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SENEGAL

CHAPTER 21: SENEGAL

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21.1 Constitutional requirements for environmental protection in Senegal

The Constitution of the Republic of Senegal of 22 January 2001 has been modified several times over the years (notably in 2006, 2007 and 2008) culminating in Constitutional Law No. 2008-34 of 7 August 2008 which contains the revised Constitution. A further constitutional reform voted in March 2016 includes 15 points of modification related to the presidential mandate, the composition of the Constitutional council, democratic accountability and new civil rights.¹

Article 8 of the Constitution of the Republic of Senegal, 2001 (as amended) affords citizens the right (*inter alia*) to fundamental individual liberties, economic and social rights, as well as collective rights, including the freedom of association and expression, health and a healthy environment. These rights have not changed in subsequent versions of the Constitution.

The Constitution also provides for the establishment of an Economic and Social Council, which provides advice on economic, social and cultural heritage issues of interest to the different development sectors of the country. Any programme, plan or any draft law of an economic, social or environmental nature is submitted to it for an opinion. Its aim is to promote the harmonious collaboration between different sectors (Article 87-1). The Council comprises 80 councillors and 40 associated members drawn from all sectors.

21.2 Institutional and administrative structure for Environmental Impact Assessment (EIA) in Senegal

21.2.1 Ministry of Environment and Sustainable Development

The Ministry of Environment and Sustainable Development (MESD) was established by Decree No. 2014-880 of 21 July 2014 and re-stated in terms of Decree No. 2019-794 of 17 April 2019. Under the authority of the Prime Minister, the Minister of Environment and Sustainable Development prepares and implements policies relating to environmental monitoring, pollution control and protection of nature, fauna and flora. The Minister is responsible, subject to the powers devolved to local authorities, for:

- The protection of the environment and, as such, to take measures to prevent and fight against pollution of any kind which may jeopardize the living environment of the population and the quality of the environment
- The preservation of fauna and flora
- The protection of water courses against invasion by aquatic plants
- National parks and other protected areas. The MESD facilitates access to these spaces while ensuring a high degree of protection

¹ <http://www.icnl.org/research/monitor/Senegal.html>

- The protection of marine and coastal flora and protection of estuaries against marine erosion;
- The preparation and enforcement of hunting legislation and regulations
- The protection of endangered species
- The development of ecotourism
- The fight against desertification and bush fires
- The application of the policy on soil protection and regeneration
- Waste collection, treatment and management
- The development of environmental education
- Monitoring trends in climate change and changes in the state of the environment
- The promotion of the forest economy to ensure a rational use of the forest potential and the implementation of a reforestation policy
- The implementation of the water and soil conservation policy
- Sustainable aquaculture development (together with other relevant ministries)

The Minister also chairs the Permanent Secretariat of the National Commission for Sustainable Development (see s. 21.2.4).

21.2.2 Department of Environment and Classified Installations

There are six technical departments in MESD as shown in Figure 21.1. The responsibility for EIA lies with the EIA Division (EIAD) which falls under the Department of Environment and Classified Installations (known by its French acronym, DEEC).

However, in terms of Senegal's decentralisation policy, DEEC has regional divisions (DREECs), which are responsible for regional EIAs. They are also responsible for conducting the review procedure for initial environmental analyses (i.e. scoping studies). They also carry out environmental monitoring of the implementation of projects at regional level.

The main responsibilities of the EIA Division are:

- To review the terms of reference (ToR) for EIAs for projects and for Strategic Environmental Assessments (SEAs) for policies and programmes, and for environmental audits
- To evaluate the acceptability of EIAs
- To conduct follow up monitoring of the implementation of Environmental Management Plans (EMPs)
- To give technical advice on projects submitted to the Minister of Environment and Sustainable Development for a decision regarding the granting of an Environmental Compliance Certificate (ECC)
- Provide the secretariat for the Technical Committee for Environmental Assessments, public hearings and the Accreditation Commission

The EIA Division comprises three bureaux (see Figure 21.1):

- Bureau for studies and training on reports (including applications for certification of environmental assessment practitioners)
- Bureau responsible for review of EIAs
- Bureau for compliance monitoring (of EMPs)

