but required in terms of the EIA Guidelines and Constitution
[12] Public consultation is not required in terms of the Act, but the EIA Guidelines state that it is required.

Country	Public consultation required in scoping	Public consultation required during preparation of EIA	Public review and/or public hearings after EIA report completed
Senegal	Yes (proponent)	Yes (proponent)	Yes (proponent and authorities)
Seychelles	No	No	Yes (authorities)
South Africa	Yes (proponent)	Yes (proponent)	No
Tanzania	Yes (proponent)	Yes (proponent)	Yes (authorities)
Uganda	Implied (proponent)	Yes (proponent)	Yes (authorities)
Zambia	Yes (proponent)	Yes (proponent)	Yes (authorities)
Zanzibar	Not mandatory	Not mandatory	Yes (authorities)
Zimbabwe	No	Yes (proponent)	No

1.4.4 Environmental management plans and compliance monitoring

In all cases where an EIA is required, the EIA must include measures setting out how the proponent proposes to avoid, reduce, manage or control the adverse impacts of the development on the environment in an environmental management and monitoring plan. In practice, the general standards of EMP formulation are poor due to a lack of guidance. In some of those countries where an initial, preliminary or simplified assessment is required, proponents also need to submit an EMP as well (Eswatini, South Africa, Zambia and Zanzibar) (Table 1.4).

Key challenges to producing quality EMPs include the lack of rigorous requirements and accountability for the preparation and implementation of EMPs. Even if quality EIAs are being produced and the authorities are making the best decisions, the lack of effective EMP implementation reduces the value of the EIA process. The effectiveness of EMPs can be addressed by:

- *Ensuring quality EMPs.* This requires capacity building across all stakeholders involved, capturing and sharing of best practice experience, development of guidelines, and implementation of critical review procedures

- *Ensuring inclusion of the EMP in tender documents,* so that prospective contractors can bid on the stipulated environmental and social mitigation measures. Tenders need to be evaluated by a qualified environmental and social expert to adjudicate the quality of the submissions received

- *Accountability for environmental and social expenditure.* This requires environmental authorities and supervising engineers to carry out detailed financial audits of all expenditure on environmental and social mitigation measures against budget. DFIs need to do the same against the funds allocated to the implementation of the EMP in the loan agreements

- *Ensuring that the contractor has appropriate environmental and social management and control mechanisms in place.* This includes competent, qualified personnel with sufficient budgets and resources to implement the EMP requirements

---

[13] Not required in the law or regulations, but is recommended in the EIA Guidelines
[14] The EIA Decree states that a public hearing is optional, but the EIA Guidelines state that a public hearing is mandatory for all projects

- *Ensuring that environmental authorities are empowered to carry out compliance auditing as required by law.* This requires commitment of sufficient budgets and personnel to undertake regular compliance audits
- *Reporting.* Submission of regular environmental and social monitoring reports to the relevant authorities is a critical activity which requires a level of expertise on the part of the report writer and the recipient authorities to ensure that corrective actions are taken proactively based on scientifically-derived thresholds, trigger values and trends
- *Co-operative governance.* Many activities in the EMP require effective collaboration and partnerships between all levels and spheres of government, the private sector and civil society
- *Imposition of meaningful fines and penalties for environmental and social transgressions*

Fourteen of the countries reviewed make provision for inspections, audits and monitoring by the authorities. In practice this is seldom achieved due to a range of factors including lack of public sector resources (human, financial and operational). Six countries place the responsibility for project compliance monitoring and auditing on the proponent, who is required to submit regular monitoring and auditing reports to the authorities (Table 1.4). This approach requires that the project proponent / project contractor take ownership of the environmental monitoring process and the management of related risk. This includes taking the necessary corrective / remedial actions when incidents arise.

Four countries formally require joint monitoring and auditing, with the proponent doing the day-to day compliance monitoring activities, with periodic inspections being carried out by the authorities (Table 1.4).

