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BURUNDI

CHAPTER 5: BURUNDI

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5 BURUNDI

5.1 Constitutional requirements for environmental protection in Burundi

The 2005 Constitution of Burundi¹ refers to environmental protection and management in three provisions (articles 35, 159.4, and 293). It states that:

- (i) the government ensures the good management and the rational exploitation of natural resources of the country, while preserving the environment and the conservation of these resources for future generations;
- (ii) the citizens of Burundi enjoy a right to a clean and healthful environment; and
- (iii) protection of the environment and conservation of natural resources shall be subject to specific laws.

A very specific provision in article 293 states that toxic waste and other substances that are harmful to public health and the environment cannot be stored in the territory of Burundi and no international agreement could authorise such storage. This provision is consistent with Burundi's participation in the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and in the 1991 Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa.²

Although a Referendum on changing the 2005 Constitution was held on 17 May 2018 and the proposals were accepted by popular vote, the changes did not affect the environmental rights set out above.

5.2 Institutional and administrative structure for environmental impact assessment in Burundi

5.2.1 Ministry of Environment, Agriculture and Livestock

Until 2018, environmental issues fell under the mandate of the Ministry of Water, Environment, Land Use Planning and Urban Development (known by its French acronym, MEEATU). The mandate, organisation and functioning of MEEATU was contained in Decree No. 100-198 of 15 September 2014 (amending a previous Decree No. 100-95 of 2011). However, a re-organisation of ministries in 2018 resulted in the 'environment' now being part of the Ministry of Environment, Agriculture and Livestock (MINEAGRIE). The new ministry has six Directorates as shown in Figure 5.1:

¹ Constitution of the Republic of Burundi promulgated by Law No. 1/010, March 18, 2005.

² World Bank (WB) Country Environmental Assessment (CEA), 2017

- Environment, Agriculture and Livestock Farming Planning;
- Self-development and Agricultural Extension;
- Agriculture;
- Livestock farming;
- Environment, Water Resources and Sanitation;
- Resources.

The previous ministry, MEEATU, was mandated to administer and regulate environmental management and protection matters. It had multifaceted mandates, including the development and implementation of national policies, laws, and regulations in the fields of water, environment, land management, and urbanisation.³ It is assumed that the mandates relating to water and the environment have been transferred to the new Directorate of Environment, Water Resources and Sanitation in MINEAGRIE.

Burundi is faced with many institutional challenges such as a lack of financial and qualified human resources, which compromise its ability to enforce environmental laws. The threat encountered by Burundi's environment and natural resources stems in large part from the state's lack of capacity to implement comprehensive sustainable environment and natural resource management programmes.⁴

5.2.2 Burundi Office for Environmental Protection

The Burundi Office for Environmental Protection (known by its French acronym, OBPE) took over the National Institute for the Environment and Nature Conservation when it was established by Decree No. 100-240 of 29 October, 2014. It used to fall under MEEATU, but has been incorporated into the new ministry (MINEAGRIE), reporting to the Minister (see Figure 5.1). OBPE has a broad mandate:

- Enforcing all environment protection–related legislation (water, forests, pollution control);
- Following up on, and monitoring trade mechanisms and international trade in flora and fauna;
- Establishing environmental standards and norms including safeguards for the protection of nature;
- Monitoring and evaluating development programmes and their consistency and compliance with environmental standards during the planning and implementation phases, including development projects that may have a negative impact on the environment;
- Ensuring and monitoring the implementation of government's obligations under international conventions and agreements relating to the environment to which Burundi is a party;
- Identifying and proposing protected areas and other areas of high biodiversity requiring special protection;
- Undertaking and encouraging research and accompanying measures for the maintenance of biological diversity; and
- Establishing mechanisms for mitigation and adaptation to climate change.