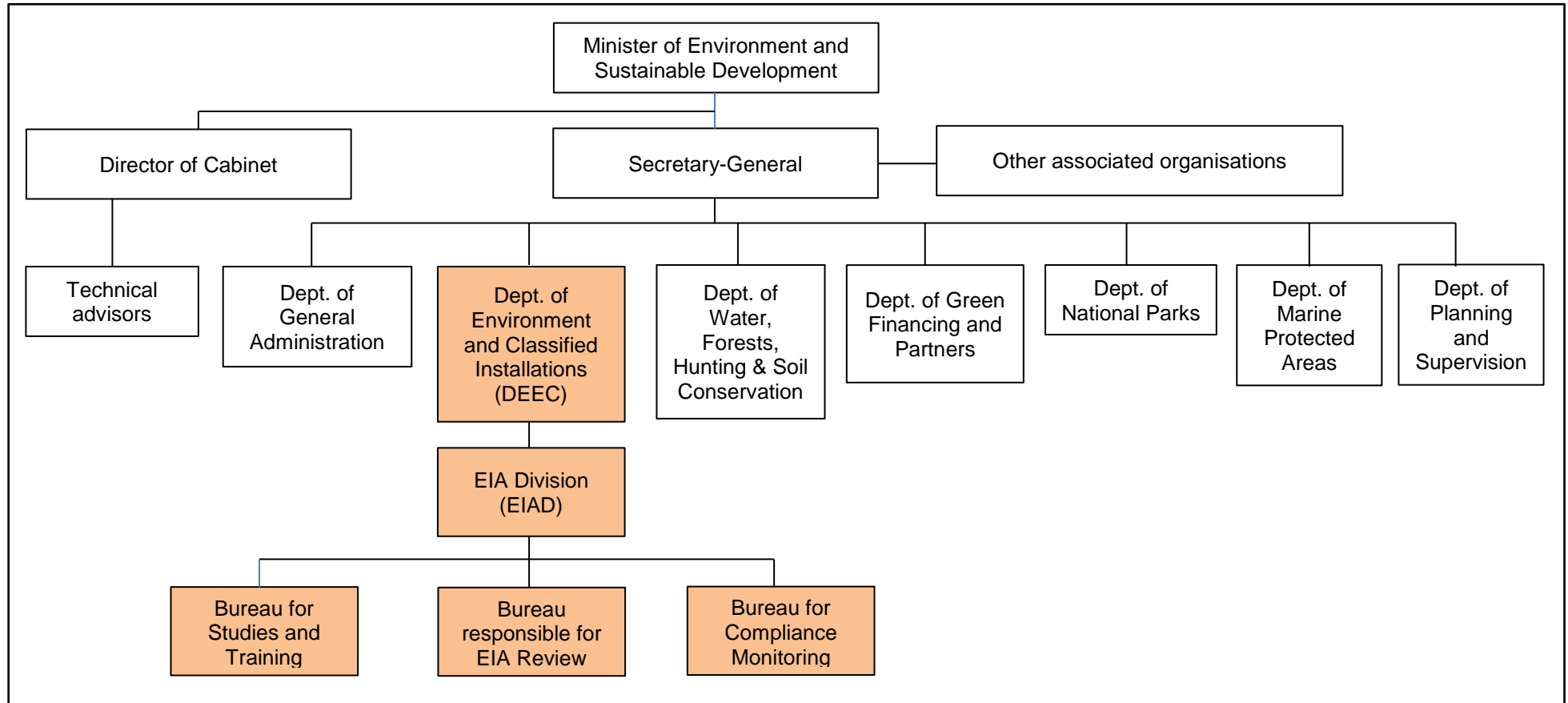


Figure 21.1: Organisational chart of the Ministry of Environment and Sustainable Development relating to EIA

21.2.3 Inter-ministerial Technical Committee

An inter-ministerial Technical Committee (TC) is convened by DEEC to review the EIA reports (see also s. 21.4.5). According to Ministerial Decree No. 9469 of 2001, the Technical Committee may be composed of the following ministries (as they may be relevant to the project under review): the Directors of Environment, Planning, Agriculture, Industry, Mines, Energy, Livestock, Urban Planning and Architecture, Institute of Environmental Sciences, Infrastructure Agency, Investment Promotion and Major Works, Trade, Water and Forests, Public Works, National Weather; Plant Protection, Hydraulics, National Parks, Tourism Promotion, Public Health, Spatial Planning. In addition the following representatives may also be invited to sit on the TC, depending on the nature of the project being reviewed:

- the Executive Secretary of the Council of Non-Governmental Organisations
- the President of the Senegalese Association of Impact Studies
- the President of the National Assembly (Commission for the Environment)
- the President of the Syndicate of Professionals of Industry of Senegal
- the President of the Association of Presidents of Rural Communities
- the President of the Association of Mayors of Senegal

In addition to the TC, the technical ministries responsible for the project or programme – for example, the ministries responsible for mines, energy and finance – are required to contribute their technical or economic comments or concerns prior to approval of a project or programme by MESD.

21.2.4 National Commission on Sustainable Development

The National Commission on Sustainable Development (NCSD) was established by Decree No. 5161 of 26 May 1995. The NCSD is responsible for defining the national strategy for sustainable development; develop a National Action Plan for Sustainable Development; monitor the implementation of Agenda 21 and the Johannesburg Plan of Implementation; submit to the United Nations Commission on Sustainable Development an annual report on the implementation of Agenda 21 and the Johannesburg Plan of Implementation; and to promote the exchange of experiences with other countries through sub-regional, regional and international cooperation. In spite of its existence, few projects have been subjected to an analysis of their contribution or impact on sustainable development.

21.3 Policy and legal framework for EIA

21.3.1 National Environmental Action Plan

As required under Agenda 21 of the Rio Conference, Senegal prepared its National Plan of Action for the Environment in 1997. This provides a framework for linking various sectoral policies with forest conservation and natural resources and coastal zone management.

21.3.2 Sustainable development policies

Senegal has developed a number of policies relating to sustainable development over the years. These include:

The Senegal Economic Growth Plan (Plan Sénégal Émergent). This plan provides a new development model to accelerate the country's progression towards economic growth and forms the basis for economic and social policy in the medium and long term (up to 2035). The ambition of the State of Senegal to foster economic growth with high impact on human development is based on the implementation of a major investment programme in sectors with growth potential, which would be able to stimulate strong and sustained growth.

National Strategy for Economic and Social Development 2013-2017 (Stratégie Nationale de Développement Economique et Sociale). This strategy constitutes the reference framework for the development of policies, sectoral development plans and investment programmes in Senegal. The strategy aims to ensure conditions for sustained and sustainable growth to significantly reduce poverty and achieve the Millennium Development Goals.²

The Strategic Document for Poverty Reduction (Document Stratégique de Réduction de la Pauvreté). This strategy is articulated around three goals: (i) creation of economic opportunities and wealth by the promotion of productive employment and structural transformation of the economy; (ii) acceleration of access to basic social services, social protection and sustainable development; (iii) strengthening basic principles of good governance and promotion of human rights.

Policy Paper for the Environment and Sustainable Development Sector 2016-2020.³ This environmental policy aims at sustainable economic and social development that is compatible with the rational management and use of natural resources and the environment. The policy seeks to mainstream environmental and sustainable development considerations in all activities generating goods and services. The environmental sector policy is implemented by MESD, and has resulted in several national action plans on desertification and conservation of biodiversity.

The National Sustainable Development Strategy, 2002 (as amended) is articulated around six key goals:

- Increasing the level of awareness and education of stakeholders on sustainable development
- The promotion of sustainable modes of production and consumption supported by the National Action Plan on Sustainable Modes of Production and Consumption (2007)
- The promotion of harmonious economic development
- The reinforcement of development cooperation at sub-regional, regional and international levels in matters relating to sustainable development
- The reinforcement of the principles and mechanisms of good governance to achieve sustainable development
- The reinforcement of measures required to contribute to the achievement of the (then) Millennium Development Goals

21.3.3 Climate change policies, plans and programmes

The National Strategy for Adaptation to Climate Change (NSACC) is part of the programme of activities that Senegal has developed since the 1992 Rio conference. The NSACC thus acts as a reference

² Note that the Millennium Development Goals have been superseded by the Sustainable Development Goals

³ Lettre de Politique du Secteur de l'Environnement et du Développement Durable (LPSEDD)

framework to which all stakeholders and institutions must refer, to ensure that their actions are integrated into the required adaptation strategies. The NSACC is defined in the National Adaptation Plan of Action (NAPA) for climate change drawn up in 2006.