1.4.5   Strategic Environmental Assessments

There are many different types of SEA-like processes being promoted by various DFIs, including: Regional and Sector Environmental Assessments, Policy SEA, Country Environmental Analysis, Cumulative Effects Assessment, Land Use Plans, Environmental and Social Management Frameworks, Integrated Development Plans etc.[15] While the terminology and focus of these tools might vary, the underlying goal of these strategic instruments is common to all, namely that SEA is a systematic process for identifying, assessing, mitigating, and communicating the significant environmental effects of a proposed policy, plan or programme to decision-makers. This includes addressing the environmental, social and economic consequences of a proposed initiative at the earliest appropriate stage of decision-making. It can be applied at all stages and tiers of decision-making and at the local, regional or national level. When carried out systematically it helps decision-makers to achieve sustainable development objectives. The following activities are central to all SEAs: policy, legal and institutional assessment; scenario development; cumulative effects assessment; public consultation; and development of a strategic environmental management plan.

---

[15] More detail can be found on the websites of all the major DFIs, as well as on the IAIA website (www.iaia.org)

SEAs continue to gain momentum in sub-Saharan Africa, and much of the newer legislation requires a SEA for policies, plans and programmes as shown in Table 1.8. The legislation in Madagascar and Malawi does not refer to SEAs specifically, but both countries require an EIA of new national policies, plans and programmes.

Table 1.8: SEA: legal requirements, regulations and guidance

Country	SEA required for policies, plans and programmes	Availability of specific SEA regulations (or guidelines)
Angola	No	None
Botswana	Yes	Guidelines
Burundi	No	None
Comoros	No	None
Côte d'Ivoire	Yes	Yes (Decree No. 2013-41 of 30 January 2013)
DRC	Yes	Yes (Decree No. 14/019 of 2 August 2014)
Eswatini	Yes	None
Ethiopia	Yes	Guidelines (2017) in draft
Ghana	No	Guidelines (the Ghana SEA Approach)
Kenya	Yes	EIA Regulations
Lesotho	Yes	None
Madagascar	Yes[16]	None
Malawi	Yes[17]	None
Mauritius	No	-
Mozambique	No	-
Namibia	No	-
Nigeria	No[18]	SEA Guidelines
Rwanda	Yes	None
Senegal	Yes	None
Seychelles	Yes	None
South Africa	Yes/No[19]	Regulations and Guidelines
Tanzania	Yes	None
Uganda	Yes	None
Zambia	Yes	Regulations in draft
Zanzibar	Yes	None
Zimbabwe	No	None

While 17 of the 26 countries included in this Handbook make legislative provision for SEAs of policies, plans and programmes, very few countries conduct SEAs in practice. This is partly due to a general lack of regulations and guidance on SEA procedures, processes and responsibilities, and a lack of funding for governments to commission SEAs.

1.4.6   Registration of EIA practitioners

One of the main challenges regarding the effectiveness of EIA is the role of the EA practitioners. There are numerous concerns across the region about the quality of such practitioners. These relate to their tertiary qualifications, their experience in EIA, and their

---

[16] An EIA is required for policies, plans and programmes rather than an SEA per se.
[17] SEA is required for policies, plans and programmes in terms of Section 30 of the forthcoming Environmental Management Act of 2017, but until this is promulgated, only 'major policy reforms' need to be assessed.
[18] New environmental legislation is in the drafting process and include SEAs.
[19] South African legislation provides for strategic instruments e.g. environmental management frameworks and spatial development frameworks, but not for SEA *per se*.

ability to lead a multi-disciplinary team of specialists and produce a report with objective, accurate information to allow decision-makers (and the public) to make an informed decision about the project.

One of the most recognised ways of overcoming this problem is to introduce a certification scheme for EA practitioners, based on a combination of tertiary qualifications, core competencies in EIA, demonstrated EIA experience, and a commitment to ongoing professional development. The aim is to ensure a level of professional quality and conduct through a rigorous set of qualifying criteria and the threat of disciplinary action if the Code of Conduct is breached.

Although the situation has improved significantly since the 3rd Edition of this Handbook in 2012, only seven countries have a functioning statutory registration system based on professional criteria for EA practitioners – Botswana, Eswatini, Rwanda, Senegal, South Africa, Tanzania and Uganda (Table 1.9). The Seychelles makes provision in the law for a statutory registration body, but no regulations have been passed to give effect to this provision. Eight countries have non-statutory systems in place for the registration of EA practitioners. These may not be as rigorous as full legal certification systems, but they do offer some degree of quality control.