³ www.eia.nl/en/countries/burundi/eia-profile

⁴ WB CEA, 2017

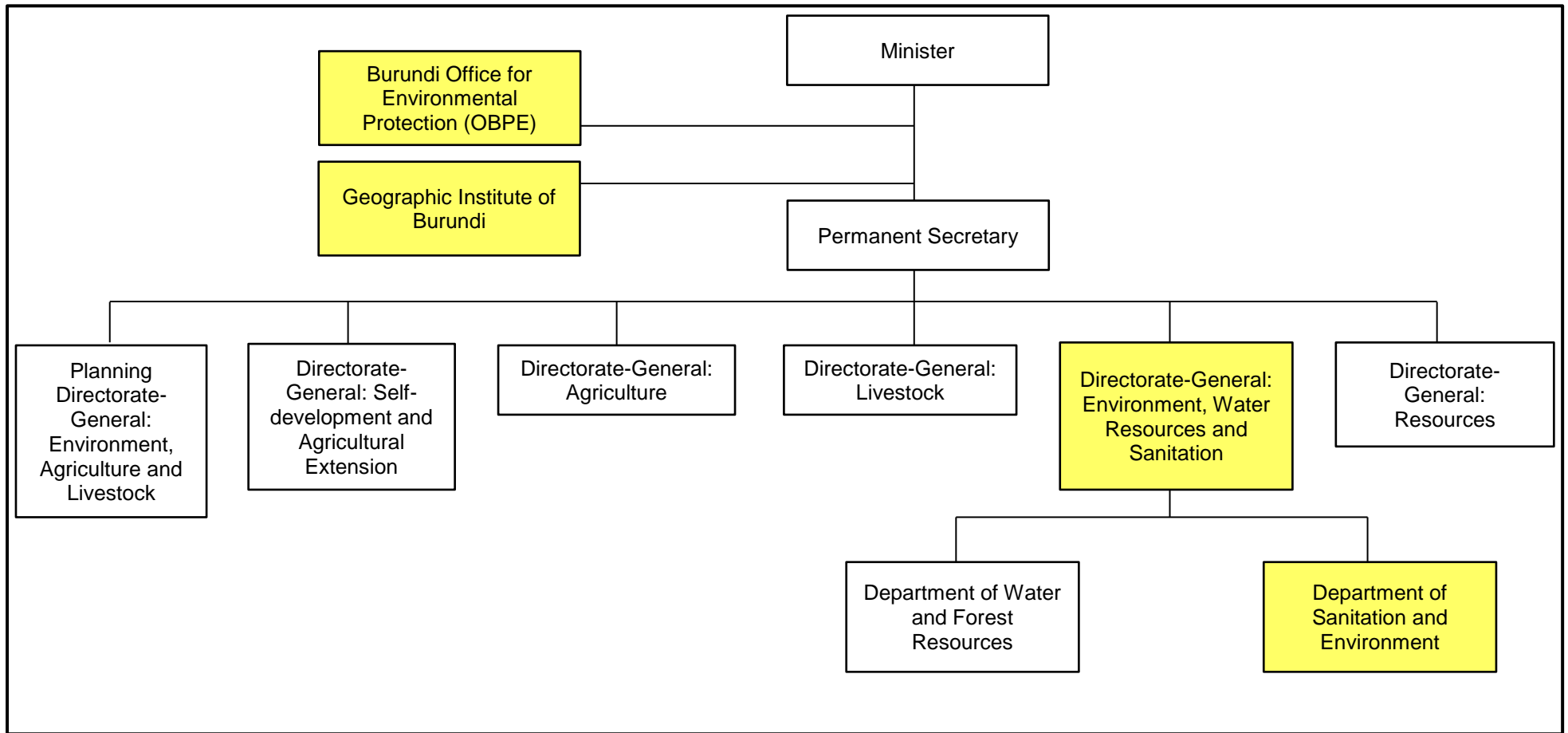


Figure 5.1: Organisational chart of the technical departments responsible for EIA in the Ministry of Environment, Agriculture and Livestock (shaded)

This wide-ranging set of mandates and responsibilities requires resources, which the OBPE seems to lack thus far.⁵

5.2.3 Geographic Institute of Burundi

The Geographic Institute of Burundi (IGEBU) was established by Decree No. 100-241 of 29 October, 2014.⁶ IGEBU's mission is to promote geographical activities in Burundi, namely cartography, topography, meteorology, and those relating to water resources. The IGEBU comprises: (i) the Directorate of Cartography and Topography, and (ii) the Directorate of Agro-meteorology and Hydro-meteorology. The IGEBU was restructured in 2014 and was placed under MEEATU, but as with the OBPE, it is now under MINEAGRIE (Figure 5.1).

One of its many mandates is to provide technical support to the government in matters of negotiation of multilateral environmental agreements and in matters of policy, strategy development, and legislation relating to the implementation of the international conventions on climate and water resources. Thus the IGEBU is the focal point institution for the United Nations Framework Convention on Climate Change (UNFCCC) in Burundi.⁷

5.2.4 Inter-sectoral cooperation

One of the rules governing the functioning of the former MEEATU explicitly stated that in implementing parts of its various mandates, the Ministry must coordinate and collaborate with other government departments, including the Ministry of Public Health; the Ministry of Agriculture and Livestock; the Ministry of Commerce, Industry, Posts, and Tourism; the Ministry of Energy and Mining; and local governments. It is assumed that the same levels of inter-ministerial cooperation will be maintained between MINEAGRIE and other relevant ministries.

5.2 Policy and legal framework for EIA

5.3.1 National Environmental Action Plan and Strategy

In spite of producing the National Strategy for the Environment in Burundi (1992, updated in 1997) and the 1998 National Action Plan for the Environment (NEAP) these have not always resulted in the implementation of the actions on the ground. An evaluation of the implementation of Agenda 21 in Burundi (2002) highlights, among others, the difficulty of going beyond sectoral planning to formulate a real national strategy of sustainable development. Inter-sectoral integration remains weak and fragmentary; horizontal coherence and the harmonisation of the required interventions are not functional; and the report states that development policies have had negative impacts on the environment, particularly in the agricultural, forestry and animal sectors, crafts and industry, energy and mining, road infrastructure and housing. The socio-political context of the country and many crises have made it impossible to conceive and implement a sustainable development approach.⁸

⁵ WB CEA, 2017

⁶ This Decree amends Decree No. 100-186 of 5 October, 1989.

⁷ WB CEA, 2017

⁸ EU and GoB (2007) Profil Environnemental de Pays (PEP) du Burundi, Contrat Spécifique n°2006/132723 FWC BENEf-lot 6

5.3.2 National Development Plan and Vision 2035

Burundi's National Development Plan (NDP) 2018-2017 was based on the pillars of the structural transformation of Burundi's national economy. The NDP had the following vision *"a democratic and prosperous nation, through a structural transformation of the national economy to put it on a new trajectory of strong growth, by significantly reducing social inequalities and rural and urban poverty"*. To realise this vision, the NDP set itself the overall objective of *"structurally transforming the Burundian economy, for a strong, sustainable, resilient, inclusive growth and creating decent jobs for all"*.

The Burundi 2025 Vision replaces the NDP as the country's strategic guidance document. It was developed on the basis of a participatory approach and a national consensus, and is the new instrument for long-term development planning to guide sustainable development policies and strategies. The Burundi 2025 Vision aims to put Burundi on the path of sustainable development by 2025, through the establishment of good governance in a state of law, the development of a strong competitive economy, and improving the quality of life of Burundians. To achieve these objectives, the Vision is based on eight pillars: 1) Good Governance and Strengthening State Capacities; 2) Human Capital; 3) Economic Growth and Poverty Alleviation; 4) Regional Integration; 5) Demography; 6) Social Cohesion; 7) Territorial Planning and Urbanisation; and 8) Partnerships. In addition, the Burundi 2025 Vision takes into account some cross-cutting issues, including gender, the environment, and vulnerable people.