The responsibility for climate change activities in the country lies with the DEEC through the National Climate Change Committee. This inter-ministerial Committee⁴ aims to contribute all necessary expertise for the implementation of the UNFCCC and its protocols in Senegal including the NAPA, and the Determination of National Contribution.

Senegal's NAPA identifies the priority sectors and projects of the Government of Senegal, focusing on areas most vulnerable to climate change:

- Restoration of mangrove swamps and reforestation
- Revitalisation of river networks and ecosystems
- Maintenance of balance between surface and groundwater use
- Increasing the accessibility and availability of irrigation infrastructure
- Improvement and diversity of agricultural practices, livelihoods
- Increasing food security
- Creation of community woodlands and securing energy production
- Improvement of water conservation and capture methods
- Physical protection against beach erosion and saline intrusion
- Establishment of early warning systems for flooding
- Increasing public awareness and education

The NAPA also highlights the importance of regional and international cooperation and the mainstreaming of climate change efforts into all relevant national ministries, institutions, and policies. In order to avoid duplication of efforts and maximise resources and results, improved national coordination among stakeholders addressing climate change issues is a priority.⁵

21.3.4 The Environment Code

There is no specific law on EIA, but environmental and social issues are taken into account under a general environmental law – the Environment Code, Law No. 2001-01 of 15 January 2001, which contains the national policy relating to environmental management and sustainable development. The Environmental Code and Policy address EIA, SEA, public consultation processes and environmental audits (Article L48). Particular emphasis is placed on public consultation with local communities.

The term 'environment' is defined in the Environment Code as being "*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.*" This definition explicitly includes the social dimension as being an integral part of the environment.

The Environment Code is based on fundamental principles important for the protection of the environment, including:

- Sustainable development and integrated planning
- Conservation of, and the sustainable utilisation of biodiversity

⁴ Comprises representatives from the ministries of agriculture, tourism, environment and education

⁵ https://www.climatelinks.org/sites/default/files/asset/document/senegal_adaptation_fact_sheet_jan2012.pdf

- The prevention and precautionary principles
- Public participation in decision-making
- Decentralisation of decision-making regarding the environment and the management of natural resources
- Cooperation between the State, civil society, local government, other relevant government ministries, non-governmental organisations (NGOs) and the public
- Capacity building at all levels
- Sub-regional and international cooperation

The Environment Code is set out under four Parts:

- Part I includes the definitions, fundamental principles of sustainable development and environmental protection tools (e.g. EIA and SEA)
- Part II relates to the control and prevention of pollution and disturbances
- Part III covers the protection and enhancement of the receiving environment (water, air, soil, noise)
- Part IV lists the sanctions for offences, both penal and administrative

Articles L48 to 54 of Part II set out the general principles regarding EIA, but the details on EIA methods and procedures are elaborated on in Regulations.

21.3.5 Regulations

Decree No. 2001-282, which implements the Environment Code, describes the administrative process of identification, evaluation and environmental impact management, as well as the initial assessment, scoping, impact assessment, EMP, compliance monitoring and enforcement stages of the process.

In addition, Ministerial Decrees (Nos. 9468-9472, all of 28 November 2001), provide more detail on various EIA procedures:

- Ministerial Order No. 9468, setting out regulations for public participation in environmental impact studies
- Ministerial Order No. 9469, setting out the organisation and functioning of the Technical Committee
- Ministerial Order No. 9470, setting out the conditions for issuing an Environmental Compliance Certificate
- Ministerial Order No. 9471, setting out the contents of the Terms of Reference for EIAs
- Ministerial Order No. 9472, setting out the content of the EIA report

The detailed EIA process elaborated in these regulations is described in s. 21.4.

21.3.6 Permits and licences

In order to proceed with an activity listed in the Environment Code, an applicant must submit an EIA and obtain approval before an **Environmental Certificate of Compliance (ECC)** is granted (Articles L48 and L50).

In addition to the ECC, proponents are required to obtain the licences and permits for development from the relevant sector ministries e.g. mining, petroleum, energy, etc.

21.3.7 Offences and penalties

According to Article L 94 of the Environment Code, any person having:

- carried out a project referred to in Article L50 without an impact study;
- carried out a project that does not comply with the criteria, standards and measures set out in the impact study;
- not complied with the environmental mitigation measures provided for in the Act;

will be punished with a fine of 2,000,000 to 5,000,000 CFA and a sentence of six months to two years in prison or one of these two penalties.

In case of non-compliance with the measures prescribed in the EMP, the DEEC may withdraw the Environmental Compliance Certificate from the proponent. The withdrawal of this certificate leads to the automatic suspension of the project.

21.3.8 Fees

According to Article L49 of the Environment Code, the costs relating to the review of environmental assessments are borne by the proponent. For each review step, the DEEC sends a detailed budget to the proponent for the fees associated therewith (ToR review, EIA review report, follow-up mission etc.).⁶ Readers are advised to consult DEEC for the latest fees.

21.3.9 Guidelines

There are several guidelines on specific aspects of EIA including:

- A Donor's Guide for Economic impact Assessment;
- Guidelines on Health Impacts;
- National Guideline on Gender;
- National Guideline on including Natural and Man-induced Catastrophes;
- National Guideline on Biodiversity;
- National Strategic Guidance Document on the Green Economy.

21.3.10 Environmental standards

Management of waste water and effluent is governed by Senegalese Standard NS 05-061 of July 2001, which sets the limits for the discharge of waste water into the receiving environment in Appendix 2 as shown in Table 21.1, below.