Table 1.9: Certification, registration and independence of EA practitioners

Country	Statutory registration & EIA consultants certification scheme	Non-statutory registration system for EIA consultants based on professional criteria	Consultants for a given EIA to be approved by authorities before commencing with the EIA	List of approved consultants held by environmental authority	EIA consultants to be independent in terms of the law
Angola	X	Yes	X	X	Yes
Botswana	Yes	X	X	X	X
Burundi	X	X	X	Yes	X
Comoros	X	X	X	X	X
Côte d'Ivoire	X	Yes	X	Yes	X
DRC	X	X	X	Yes	X
Eswatini	Yes	X	X	X	X
Ethiopia	X	X	X	X	X
Ghana	X	X	X	X	X
Kenya	X	Yes	X	Yes	X
Lesotho	X	Yes	Yes	Yes	X
Madagascar	X	X	X	X	X
Malawi	X	X	X	Yes	X
Mauritius	X	X	Yes	X	X
Mozambique	X	Yes	Yes	X	X
Namibia	X	Yes	X	X	Yes[20]
Nigeria	X	Yes	X	X	X
Rwanda	Yes	X	X	X	X

---

[20] A statement of independence must be made to the competent authority and Environmental Commissioner

Country	Statutory registration & EIA consultants certification scheme	Non-statutory registration system for EIA consultants based on professional criteria	Consultants for a given EIA to be approved by authorities before commencing with the EIA	List of approved consultants held by environmental authority	EIA consultants to be independent in terms of the law
Senegal	Yes	X	X	Yes	X
Seychelles	(Yes)[21]	X	X	X	X
South Africa	Yes	X	X	X	Yes
Tanzania	Yes	X	X	X	Yes[22]
Uganda	Yes	X	X	X	X
Zambia	In progress	X	Yes	X	X
Zanzibar	X	Yes	X	Yes	X
Zimbabwe	X	Yes	X	Yes	X

Four countries require EIA team members and their qualifications to be listed in the ToR sent to the authorities for approval before commencing with the EIA (Table 1.9). This affords some level of quality control, assuming that the information provided by the consultants is accurate. The lowest level of quality assurance is where the environmental agency has a list of approved consultants. This generally lists all practitioners present in the country, and there is little or no quality control.

Four countries stipulate that EIA consultants must be independent, which means that: a) they cannot have any business, financial, personal or other interest in the activity, application or appeal in respect of which they were appointed, other than fair remuneration for work performed; and b) there are no circumstances that may compromise their objectivity. Although not explicitly stated, those countries with a statutory professional registration system in place are likely to require registered professionals to sign a code of conduct which could cover issues such as objectivity, conflicts of interest and independence.

1.4 Summary of international environmental and social obligations

The main international conventions, protocols and treaties relevant to biodiversity, pollution and waste are summarised in Table 1.10. The following observations can be made:

- All countries are contracting parties to the Convention on Biological Diversity. Phrases in this Convention such as 'as appropriate', 'as far as possible', and 'where appropriate' mean that the interpretation, implementation and impact of this Convention on each country varies widely

- All but two countries (Angola and Ethiopia) are signatories to the Ramsar Convention

---

[21] There is provision in the Act for consultants to be registered, but there are no regulations in force.
[22] By signing a Code of Conduct, consultants must state if there is a conflict of interest on a given project.

- All the countries included in this Handbook have ratified or acceded to the Convention on International Trade in Endangered Species (CITES) and have signed or ratified the Cartagena Protocol on Biosafety

- All but five countries have Memoranda of Understanding in terms of the Convention on Migratory Species (the Bonn Convention). These Memoranda relate variously to marine turtles, dugongs, migratory water birds, birds of prey, seabirds and gorillas. At present, Botswana, Comoros, Lesotho, Namibia and Zambia have not signed this convention

- All countries have signed and ratified the Convention to Combat Desertification, as well as the Framework Convention on Climate Change and the Paris Agreement (Table 1.3). This is important for the region, which is extremely susceptible to climate change and increased desertification as a direct result of climate change and anthropological factors

- All countries have acceded to, or ratified the Vienna Convention on the Protection of the Ozone Layer and the Montreal Protocol on ozone-depleting substances

- All countries have acceded to the Basel Convention on the transboundary movement of hazardous waste, and most have either signed or ratified the Stockholm Convention on Persistent Organic Pollutants. Only one country (Comoros) has not signed, ratified or acceded to the Rotterdam Convention on prior informed consent for hazardous materials and pesticides

- All countries, including the landlocked countries, have either signed or ratified the United Nations Law of the Sea

- All the countries along the east coast of Africa and the Indian Ocean islands affected by the Nairobi Convention have committed themselves to the protection, management and development of the marine and coastal environment of the East Africa region

An analysis of the accession to and ratification of the various international conventions, treaties, declarations and agreements relating to cultural heritage, gender, human rights and health show that all 26 counties are party to all the conventions shown in Table 1.11, except the Convention on the Protection of the Rights of all Migrant Workers and their Families. The Comoros has signed this Convention and nine other countries have ratified, but not yet acceded to it.