5.3.3 Other relevant policies and plans

The vision contained in the National Biodiversity Action Plan and Strategy, 2013-2020 is as follows: from now up to 2030, the biological diversity of the country will be restored, conserved and used in a rational manner by all stakeholders, while ensuring the maintenance of ecosystem services and guaranteeing these essential services for future generations.

5.3.4 Climate change policies, plans and programmes

According to the World Bank's Country Environmental Assessment (CEA) 2017, Burundi has a history of extreme climate-related events. Based on data from the past 60 years, Burundi has experienced alternating cycles of excess and deficient rainfall nearly every decade, as well as an overall increase in mean temperature, with the dry season getting longer. However, it continues to have extremely low capacity to respond to severe climate shocks. Burundi ranks 174 out of 178 countries in the Nôtre Dame Global Adaptation Initiative Country Index (2014). It is ranked as the 4th most vulnerable country and the 20th least ready country, meaning that it is extremely vulnerable, yet unready, to combat the effects of climate change.

One of the mandates of MEEATU was to put in place climate change adaptation policies in collaboration with other technical ministries and organisations. Burundi submitted its Intended Nationally Determined Contribution to the UNFCCC prior to the 2015 Paris Conference of the Parties. In terms of this commitment, Burundi intends to cut greenhouse gas (GHG) emissions by 3 to 20

percent by 2030, while in terms of adaptation, Burundi requests support in human, institutional, technical, and financial capacity building, as well as in technical and technology transfer. The scenario of a 3% reduction of GHG emission is to be pursued through two efforts: (i) a National Reforestation Programme to reforest 4,000 hectares between now and 2030 to increase its carbon stock, and (ii) the building of three hydroelectric power plants, which will increase the country's electrification rate to 35%. The scenario of a 20% reduction, is reliant on additional financing from the international community, and would accomplish by 2030: (i) reforestation of 8,000 hectares per year, (ii) the replacement of the country's entire stock of charcoal kilns and traditional cook stoves, and (iii) a complete replacement of mineral fertilisers with organic fertilisers.⁹

Other key strategies conducted by the Government of Burundi (GoB) are the following:

- Action Plan to Combat Land Degradation (2013);
- Action Plan to Strengthen National Capacities for Risk Reduction, Preparation, and Response to Emergencies (2013–2016);
- National Adaptation Plan of Action (2007).

These strategies would allow the country to develop a Reducing Emissions from Deforestation and Forest Degradation (REDD+) Strategy to address the causes of deforestation and forest degradation.¹⁰

5.3.5 The Environment Code

Prior to Law No. 1/010 of 30 June 2000 containing the Environment Code, environmental impact assessment (EIA) practice was mainly evident in projects supported by the World Bank and the African Development Bank.¹¹ The Environment Code comprises the framework law dealing with all major aspects of environmental protection and management.

Article 1 sets out the main goals of the Environment Code as being to set down the basic rules for the protection and management of the environment against all forms of degradation, in order to safeguard and enhance the rational exploitation of natural resources, to fight against the different forms of pollution and nuisances, and thus improve the quality of life for all citizens, while respecting the equilibrium of ecosystems.

The term 'environment' is defined in the Environment Code as being *"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."* The Code states further that the Burundian environment is a common heritage, the safeguarding of which rests with the State, local authorities, public bodies and citizens, individually or collectively (Art. 12).

⁹ Republic of Burundi 2015

¹⁰ World Bank CEA, 2017

¹¹ www.eia.nl/en/countries/burundi/eia-profile

Articles 21-27 of Chapter 3, Part II of the Environment Code deal with EIA. Articles 21-22 state that all installations and works, which by their size, nature and/or their potential impact on the environment, must be subjected to an EIA to minimise or eliminate the direct short-, medium- and long-term effects on all aspects of the environment.

Although a revision of the Environment Code commenced in 2014, the 2000 Code is still in force.

5.3.6 Regulations

The Environment Code has been supplemented by an implementing decree: Decree 100/22 of 07 October 2010 on the enforcement of the Environmental Code in relation to the EIA procedure. This Decree specifies the content, rules, principles and procedures for EIA. The EIA Decree represents good international practice in theory and includes major requirements in terms of analysis of the environmental and social impact of projects and activities with potential negative impacts. It provides for strict requirements to be applied to projects and activities in sensitive areas and for public involvement through public consultation and public hearings to seek the views and opinions of affected communities. In addition, Ministerial Decision No. 770-083 of 9 January 2013 describes the scoping process in Burundi.¹²

However, a review of the legal framework by the World Bank in 2017 revealed that the 2000 Environmental Code is yet to be supported by all the required implementation regulations, without which the Code cannot be effectively and completely implemented and enforced. Table 5.1 lists the regulations that are necessary to implement the Environment Code, but which have not yet been developed or adopted.

Table 5.1: Regulations not yet gazetted to implement the Environment Code, 2000

Relevant Article of the Environment Code	Implementing regulations yet to be issued
Article 10	The conditions to be applied by existing plants and facilities to be brought into compliance with the Environment Code, including fiscal and custom incentives to be granted to the owners or operators.
Article 11	Definition of environmental norms.
Article 24	Decree on the various categories of facilities and projects to be subject to an EIA.
Article 30	Protection of the soils against degradation, erosion and desertification; fight to prevent loss of agricultural lands and their pollution, notably by the use of agri-chemicals.
Article 91	Protection of endangered, rare or remarkable species of fauna and flora, as well as their habitats.
Article 111	Regulations on facilities to be subjected to special attention including: (i) the submission of a technical presentation on the quality and quantity of emissions and planned treatment processes for said emissions; and (ii) an EIA report consistent with the Environment Code, 2000.
Article 120	Treatment and disposal of wastes.
Article 126	Rules and principles to be applied to the treatment of wastewater and oil discharged by industrial installations and facilities.
Article 128	Importation of chemicals including the marketing, sale, transportation, treatment, use and storage; list of chemicals that are prohibited from entering the country.
Article 132	Norms applicable to noise emissions and its management in residential, commercial and industrial areas.