Table 21.1: Limit values for the discharge of effluent

Component	Limits (mg/l)
Total suspended solids	50 mg/l
Biological Oxygen Demand (on non-unloaded effluent)	80 mg/l if the maximum authorised daily flow does not exceed 30 kg/d; 40 mg/l above 30kg/d
Chemical Oxygen Demand (on non-unloaded effluent)	200 mg/l if the maximum authorised daily flow does not exceed 100 kg/d; 100 mg/l above 100 kg/d
Total nitrogen	30 mg/l as average monthly concentration when the maximum daily flow is equal to or over 50 kg/day.

⁶ Netherlands Commission for Environmental Assessment

Component	Limits (mg/l)
Total phosphorous	10 mg/l as average monthly concentration when the maximum authorised daily flow is equal to or over 15 kg/day.

Source: Senegalese standard NS 05-061

Article L76 of the Environment Code stipulates that air pollution or odours “are unpleasant for populations, compromise public health or safety risks, are harmful to agricultural production, the conservation of buildings and monuments or to the character of natural sites and ecosystems.” Decree 2001-282 covering the application of the Environment Code defines the general provisions on air pollution, with the main objective being to reduce air pollution from gas emissions and requires pre-treatment of all gas emissions prior to discharge. It also sets out and specifies the terms of collecting the annual tax that has to be paid by industries that emit gas. Senegalese Standard NS 05-062 of December 2004 sets out the emission limits for engines using heavy fuel oil (Table 21.2).

Table 21.2: Atmospheric emission limit values for stationery combustion engines running on heavy fuel oil

Parameter	Limit value
Carbon monoxide as CO	650 mg/Nm ³
Nitrogen oxide as NO _x	2000 mg/Nm ³
Sulphur dioxide as SO ₂	2 000 mg/Nm ³
Dust	100 mg/Nm ³

Source: Senegalese Standard NS 05-062 – Atmospheric pollution, discharge standards

The pollutant concentration limit values in ambient air are also presented in Senegalese Standard NS 05-062 (Table 21.3).

Table 21.3: Limit values for concentrations in ambient air

Parameter	Limit value
Carbon monoxide as CO	30 mg/Nm ³ (average over 24h, must not be exceeded more than once a year)
Nitrogen dioxide as NO ₂	200 µg/Nm ³ (hourly average) 40 µg/Nm ³ (annual average)
Sulphur dioxide as SO ₂	50 µg/Nm ³ (annual average) 125 µg/Nm ³ (daily average)
Dust	80 µg/Nm ³ (annual average) 260 µg/Nm ³ (average over 24h, must not be exceeded more than once a year)

Source: Senegalese Standard NS 05-062 – Atmospheric pollution, discharge standards

According to Article L84 of the Environment Code, “noise emissions likely to cause human health impacts, create excessive disturbance to neighbours or have a negative effect on the environment are

forbidden." Limit values relating to human health (measured at the nearest dwelling) are defined in Decree 2001-282 as being:

Daytime: 55 – 60 dB(A)

Night time: 40 dB(A)

Workplace: 85 dB(A) (after which Personal Protective Equipment must be used).

In the absence of any other national environmental standards e.g. for drinking water quality, reference must be made to those defined by the World Bank/International Finance Corporation and the World Health Organisation.

21.3.11 Certification of consultants

Article R42 of Decree No. 2001-282 implementing the Environment Code states that *"To guarantee the quality of environmental assessments and to ensure independence of thought, action and judgment, consulting firms are authorised to carry out studies of environmental impact."* Further to this, Ministerial Decision 9470 of 2001 sets out the criteria for the certification of consultants who conduct environmental impact studies. Certification is valid for a duration of five years and renewable based on certain performance criteria. A list of accredited EAPs is published on the EIAD website.⁷

The performance of environmental consultants is evaluated by the EIAD through the submission of an annual activity report. When a consultant has more than two rejected studies, their approval is withdrawn in accordance with the Ministerial Decision 9470 of 2001.

Government officials who review and approve EIAs do not have to be certified.

21.4 EIA procedural framework in Senegal

21.4.1 Screening

To initiate the process, the applicant must submit a project notice to the DEEC (Figure 21.2) containing the following information:

- A description of the project and its main components;
- A description of the different installations specifying the maximum daily capacities of finished products, the maximum storage of raw materials and other inputs;
- The size of the installation;
- A description of the project location and the proposed site;
- The exact delimitation of the project's zone of influence, indicating its position in relation to human settlements and other potential receptors, and a description of the land use around the site over a radius of 500 m as per the provisions of the Environmental Code (Article L13); and
- The legal status regarding the ownership or use of the site.

After submission of the project notice, the DEEC organises a visit to the project site with some members of the Technical Committee. This visit allows the authorities to identify all the sensitive issues on the site and in the surrounding area in order to decide on the type of study to be carried out. According to

⁷ www.denv.gouv.sn

the Environment Code, plants, factories, stores, warehouses, depots, worksites and industrial, artisanal or commercial installations are subject to EIA based on their classification (as set out in Annexes 1 and 2 of Decree 2001-282). Activities are divided into two classes:

- Class 1 includes those activities which present a serious danger or disturbance to the environment. These activities cannot proceed with construction or implementation without the authorisation of the Minister of MESD (Article L11). This authorisation is obligatory for any development within 500 m of dwellings, buildings habitually occupied by third parties, establishments open to the public and areas intended for use by housing, water courses, lakes, communication links, water catchments (Article L13). Class 1 activities are listed in Annex 1 of Decree No. 2001-282 and in Appendix 21-1 of this Chapter.
- Class 2 includes those activities which do not present significant disturbance to the environment (Article L11). Proponents of activities listed in Class 2 must submit a declaration to the Minister who will issue a receipt setting out the conditions allowing the project to proceed (Figure 21.2). Class 2 activities are listed in Annex 2 of Decree No. 2001-282 and in Appendix 21-2 of this Chapter.