1.5 Summary of regional environmental protocols

The countries in this Handbook are members of one of three economic development blocks:

- The Southern African Development Community (SADC). All 16 its member states are included in this Handbook. SADC includes the Indian Ocean Islands of Seychelles, Comoros, Madagascar and Mauritius

- The East African Community (EAC). The EAC is made up of Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda. All these countries except South Sudan are included in this Handbook
- Economic Community of West African States (ECOWAS). ECOWAS comprises 15 West African countries, of which only four are represented in this Handbook: Côte d'Ivoire, Ghana, Nigeria and Senegal

The relevant environmental protocols adopted by the countries in these regional cooperation groups are described below. There are two important SADC environmental protocols:

- The Revised Protocol on Shared Watercourse Systems, 2000
- The Protocol on Wildlife Conservation and Law Enforcement of 1999.

Table 1.10: Summary of international conventions, protocols and agreements relating to biodiversity, pollution and waste[1]

Country	Biodiversity					Land	Atmosphere			Chemicals and waste			Ocean
	CBD[2]	Ramsar[3]	CITES[4]	CMS (Bonn)[5]	Biosafety (Cartagena Protocol)	Desertification[6]	Climate change[7]	Vienna Convention[8]	Montreal Protocol[9]	Basel Convention[10]	Rotterdam Convention[11]	Stockholm Convention[12]	UNCLOS[13]
Angola	R		A	✓	A	R	R	A	A	A	S	A	R
Botswana	R	A	A		R	R	R	A	A	A	A	A	R
Burundi	R	A	A	✓	A	R	R	A	A	A	A	R	S
Comoros	R	A	A		A	R	R	A	A	A		R	R
Côte d'Ivoire	R	A	A	✓	A	R	R	A	A	A	R	R	R
DRC	R	A	A	✓	A	R	R	A	A	A	R	A	R
Eswatini	R	A	A	✓	A	R	R	A	A	A	A	A	R
Ethiopia	R		A	✓	R	R	R	A	A	A	A	R	S
Ghana	R	A	R	✓	A	R	R	A	R	A	R	R	R
Kenya	R	A	R	✓	R	R	R	A	R	A	R	R	R
Lesotho	R	A	R		A	R	R	A	A	A	A	R	R
Madagascar	R	A	R	✓	R	R	R	A	A	A	R	R	R
Malawi	R	A	A	✓	R	R	R	A	A	A	A	R	R
Mauritius	R	R	R	✓	A	R	R	A	A	A	A	R	R
Mozambique	R	A	A	✓	R	R	R	A	A	A	A	R	R
Namibia	R	A	A		R	R	R	A	A	A	R	A	R
Nigeria	R	A	R	✓	R	R	R	A	A	R	A	R	R
Rwanda	R	A	A	✓	R	R	R	A	A	A	A	A	S
Senegal	R	A	A	✓	R	R	R	A	R	A	R	R	R
Seychelles	R	A	A	✓	R	R	R	A	A	A	S	R	R
South Africa	R	S	R	✓	A	R	R	A	A	A	A	R	R
Tanzania	R	A	R		A	R	R	A	A	A	R	R	R
Uganda	R	R	A	✓	R	R	R	A	R	A	A	A	R
Zambia	R	A	A		A	R	R	A	A	A	A	R	R
Zanzibar	R	A	R	✓	A	R	R	A	A	A	R	R	R
Zimbabwe	R	A	A	✓	R	R	R	A	A	A	A	R	R

1. S means that the Convention has been signed; R indicates ratification; A means accession to the Convention.
2. Convention on Biological Diversity
3. Convention on Wetlands of International Importance especially as Waterfowl Habitat
4. Convention on the International Trade in Endangered Species
5. Convention on Migratory Species
6. Convention to Combat Desertification
7. Framework Convention on Climate Change and the Kyoto Protocol: C means that the country has ratified the Convention; P means that the Protocol has been ratified.
8. Vienna Convention for the Protection of the Ozone Layer
9. Montreal Protocol on Substances that Deplete the Ozone Layer
10. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
11. Rotterdam Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade
12. Stockholm Convention on Persistent Organic Pollutants
13. United Nations Convention on the Law of the Sea