Adapted from World Bank, Country Environmental Assessment, 2017.

¹² www.eia.nl/en/countries/burundi/eia-profile

5.3.7 Offences and penalties

The offences and related penalties relating to environmental management and development projects are set out in Articles 141 to 160 of the Environment Code. Given that the Code dates back to 2000, the fines are likely to be ineffectual.

Table 5.2: Offences and penalties

Offence	Penalty
If a mining rights or quarry rights holder causes irreversible damage or erosion, fails to rehabilitate the exploration or mining sites and/or does not provide sufficient financial guarantees to cover the rehabilitation costs (Arts. 36-37 of the Environment Code)	An amount of 50,000 to 500,000 F or imprisonment for 2 months to 3 years.
Any infractions relating to water use and pollution set out in Articles 45-48, 51, 53-54 and 59 of the Environment Code	An amount of 50,000 to 800,000 F and/or imprisonment for 2 months to 5 years.
Anyone who contravenes the requirements of Articles 60, 62 and 66 of the Environment Code relating to pollution of the air	An amount of 50,000 to 300,000 F and/or imprisonment for 1 day to 2 months.
Any person who clears forest in terms of Art. 71 of the Environment Code	An amount of 20,000 to 800,000 F and/or imprisonment for 2 months to 5 years.
Anyone who damages protected areas or protected species	An amount of 50,000 to 500,000 F and/or imprisonment for 2 months to 3 years.
Anyone who constructs a Category 1 project listed as a Classified Installation without prior authorisation	An amount of 300,000 to 1,000,000 F and/or imprisonment for 2 months to 5 years.
Anyone who commences with a Category 2 classified installation without taking into considerations the requirements of the Environment Code and its Regulations	An amount of 100,000 to 500,000 F and/or imprisonment for 2 months to 5 years.
All operators of authorised or declared facilities who fail to submit their installations to controls and monitoring carried out by the authorised agents of the Ministry of the Environment and the other Ministries concerned, and who fail to take all necessary steps to facilitate such checks and to provide the information requested from them by the aforementioned agents	An amount of 10,000 to 50,000 F and/or imprisonment for 1 day to 2 months.
Anyone who operates or proposes to operate a classified installation and fails to meet the requirements of Arts. 116-118 of the Environment Code	An amount of 50,000 to 700,000 F and/or imprisonment for 2 months to 5 years.
Anyone who disposes of waste in such a way that it pollutes the soil, water, air and affects public health and the environment	An amount of 50,000 to 500,000 F and/or imprisonment for 2 months to 5 years.
Failure to abide by the prescriptions regarding the management and disposal of waste set out in Arts. 122 and 124 of the Environment Code	An amount of 500,000 to 2,000,000 F and/or imprisonment for 2 months to 5 years.
Anyone who imports hazardous waste into the country	An amount of 10,000 to 10,000,000 F and imprisonment for 5 to 20 years.
Anyone who discharges waste water or effluent, used oil or other liquid wastes into water courses without prior treatment	An amount of 20,000 to 300,000 F and/or imprisonment for 1 day to 2 months.
Anyone who fails to abide by the requirements set out in Arts. 128 and 130 of the Environment Code relating to the importation, storage and use of chemicals, pesticides and hazardous substances	An amount of 500,000 to 1,500,000 F and/or imprisonment for 2 months to 5 years.
Anyone who violates the noise requirements set out in Art. 131 of the Environment Code	An amount of 2,000 to 20,000 F
Anyone who implements or operates works without submitting an EIA or does not comply with the EIA procedure	An amount of 100,000 to 1,000,000 F and/or imprisonment for 2 months to 5 years.
Anyone (proponent or the competent authority) who falsifies the results of an EIA or alters the parameters for the fulfilment of the EIA	An amount of 100,000 to 1,000,000 F and/or imprisonment for 2 months to 5 years.

5.3.8 Fees

The promoter shall pay an administrative fee to the Minister (responsible for the environment) for the review of the EIA. However, the fees have yet to be fixed by a joint order of the Ministries of the Environment and Finance as provided for in the regulations (Decree 100-22). It should be noted that the fee will have to be paid again in the event that the EIA is rejected and another study is submitted for review.¹³

5.3.9 Guidelines

Currently, there are no guidelines for the various EIA processes or for any of the development sectors, however, there are plans for the joint development of guidelines by the Burundi Association for EIA and the Directorate-General for Environment, Water Resources and Sanitation.

5.3.10 Environmental standards

The Burundi Office of Standards, under Decree No. 100/092 of 29 August 2001, is responsible for (i) developing and disseminating national standards consistent with internationally recognised procedures and standards; (ii) promoting their application; (iii) establishing and maintaining evaluation, inspection, and certification methodologies to monitor compliance; and (iv) establishing and maintaining control of imported products regulated by mandatory quality standards. The Burundi Office of Standards falls under the mandate of the Ministry of Commerce, Industry, Posts and Tourism. To date no national standards for water quality (potable or effluent), air quality or noise have been developed in Burundi.

5.3.11 Certification of consultants

Article 13 of the Decree states that the promoter of the project may hire the services of an accredited third party or specialised organisation. The conditions for the accreditation, however, are not mentioned.

5.4 EIA procedural framework in Burundi

Chapter 3 of Part II of the Environment Code, the EIA regulations contained in Decree No 100-22 of 7 October 2010 and the Ministerial Decision No. 770-083 give some indications on the EIA procedure to be followed in Burundi.