On the basis of the project notice and the site visit, DEEC will also determine the the type of environmental study to be undertaken:

- An Initial Environmental Analysis (IEA)
- An EIA for those Class 1 projects which may have a significant impact on the environment
- A regulatory compliance audit for those activities which have not had a previous EIA
- An SEA for policies, plans and programmes⁸

The DEEC has a maximum of 15 days to determine the type of study required for the project

21.4.2 Initial Environmental Analysis

The Initial Environmental Analysis (IEA) comprises the completion of a form provided on the DEEC website (www.denv.gouv.sn). The information required to complete this form is as follows:

- General contact information for the proponent and his/her environmental assessment practitioner or EIA consulting company
- Reason for the application e.g. new installation, expansion, modification, etc.
- Current land use at the proposed site
- Project description, including the type of project, motivation of the activity, location and reasons for the choice of the site, inputs and outputs, implementation programme, off-site ancillary structures
- Location of the project in relation to adjacent land uses/users
- Description of the physical, biological and social environments which might be susceptible to impacts from the project, as well as any environmental constraints
- Detailed quantification of project inputs and outputs including hazardous materials, water, wastes, point and non-point sources of emissions to the atmosphere, noise, etc.
- Applicable legal requirements in terms of other laws and regulations

⁸ www.denv.gouv.sn

- Results of the public consultation programme including a summary of comments and recommendations
- A detailed EMP
- Annexures containing information such as maps, plans and drawings, the ToR for the study, lists of stakeholders, etc.

The IEA form must be signed by both the proponent and the environmental assessment practitioner who compiled the report. The IEA stage is comparable to the scoping phase in the international context.

21.4.3 Terms of Reference

The contents of the Terms of Reference (ToR) are set out in Article 1 of the Ministerial Order No. 9471 MJEHP-DEEC of 28 November 2001. The ToR for all environmental impact studies must ensure that the following aspects are addressed in the EIA report:

- A description of the baseline environment in which the project will be implemented, focussing on the potential sensitive factors and cumulative effects
- An evaluation of the impacts that the abstraction and use of proposed project inputs e.g. water, energy, raw materials, etc. will have on the environment
- An analysis of the impacts of the project on local communities, specifically those issues relating to children, women and men, in relation to their use of natural resources (air, water, soil, fauna and flora) and their health and cultural heritage
- An evaluation of the proposed measures for the discharge of waste water and effluent, solid wastes and the reduction of emissions

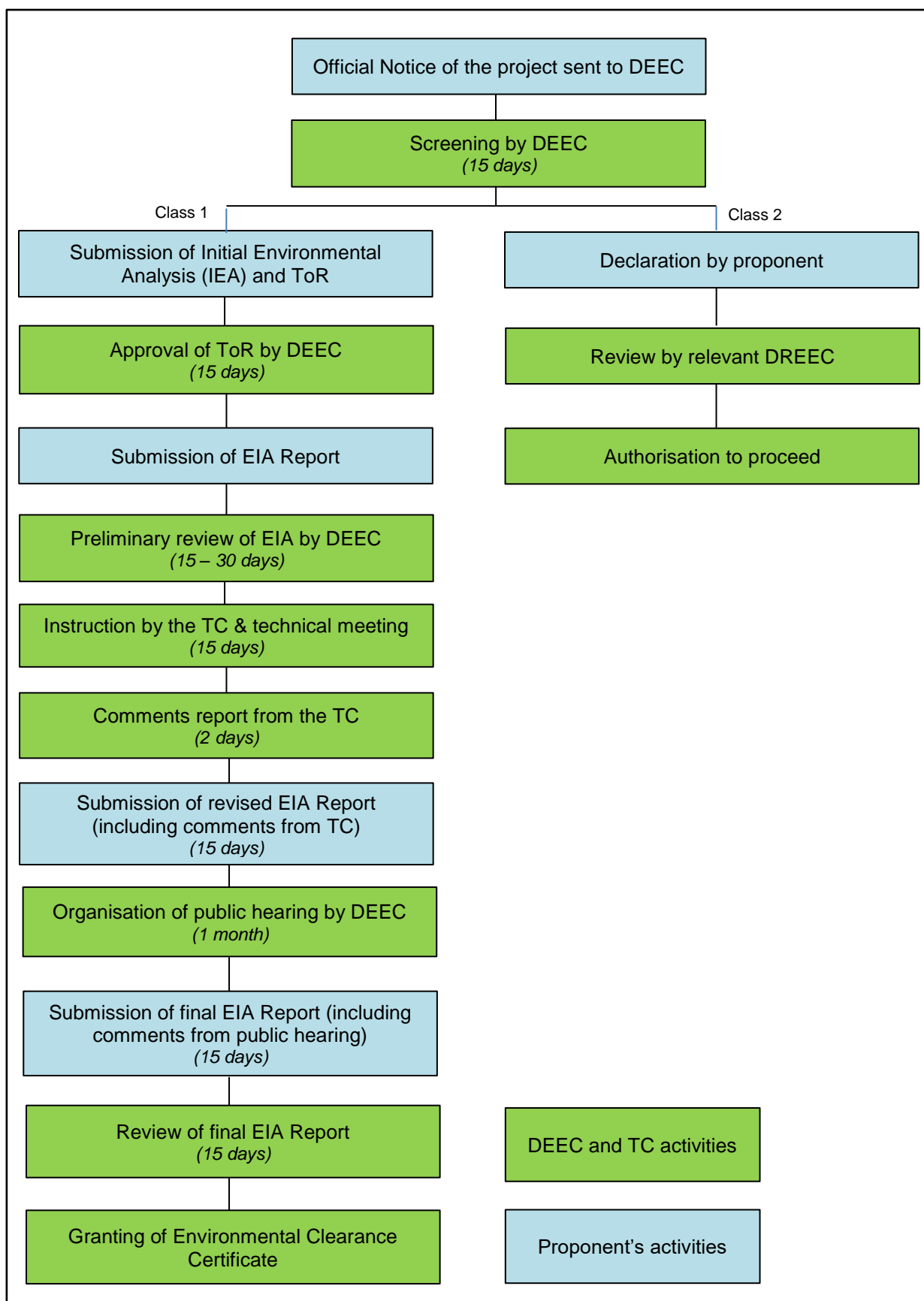


Figure 21.2: EIA Procedure (adopted from ERM, 2015)