Table 1.11: Summary of international conventions, protocols and agreements relating to cultural heritage, gender, human rights and health issues

Country	Heritage	Gender	Children		Human Rights			Health	
	World Heritage Convention	Discrimination against Women (CEDAW)	Rights of the Child	Worst forms of Child Labour	Covenant on Economic, Social and Cultural Rights	Protection of the Rights of all Migrant Workers	Rights of Persons with Disabilities	Libreville Declaration on Health and Environment in Africa	Abuja Declaration & Framework for Action (against HIV/AIDS)
Angola	R	R	R	R	R		R	S	S
Botswana	A	R	R	R				S	S
Burundi	R	R	R	R	R		R	S	S
Comoros	R	R	R	R	S	S	R	S	S
Côte d'Ivoire	R	R	R	R	R		R	S	S
DRC	R	R	R	R	R		R	S	S
Eswatini	R	R	R	R	R		R	S	S
Ethiopia	R	R	R	R	R		R	S	S
Ghana	R	R	R	R	R	R	R	S	S
Kenya	A	R	R	R	R		R	S	S
Lesotho	A	R	R	R	R	R	R	S	S
Madagascar	R	R	R	R	R	R	R	S	S
Malawi	R	R	R	R	R		R	S	S
Mauritius	R	R	R	R	R		R	S	S
Mozambique	R	R	R	R		R	R	S	S
Namibia	A	R	R	R	R		R	S	S
Nigeria	R	R	R	R	R	R	R	S	S
Rwanda	A	R	R	R	R	R	R	S	S
Senegal	R	R	R	R	R	R	R	S	S
Seychelles	A	R	R	R	R	R	R	S	S
South Africa	R	R	R	R	R		R	S	S
Tanzania	R	R	R	R	R		R	S	S
Uganda	A	R	R	R	R	R	R	S	S
Zambia	R	R	R	R	R		R	S	S
Zanzibar	R	R	R	R	R		R	S	S
Zimbabwe	R	R	R	R	R		R	S	S

The Revised Protocol on Shared Watercourse Systems regards and incorporates the following:

- The Helsinki Rules on uses of the waters of international rivers and the work of the International Law Commission on the non-navigational uses of international watercourses
- The relevant provisions of Agenda 21 of the United Nations Conference on Environment and Development, and the concepts of environmentally sound management, sustainable development and the equitable utilisation of shared watercourse systems in the SADC region
- The existing and emerging socio-economic development programmes in the SADC region and their impact on the environment
- Judicious and coordinated utilisation of the resources of the shared watercourse systems in the SADC region
- The need for coordinated and environmentally sound development of the resources of shared watercourse systems in the SADC region in order to support sustainable socio-economic development and the common utilisation and management of the resources of these watercourse systems
- Other agreements in the SADC region on the common utilisation of certain watercourses[23]

All African mainland countries, except the DRC, as well as the Seychelles have signed this Protocol.

The Protocol on Wildlife Conservation and Law Enforcement is an interstate regulation affirming that member states have the sovereign right to manage their wildlife resources and the corresponding responsibility for sustainable use and conservation of these resources. The aim is to establish a common framework for the conservation and sustainable use of wildlife resources in the SADC region and to assist with the effective enforcement of laws governing those resources. All 14 SADC states (including the Seychelles) have signed this Protocol.[24]

In the EAC, the only environmental protocol is the Protocol on Environment and Natural Resources Management, which was signed by Kenya, Uganda and Tanzania in 2006 and has since been ratified by Uganda and Kenya.[25] Until it is ratified by Tanzania, the Protocol is not yet in force and hence not a legally binding document.[26]

There are no binding environmental protocols in ECOWAS, but there are several regional initiatives on agriculture, environment, climate change and biosafety, which form the basis of multi-lateral agreements within the block.

---

[23] www.iucnrosa.org.zw
[24] SADC originally comprised 14 countries. Madagascar and Comoros have joined the block more recently
[25] Rwanda and Burundi were not EAC member states at the time the Protocol was negotiated and signed.
[26] www.eac.int/environment/natural-resources-management/protocol-on-enviornment-and-natural-resources-management