5.4.1 Screening

Article 4 of Decree 100-22 of 7 October 2010 requires that projects listed in Annex I must be subjected to an EIA irrespective of the cost of their realisation, while Article 5 states that projects listed in Annex II may require an EIA if the Ministry in charge of the environment deems that they may be harmful to the environment in terms of the Environment Code. In this case, the Minister is required to

¹³ www.eia.nl/en/countries/burundi/eia-profile

establish an *ad hoc* Commission comprising MINEAGRIE and the sectoral ministries concerned and any experts if required. If no agreement can be reached, the Minister responsible for the environment may refer the decision to the Council of Ministers (Art 9) (see Figure 5.2). The screening lists are contained in Appendices 5-1 and 5-2 respectively at the end of this Chapter.

Article 6 of the Decree facilitates preliminary screening, where the proponent sends a screening form to the Minister. The form provides a description of the proposed project and its potential effects on the environment, as well as the terms and conditions for its implementation, including the necessary measures prescribed to prevent, mitigate, correct or compensate for the potential effects on the environment. It specifies the conditions under which the proposed project must be conducted, the direct or indirect effects that it may have on the environment, the measures envisaged to prevent, modify or mitigate these risks, as well as alternatives that could address these risks.

Article 7 of the Decree determines that the Minister has to make the screening decision on Annex II projects within **one month** from the date the document was submitted.¹⁴ The decision by the Minister, and the reasons for it are conveyed to the proponent as well as to the relevant line ministries. If no decision has been made within this timeframe, the project is deemed to not require an EIA (Art. 12).

5.4.2 Scoping and terms of reference

The scoping process to be followed is described in the Ministerial Decision No. 770-083 of 9 January 2013 on the scoping procedure for EIA in Burundi. Recognising that scoping a key step in the EIA process, a combined scoping approach has been established in Burundi. Scoping is conducted by combining model terms of reference (ToR)¹⁵ provided by the Ministry, with specific elements relevant to the project, as developed by the promoter after public involvement (Article 1-3 of the Ministerial Decision). This scoping procedure refers to projects listed in both Annex I and Annex II (if an EIA is required). According to Ministerial Decision of 2013, the scoping process to be followed by the proponent is as follows:

- Make information about the project available to the Ministry;
- The promoter shall prepare a draft ToR based on the model ToR provided by the Ministry including a list of specific impacts to be studied;
- Describe the main project components;
- Undertake public consultation and conduct a site visit;
- Prepare the first draft of the scoping report including an alternatives analysis;
- Publicise the draft ToR;
- Submit the ToR to the Minister for approval (Figure 5.2).

¹⁴ www.eia.nl/en/countries/burundi/eia-profile

¹⁵ According to the Ministerial Decision related to scoping, fixed terms of reference partly determine the content of the scoping document.