- The identification of positive and negative impacts on the environment
- An analysis of the opportunities to enhance benefits to the environment
- Presentation of the legal and institutional framework, including environmental standards and procedures required to obtain the relevant licences
- An assessment of the effects that price setting provisions, taxes and subsidies could have on the environment
- The methodology to be used to conduct the impact assessment
- An assessment of project alternatives including an estimation of the consequences of the no-project alternative for the environment
- A description of proposed mitigation measures or alternative project designs to mitigate adverse impacts on the environment, with proposals for impact management activities with an estimated cost, timeframe and responsibility structure for carrying out the required actions
- A comparative analysis of project alternatives and their mitigation measures in terms of: their chances of eliminating adverse effects; capital expenditures and recurrent expenditures associated with them; and their relevance in the context of local circumstances and the demands on institutional capacity, training and monitoring
- A list of the measures required to protect and/or resettle affected communities, with an indication of their reactions to the proposals
- A non-technical summary on the main recommendations of the report

Article 2 allows DEEC, together with technical advisors to request additional specific aspects to be included in the ToR. The DEEC has 15 days to respond to the ToRs.

21.4.4 Environmental Impact Assessment

According to Ministerial Decree No. 9472 de 2001, the EIA report must contain at least the following:

- A title page
- A non-technical summary of the information provided including the main findings and recommendations of the study
- A table of contents
- Lists of tables, figures and appendices
- An introduction
- A complete description of the project including a justification for the project and the selected site, objectives and expected results, determination of the geographical limits of the project area, methods, facilities, products and other processing options
- An analysis of the baseline state of the site and its environment
- A summary of the legal framework of the study
- Description, comparison and analysis of feasible project alternatives, together with a justification for the choice of the preferred option and a description of the selected alternative
- An assessment of the probable impacts that the project is likely to generate at the end of operations
- An analysis of the risk of technological accidents

- An identification and description of the preventive measures of control, suppression, mitigation and compensation of negative impacts
- An EMP and monitoring framework for each phase of the project
- A general conclusion which focuses on the main measures to be taken to limit or eliminate the most significant negative impacts and indicate the confidence levels in the results obtained
- Annexes

24.4.5 Review of Environmental Impact Assessment

The Inter-ministerial Technical Committee (TC), set up and chaired by DEEC, is the authority that reviews, approves or rejects EIA reports (see s. 21.2.3). The Ministry responsible for the Environment is the authority empowered to grant the ECC based on the findings of the TC, however there is no legal requirement to justify or make public the decision and the reasons for the acceptance or refusal to issue an ECC. However a report of the TC meeting is drawn up and sent to the proponent as well as to the members of the TC. The proponent has 15 days to process the TC's comment prior to the public hearing (Figure 21.2).

The TC assesses the quality of the EIA report and the compliance of the report and the process with the terms of reference. The reviews are mainly based on national standards and official guides, but also on the standards and guidelines used by international organisations such as the World Bank, IFC, OECD and others.

In addition, environmental legislation in Senegal provides for an external review and independent studies. These external interventions can occur at the preliminary assessment, scoping, evaluation of EA report and EMP stages.

21.4.6 Public consultation and hearings

The Environment Code provides the authority for the participation of the public during all stages of the EIA (Article 2). Ministerial Order No. 9468 MJEHP-DEEC gives effect to this requirement by setting out the regulations relating to public hearing process. The overall process to be followed includes:

- Announcement of the project by posting notices at the relevant town hall and/or communicating through the media (newspapers or radio)
- Placing environmental impact reports at the relevant town hall
- Holding a public hearing. The public hearing must take place on site no later than fifteen days after the internal review of the EIA report
- Collation of all written and verbal comments
- Conducting negotiations when needed
- Writing a report on the process

The TC must inform the relevant stakeholders about the forthcoming environmental impact study (by posting notices, issuing press releases, etc.), provide access to technical information and invite them to express opinions and highlight aspects that should be considered in the decision-making process (Article 3 of Order No. 9468).

The public hearing is the responsibility of the proponent and involves the Technical Committee, the host community where the project is being proposed and the developer. The implementing rules of the hearing must be mutually agreed by the various parties involved (Article 4 of Order No. 9468).

The TC must also, upon receipt of the impact study reports, place a copy of the report in the affected community, which has 10 days to submit its written comments (Article 5).

According to Article 7, the public hearings must be chaired by the relevant technical ministry of the proposed project and a member of the local community will be the Vice-Chairperson. The DEEC provides the secretariat. The purpose of this hearing is to present a synthesis of the EIA report, and to collect the views, comments and amendments from local stakeholders.

21.4.7 Decision-making

Following this consultation, a public hearing report will be prepared by the secretariat of the TC within one week. The proponent will have two weeks to integrate public concerns into the EIA and submit an updated report to the TC (Figure 21.2). On the basis of the finalised EIA Report which integrates the findings from the public hearing, the TC will prepare the decision for the Minister of MESD which will be conveyed to the proponent within a period of fifteen days.

The decision on the EIA report is the subject of a ministerial decree which is published in the Official Journal. A presentation note summarising the conclusions of the TC meeting and the public hearing is attached to the order, which constitutes a justification for the decision.

21.4.8 Appeals

There are no provisions for an appeal against the decisions taken by the Minister or the TC in the Environment Code or related regulations.

21.4.9 Environmental monitoring

While the proponent must implement the measures contained in the EMP (of the approved EIA report), the EIAD is responsible for monitoring the implementation of such plans. In addition, the proponent must submit environmental monitoring reports to DEEC every semester. Upon receipt of these monitoring reports, DEEC conducts environmental monitoring missions to verify the level of compliance of activities with the approved EMP. Environmental monitoring reports are prepared after each mission by the DEEC.

21.4.10 Strategic Environmental Assessment

Article L48 of the Environment Code states that an SEA should be undertaken before any decisions are taken regarding policies, plans, programmes and their alternatives, as well as regional and sectoral studies. However, to date there are no regulations or guidelines to elaborate on the administrative process to be followed or the content of the SEA report.