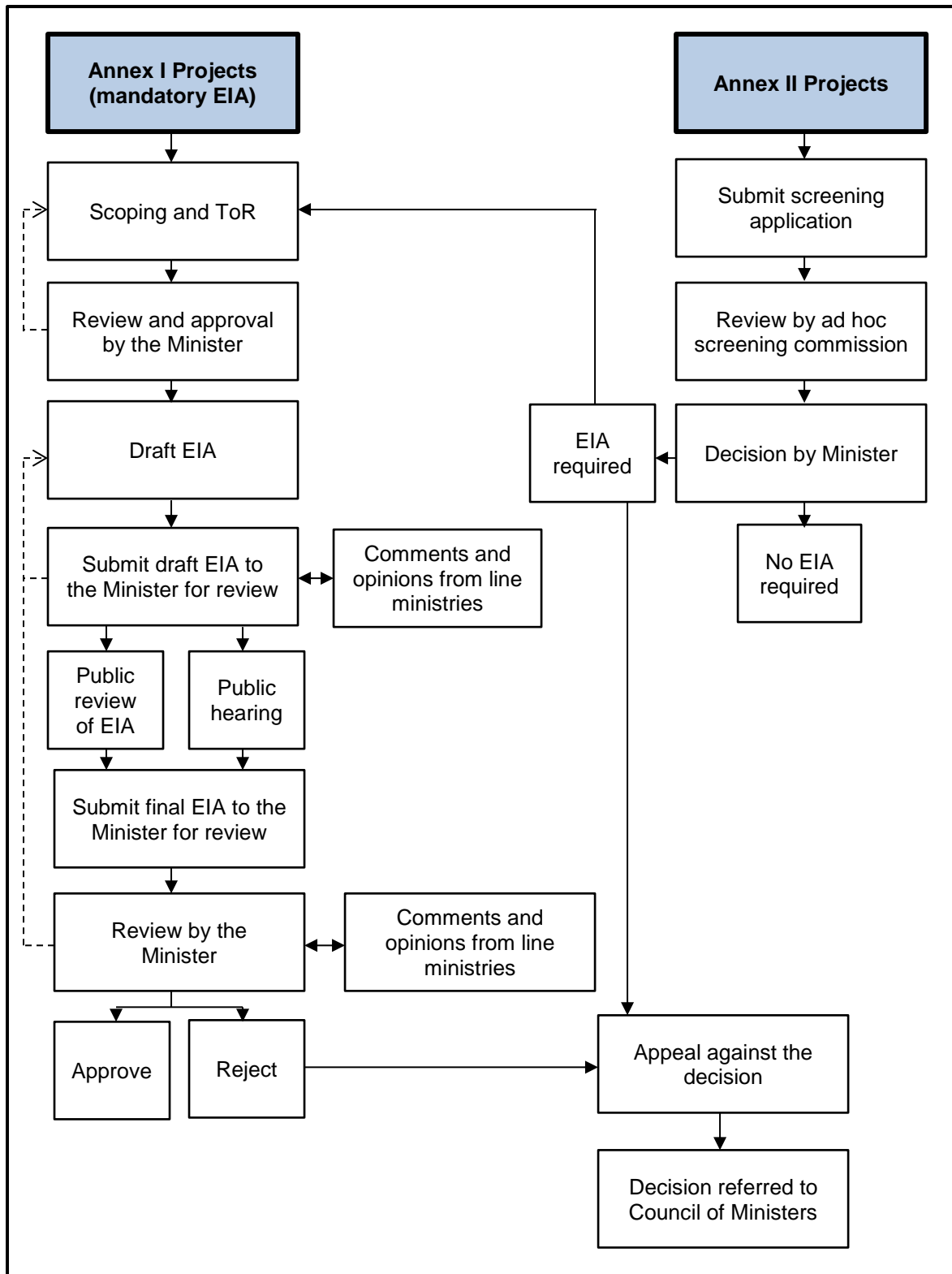


Figure 5.2: EIA procedure

The Minister will analyse the proposed ToR and approve them, or revise them if necessary (Art. 5). The Minister will use the ToR as a verification framework when reviewing the quality of the environmental and social impact study when it is submitted.

5.4.3 Environmental Impact Assessment

The EIA can be undertaken by the proponent, or by an approved EIA consultant or other organisation concerned with the protection of the environment, on behalf of the applicant (Art. 25 of the Environment Code). In the case of large infrastructure or industrial projects of national importance which could have significant adverse effects on the biophysical and social environment, the Minister may, in consultation with the relevant line ministries, convene a steering committee comprising independent experts to guide and review the EIA process and make recommendations to the proponent on best practice requirements (Art. 10).

The impact study must address the important issues and conform to the approved ToR. The EIA report should include all aspects listed in Article 23 of the Environment Code as well as the requirements listed in Article 16 of the Decree, as follows:

- A non-technical summary of the key issues and conclusions, translated into the language used at the project location;
- An analysis of the baseline environment at the project site, including the physical, biological, and socio-economic aspects which could be sensitive to project impacts. The socio-economic assessment must focus on the impact that the project will have on natural resources and those people whose livelihoods depend upon them. Thus the report should contain a detailed livelihoods assessment including the number of people or families who are dependent on the said resources, the volume and destination of products obtained from the environment and the solutions proposed to mitigate these impacts in a Livelihoods Restoration Plan (Art.17);
- An analysis of the environment in the case of the no-project option;
- An evaluation of the predicted impacts of the project on the natural and human environment;
- Presentation of the alternatives, with reasons justifying the preferred options;
- A description of the measures envisaged by the proponent to avoid, reduce and, if possible, offset the adverse consequences of the project on the environment, as well as those measures needed to enhance the positive effects. The Environmental Management Plan must also include the identification of the persons or institutions responsible for implementing the required mitigation measures, an estimate of mitigation/enhancement costs, the timeframes for carrying out the work, a monitoring plan and a compensation plan for people and communities who may be affected by the proposed project;
- A summary of the public consultation programme, including the comments and recommendations made by interested and affected parties.
- The ToR for the EIA study.

Mining Code

In addition to the requirements of the Environment Code and its associated Decree on EIA, the Mining Code, Law 1/21 of 15 October 2013, requires mining developments to be subjected to an EIA, including at the exploration stage (Articles 43–44). The 2013 Mining Code requires all mining

operations to protect the environment, and environmental protection is considered a condition to be included in all mining permits, licences, or concessions. Article 57 of the law specifies that once a discovery is made, the proponent must submit a feasibility study including a socio-economic study, a technical report and an EIA, which must all be approved by ‘the competent authority’, which is not defined in the Mining Code. Whether MINEAGRIE will be involved at this stage is not clearly stated.¹⁶

It is also important to note that the mitigation measures should be included into the operations permit for the mine, which will be signed by the Ministry of Energy and Mines, as well as the Ministry of Finance. Article 64 does not specify whether the mining permit must be reviewed and/or approved by MINEAGRIE first, and Article 68 mentions again that the EIA is to be approved by the ‘competent authority’ without further specification.¹⁷ This lack of clarity on the environmental approval process for exploration and mining could result in the exploitation of loopholes in the law.

5.4.4 Stakeholder consultation

Articles 19, 20 and 21 of the EIA Decree provide an overview of the roles of stakeholders involved in the review of the EIA report. Article 19 states that the EIA report should be submitted by the proponent in triplicate to the Minister for review and approval. A copy will be made available to each relevant line ministry who may need to issue their approval for the project.

Article 20 provides that when the project subjected to EIA concerns a national park, nature reserve or a natural area protected by the provisions of Chapter 5 of the Environment Code, or may have an effects on these protected areas, the EIA report should be referred to the authority responsible for the natural environment who shall give its opinion to the Minister within a maximum of **one month**.

Article 21 states that when a construction project subjected to the EIA procedure gives rise to a public hearing, the EIA report must be included in the package of documents submitted to the public hearing about the admissibility of the proposed project. The conduct of the public hearing is the responsibility of MINEAGRIE.

If no public hearing is indicated by law, the EIA report must be made publicly available in the following ways:

- Advertisements about the EIA report through notices put up in places determined by the Minister, including, as a minimum, the offices of the relevant provincial or local government, and via radio and television;
- Placement of notices about the EIA in one or more national newspapers for 15 days or longer (from the date of public availability of the EIA report). The cost of these notices is for the proponent’s account;
- Making available copies of the EIA report at the Ministry responsible for the environment for public scrutiny and comment (taking into account matters of confidentiality).

¹⁶ WB CEA, 2017

¹⁷ WB CEA, 2017

The public has **one month** to comment on the EIA report. During this period a register will be opened to register all the comments on the EIA (Article 24). The register will be closed at the end of the one month consultation period.

5.4.5 Review of Environmental Impact Assessment

Article 25 of the EIA Decree provides that the EIA report as well as all supporting documents and the opinions of the various line ministries consulted (as per Articles 19 and 22), are examined by the Minister (Figure 5.2).

The Minister may request from the proponent, information or additional studies on aspects that are not sufficiently clarified in the report filed, and he/she can seek the views of other Ministries concerned by the project (Figure 5.2). At the end of the review of the report the Minister responsible for the environment makes a decision, with reasons, on whether to approve or reject the project (Article 26 of the EIA Decree). The decision is conveyed to the relevant line ministry, as well as the proponent, but does not have to be made public. If the line ministry disagrees with the decision made by the Minister, the decision may be referred to the Council of Ministers for affirmation (Art. 27) (Figure 5.2).

Article 26 determines that the review shall not exceed **three months** from the closing date of the public participation phase.

After the approval of the project, the EIA becomes a legal instrument whose provisions are legally binding for the proponent (Article 29).

If the project is rejected, the proponent may amend the EIA or may submit a new EIA which examines different alternatives for achieving the project (Art. 28).

5.4.6 Appeals

Articles 9 and 27 of the Decree make provision for the decisions made by the Minister on the scoping and EIA reports respectively to be referred to the Council of Ministers for affirmation. The mode of the appeal and the length of the appeal process are not elaborated on further. There are no explicit provisions in the existing environmental laws for public appeals against EIA decision-making. Appellants would have to resort to the civil courts.

5.4.7 Environmental compliance monitoring

Art. 26 of the Environment Code and Art 30 of the EIA Decree state that the Ministry responsible for the environment, together with the sector ministry will conduct monitoring to ensure compliance with the requirements of the EIA (i.e. the EMP), to determine the efficacy of the mitigation measures and to verify whether the EIA predictions were correct.

Failure by the proponent to comply with the EMP will result in the issuance of a compliance notice instructing the proponent to comply with the EMP within a period not exceeding three months. If, on the expiry of the fixed period, the requirements set out in the compliance notice have not been implemented, the Minister may either order the suspension of operations or works, or withdraw the authorisation. No compensation may be claimed by the proponent for any loss suffered as a result of these penalties (Art. 27 of the Environment Code).

5.4.8 Strategic environmental assessment

There are no references to Strategic Environmental Assessment (SEA) in the Environment Code or in the EIA Decree.

5.4.9 Trans-boundary impacts

There are no references in the legislation on the need to consider trans-boundary impacts in any EIA study even though Burundi is a land-locked country bordering onto Rwanda in the north, Tanzania to the east and south, and the Democratic Republic of Congo to the west.

5.5 Other relevant environmental legislation in Burundi

In addition to the provisions for environmental protection and control contained in the Environment Code, there are many other Codes, laws and decrees relating to various components of the environment in Burundi, as shown in Table 5.3

Table 5.3: Other potentially applicable sectoral requirements

Sector	Primary agency	Title and date of document	Purpose
Water	Ministry of Water	Water Code, Law No. 1/02 of 26 March 2012	Sets out the field of application, the fundamental principles, definitions, basic concepts and the institutional framework for water resources management, financing provisions for water management, protection of water resources, pollution prevention, treatment of waste water, stormwater control, different water users and transboundary waters
		Decree-Law No. 1-41 of 26 November 1992	Establishes and sets out the organisation of water in the public domain
		Decree No. 100-189 of 25 August 2014	Relates to the determination and establishment of protection areas around water sources for human consumption.
		Law No. 1-013 of 22 July, 2004	Ratifies the Convention on the Sustainable Management of Lake Tanganyika dated 12 June, 2003
Waste water and effluent	Minister(s) responsible for water and the environment	Joint Ministerial Order No. 770-468 of 25 March 2014	Sets out the standards for domestic water and the discharge of industrial waste water and effluent.
	Local authorities	Decree No. 100-241 of 31 December 1992	Governs the emission of waste waters in urban areas

Sector	Primary agency	Title and date of document	Purpose
Waste	Municipal Councils Ministry of Public Health Minister responsible for environment Ministry of Interior and Municipal Development	Law No. 1-015 of 20 April 2005 (as amended by Law No. 01-02 of January 2010)	Municipal councils are in charge of waste management services in urban areas, although waste management is a shared mandate between the Ministry of Public Health, the Ministry responsible for the environment and the Ministry of Interior and Municipal Development.
Hunting, wildlife and conservation	Ministry responsible for the environment	Decree of 30 June, 1971	Regulates hunting and provides for the protection of animal species.
		Law No. 1-17 of 10 September 2011 and Decree No. 1-6 of 3 March 2011	Relates to the protection of wild fauna and illegal trafficking of plants and the enabling regulations.
		Ordinance No. 103/Agri	Contains the measures required to execute Decree of 21 April 1937 on hunting and fishing
		Law No. 1-21 of 23 June 2014	Commits the state to the obligations of the Nagoya Protocol relating to access to genetic resources and their utilisation bearing in mind the Convention on Biological Diversity
Protected areas	OBPE	Decree-Law of 3 March, 1980	Relates to the creation of national parks and wildlife reserves.
		Law No. 1-10 of 30 May, 2011	Sets out the rules for the management and protection of protected areas in Burundi.
		Ministerial Order No. 530/770/720/320/205 of 27 February 2009	Relates to the development and management of protected areas in the vicinity of ravines and rivers crossing urban and green spaces
Forests	MINEAGRIE: Department of Water and Forest Resources	Law No. 1/02 of 25 March 1985, as amended by Law No. 1-07 of 15 July 2016 on the Code of Forest Burundi	This code states the basic rules for the protection and rational management of the environment.
		Environment Code, Law No. 11-010 of 30 June 2000	Art. 69 prohibits any forest exploitation that is not authorized in compliance with a management plan to be approved by the government and/or municipalities, depending on the status of the forest.
		National Forest Policy, 2012-25	Provides a diagnostic analysis of the forestry sector, sets out the key elements of the Forest Policy and its links with other related policies and the modes of implementation of the policy. The main objective of the policy is to sustain existing forest resources and develop new resources to meet the socio-economic and ecological needs of present and future populations. It aims to develop and manage forest resources rationally (increase the forest cover rate to 20% by 2025), promote forest resources and strengthen human and institutional capacities.
Land	Local authorities	Land Code, Law No. 1-3 of 9 August 2011	This law revises the Land Code of 1986. The land issue is a major development issue for Burundi. The country is facing a significant demographic growth, a multiplication of conflicts on relating to the loss of value of the traditional system, to the