21.4.11 Trans-boundary impacts

Senegal is situated on the coast of West Africa. The Atlantic Ocean lies to the west, Mauritania to the north and Mali lies to the east. Guinea Bissau and Guinea form the southern border. Senegal

completely surrounds The Gambia. Article L 48 of the Environment Code requires that the authorities of any neighbouring countries which may be adversely affected by the proposed activity must be informed and consulted. Article R39 of Decree 2001-282 further states that one of the aspects to be considered in the EIA is the impact of the project on neighbouring countries when relevant.

21.5 Other relevant environmental legislation in Senegal

Aspects of environmental management are covered in many different laws and regulations in Senegal; the main laws relevant to EIAs are shown in Table 21.4 below.

Table 21.4: Other potentially applicable sectoral requirements

Sector	Primary agency	Title and date of document	Purpose
Water and sanitation	MESD: Department of Water, Forests, Hunting and Soil Conservation	Water Code, Law No. 81-13 of 4 March 1981 Environmental Code Part III	Contains the fundamental principles for the good management of water especially with regards to sanitation and the battle against pollution. It sets out the various provisions used to combat water pollution whilst reconciling requirements linked notably to the drinking water supply and public health, agriculture, the biological life of the receptor milieu and of fish life, health protection and water conservation. Water is also recognised as a public resource and thus requires good planning to ensure the equitable distribution between different users for their needs.
	Ministry of Water and Sanitation Ministry of Health and Social Action Water Senegal National Water Company of Senegal	Sanitation Code, Law No. 2009-24 of 8 July 2009 Decree on the Application of the Sanitation Code, No. 2011-245	It recognises that one of the main ways to reduce poverty is to provide access to basic social services such as education, improvement of quality of life, and inter alia, sanitation. The Code defines the terms relating to sewage, wastewater and so on and sets out the provisions relating to the development and adoption of water and sewage master plans at urban and rural levels. It also lays down provisions relating to the direct and indirect discharge of effluents from diverse sources e.g. domestic users, hospitals and industry. It also covers health and safety at the workplace.
Waste and emissions	Local authorities Ministry of Water and Sanitation	Decree No. 74-338 of 10 April 1974	Regulates the discharge and disposal of waste. Focusses on the definition of waste, its collection and disposal
		Law No. 96-07 of 22 March 1996	Transfers all jurisdiction regarding waste management to local authorities.
		Decree No. 2008-1007 of 18 August 2008	Deals with the disposal of biomedical waste, which must be sorted, packaged and disposed in a facility approved by the Minister.
		Action Plan for Hazardous Wastes	
		Action Plan for the Protection of the Ozone Layer	

Sector	Primary agency	Title and date of document	Purpose
		Inter-ministerial Order No. 009311 of 5 October 2007	Regarding the management of used oil
		Master Plan for liquid waste treatment for the Dakar region	This plan sets out the major guidelines in terms of waste treatment in the Dakar region until 2025, and defines the responsibilities of the National Waste Treatment Office
	MESD	Environment Code: Part III	Protection of the environment from pollution including liquid, solid and gaseous wastes
Agriculture	Ministry of Agriculture and Rural Development Ministry of Livestock and Animal Production	Agro-Sylvo-Pastoral Orientation Law, 2004	Constitutes the legal framework for the development of agriculture in Senegal for the next 20 years. The adoption of this law resulted in the formulation of several operational programmes such as: the National Agricultural Development Programme, the National Livestock Plan and the Grand Agricultural Offensive for Food and Abundance.
Fisheries	Ministry of Fisheries and Marine Economy	Sea Fisheries Code, Law No. 2015-18 of 13 July 2015	Includes new provisions (from the previous Law No. 98-32) especially relating to illegal, unreported and unregulated fishing, the co-management of fisheries, the tightening of sanctions, the strengthening of fisheries management plans, the precautionary principle and the participatory approach.
Forestry	MESD: Department of Water, Forests, Hunting and Soil Conservation	Forestry Code, Law No. 98-03 of 8 January 1998 Decree No. 98-164 of 20 February 1998 Forestry Action Plan	Provides for the legal framework for the involvement of local communities and local government in the rational management of natural resources in general and forest resources in particular. It makes reforestation a mandatory activity. Stipulates that any land clearance must be approved by the local authorities and that permission will only be granted on submission of a dossier containing a report from the Authority responsible for water and forestry, an impact study and an evaluation of the cost to restore the area. Provides lists of protected species of flora.
Hunting	MESD: Department of Water, Forests, Hunting and Soil Conservation	Code on Hunting and the Protection of Fauna, Law No. 86-04 of 1986 Decree 86-844	Relates to the permitting of hunting, registration of hunting guides, management of the hunting industry, illegal hunting, infractions and penalties.
Tourism	Ministry of Tourism and Air Transport	Tourist Code (in preparation)	
Mining	Ministry of Mines and Geology	Mining Code, Law No. 2003-36 of 24 November 2003	Includes amongst other provisions, the obligation of the proponent to rehabilitate exploration sites; allows for the strengthening of the control of monitoring activities and aligns the Mining Social Programme with the Local Development Support Fund.
Energy	Ministry of Petroleum and Energy	Law No. 98-29 of 14 April 1998 and Decree No. 98-334	Created the institutional and regulatory framework to attract private investment in the electricity sector
	Agency for Rural Electrification	Law No. 2010-22 of 15 December 2010	Relates to the orientation of the biofuels sector with the aim to create favourable conditions for the development of the sector. Covers all aspects

Sector	Primary agency	Title and date of document	Purpose
	Commission for the Regulation of the Electricity Sector National Agency for Renewable Energy National Hydrocarbons Committee		of production, processing, storage, transport, marketing and distribution.
		Law on Renewable Energy, 2010-21 of 20 December 2010	Creates the legal framework for the sustainable development of the renewable energy sector and thus reduce the country's dependence on fossil fuels
		Petroleum Code, Law No 2019-03 of 1 February, 2019	Replaces the 1998 Petroleum Code and sets out the legal framework applicable to petroleum operations in Senegal including: prospecting, exploration, development, production, storage, marketing and the liquefaction of natural gas.
		The Development Policy for the Energy Sector	This aims, amongst other things, to reach by 2012 average electrification rates of 75% at national level, 50% in rural communities and 95% in urban communities, as well as a rate of commercial energy independence of at least 20% by 2020 (compared with 4% in 2004) thanks to the contribution of biofuels, hydroelectricity and renewable energies.
Coasts		The National Integrated Strategy for the Protection and Fight against Coastal Erosion	Provides an integrated vision of the protection of the Senegalese coastline
Land planning	Ministry of Urban Planning, Housing and Public Hygiene Ministry of Local Government and Spatial Planning	Urban Planning Code, Law No. 2008-43 of 20 August 2008 Decree No. 91-748 of 29 July 1991	Defines building standards and zoning requirements. Provides for the decentralisation of decision-making to the regions and local government, for example, the approval of land use development plans must be done by the Regions and approval of urban master plans is the responsibility of municipalities or rural communities. Building permits are issued by the respective mayors or presidents of local councils.
		Law No. 64-46 of 17 June 1964	Reinforces the State's right to be the guardian of all land and grants the State the authority to intervene in government development project in order to guarantee rational land use and priorities. Created 4 categories of land: rural; classified; urban; and pioneer
		Law No. 76-66 of 2 July 1976	Divides land into public and private domains
		Law No. 76-67, and Decree No. 77-563 of 3 July 1977	Relates to the expropriation of land for public use
		National Plan for Territorial Planning	Aims, in the medium and long terms, at optimal exploitation of resources and potential resources, decentralisation and the search for a better balance between the regions, in order to make achievements irreversible.
Construction and building	Ministry of Urban Planning, Housing and Public Hygiene Ministry of Infrastructure, Land Transport and Railway Expansion	Construction Code, Law No. 2009-23 of 8 July 2009 Decree No. 2010-99 of 27 January 2010	Relates to the supervision of the construction sector to ensure that works are carried out to an acceptable quality and safety

Sector	Primary agency	Title and date of document	Purpose
Roads	Ministry of Infrastructure, Land Transport and Railway Expansion	Road Code, Law No. 2002-30 of 24 December 2002 Decree No. 2004-13 of 19 January 2004	Regulates the use of motor vehicles on public roads
Health	Ministry of Health and Social Action	Hygiene Code, Law No. 83-71 of 5 July 1983	Provides for the control of all aspects of health
Employment and labour	Ministry of Labour, Social Dialogue and Institutional Relationships	Labour Code, Law No. 97-17 of 1 December 1997	Relates to the rights and obligations of the employer, employees, unions and protected employees (e.g. disabled workers). The text also deals with health and safety in the workplace and identifies the measures required to ensure safe and healthy working conditions.
		Decrees 1249 to 1261 of 15 November 2006	These 11 decrees set out details relating to a range of health and safety aspects at the workplace
		Decree 63-00118/MPF/DTSS of 18 February 1963	Sets out the forms and methods of drawing up labour contracts
Gender	Ministry of Women, Family, Gender and Child Protection	Law on Parity, 2010 Constitution	Obliges all political parties to place women and men in an alternating manner on candidate lists in order to achieve a 50:50 ratio of women to men in Parliament The Constitution guarantees the right of equality for men and women

Appendix 21-1: List of projects and programmes for which an EIA is mandatory (Annex 1)

- 1 Projects and programmes which could have a significant changes on the exploitation of renewable resources;
- 2 Projects and programmes which could have a significant impact on agricultural and fishing practices;
- 3 Exploitation of water resources;
- 4 Infrastructure works;
- 5 Industrial activities;
- 6 Mining and extractive industries;
- 7 The production from, or expansion to, thermal or hydro-electric energy plants;
- 8 Waste disposal;
- 9 The manufacture, transport, storage and use of pesticides or other dangerous or toxic substances;
- 10 Large hospitals and teaching establishments;
- 11 New construction of, or significant upgrades to the road network;
- 12 Projects proposed in ecologically sensitive areas and in protected areas;
- 13 Projects which pose a risk of harmful impacts on threatened and endangered species of flora and fauna, their critical habitats or which could have predictable consequences on biological diversity;
- 14 Resettlement schemes (displacement and resettlement).

Appendix 21-2: List of projects and programmes which require an Initial Environmental Analysis (Annex 2)

- 1 Small and medium agro-industries;
- 2 Rehabilitation or modification of existing industrial installations on a small scale;
- 3 Electricity transmission lines;
- 4 Irrigation and drainage on a small scale;
- 5 Renewable energy (except for hydro-electric dams);
- 6 Rural electrification;
- 7 Housing and commercial projects;
- 8 Rehabilitation or maintenance of the national road network;
- 9 Tourism;
- 10 Rural and urban water supply and sanitation schemes;
- 11 Recycling plants and household waste disposal units;
- 12 Irrigation projects of 100 to 500 ha in size using surface water, or 200 to 1,000 ha in size using groundwater;
- 13 Intensive livestock farming (more than 50 head of cattle and more than 500 birds);
- 14 Extraction and treatment of non-metallic minerals or extraction of aggregates (marble, sand, gravel, schist, salt, potash and phosphate);
- 15 Development of protected areas and conservation of biodiversity;
- 16 Energy efficiency and energy conservation schemes.

Acronyms

CFA	West African Franc
DEEC	Department of Environment and Classified Installations (Direction de l'Environnement et des Établissements Classés)
DREEC	Regional Department of Environment and Classified Installations
ECC	Environmental Compliance Certificate
EIA	Environmental Impact Assessment
EIAD	Environmental Assessment Division
EMP	Environmental Management Plan
IEA	Initial Environmental Analysis
IFC	International Finance Corporation
NAPA	National Adaptation Plan of Action
NCSD	National Commission for Sustainable Development
NEAP	National Environmental Action Plan
NSACC	National Strategy for Adaptation to Climate Change
SEA	Strategic Environmental Assessment
TC	Technical Committee
ToR	Terms of Reference
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change

Useful contacts

Department	Ministry	Telephone	Website
DEEC	Ministry of Environment and Sustainable Development	00-221-33-826-0117	www.denv.gouv.sn