Sector	Primary agency	Title and date of document	Purpose
			post-conflict situation which has seen a massive return of refugees and displaced people, which is increasing the pressure on the land.
		Law No. 1-015 of 20 April 2005 (as amended by Law No. 01-02 of January 2010)	Relates to the organisation of communal administration. This Law gives the power of decision over the gazetting, re-registering and allocation of municipal properties, including forest lands, and other natural resources.
		Decree No. 100-191 of 29 June 2012	Provides for the establishment, mandate, membership and functioning of the inter-ministerial committee on land reform in the country
Agriculture	Ministry of Environment, Agriculture and Livestock: Directorate of Agriculture, Dept. of Plant Protection Directorate of Livestock, Dept. of Animal Health	National Agricultural Strategy, SAN-2008/2015	The overall objective of the National Agricultural Strategy is to contribute in a sustainable way to the reduction of poverty and to support the economic growth of Burundi through increasing productivity, maximising value-adding, diversification of income opportunities, preservation and maintenance of natural and environmental resources.
		Pest Management Plan, 2018	The specific objectives of the Pest Management Plan are to: strengthen the institutional framework for pest and pesticide management; improve the legislative and regulatory framework for pesticide management; improve pesticide use and management systems to protect the environment and the health of users and populations; build the capacity of actors and communities in the management of pests and pesticides; to sensitise the population on the risks related to pesticides and to involve the communities in the implementation of the activities; monitor and evaluate the implementation of the pest and pesticide management plan, determine the budget required to implement the Pest Management Plan.
		Law No. 1-08 of 11 May, 2018 on Management of Pests	The purpose of this law is to: organize the management of pesticides in Burundi; to ensure the quality, efficacy and safety of these products; reduce the risks associated with their use in ways that do not result in damage to the environment and the health of people, animals and plants. To this end, it covers all pesticide management activities used in the agricultural and industrial sector as well as in health and public hygiene.
		Plan to Integrate Biodiversity into the Agriculture and Livestock Sector, 2014	This Sector Plan for the Integration of Biodiversity is built around the following main points: i) Agrobiodiversity in Burundi; (ii) Involvement of the agricultural sector in the management of biodiversity; (iii) Degradation of biodiversity related to the agricultural and livestock sector; (iv) Constraints to biodiversity conservation; v) Strategic plan to integrate biodiversity into the Ministry of Environment, Agriculture and Livestock.
		Law No. 1-20 of 30 December 2007	Commits Burundi to adhere to the statutes of the International Centre for Genetic Engineering and Biotechnology
Fisheries	Ministry of Environment, Agriculture and	Law No. 1-017 of 30 November, 2016	Provides for the organisation of fisheries and aquaculture in Burundi
		Ordinance No.	Contains the measures required to execute

Sector	Primary agency	Title and date of document	Purpose
	Livestock	103/Agri	Decree of 21 April 1937 on hunting and fishing
Mines	Ministry of Energy and Mines	Mining Code, Law No. 1-21 of 15 October, 2013	The Mining Code provides for, <i>inter alia</i> : the environmental management of the mining sector, the monitoring and certification of minerals, the harmonisation of laws on mining, and the creation of a database to track mineral trade in the region. The Mining Code has numerous provisions on environmental protection and management, including the requirement for an EIA of any mining-related operation, whether exploration (article 36) or exploitation (article 42.3, 57.1 and so forth). In total, the Mining Code has more than 25 provisions dealing with environmental management, protection, and enforcement in the mining sector. Under the Code, no mining site can be developed without an approved EIA and EMP and closed without an approved mine closure and Site Restoration Plan (SRP). Approval of EIAs, EMPs and SRPs must be approved by the minister in charge of the environment.
		Ministerial Ordinance No. 540/760/770/236/2006	Determines the annual contribution for site rehabilitation research and exploitation of minerals
Health	Ministry of Health and the Fight Against AIDS: Dept. of Promotion of Health, Hygiene and Sanitation	Public Health Code, Decree-Law No. 1/16 of 17 May 1982	
		National Health Policy, 2016-25	This policy is structured around the following values: solidarity; equity and equality; social justice; integrity and ethics; respect for human rights; gender equality.
Gender	Ministry of National Solidarity, Human Rights and Gender	National Gender Policy, 2012-25	The policy's vision is to build a society in which women and men enjoy the same rights and are subject to the same duties as part of the political, economic, social and cultural development of Burundi, especially in the agricultural sector, to improve access to credit, production and value adding.
Urban development, housing and construction	MEEATU	Law No. 1-09 of 12 August 2016	Contains the law governing urban development, housing and construction in Burundi
Labour and employment	Ministry of Civil Service, Employment and Social Security	Labour Code, 1993	Sets out the framework law regarding workplace management, employment and contracts, workplace inspections, working age, salaries, treatment of workers, protection of health and safety, non-discrimination, unions and worker relations and working hours.
		National Action Plan against the Worst Forms of Child Labour, 2010-15	The overall objective of this plan is to eliminate all the worst forms of child labour in Burundi by 2015 and contribute to the elimination of all forms of child labour by 2025.
Cultural heritage	Ministry of Culture and Sports	Law No. 1-6 of 25 May, 1983	Relates to the protection of national cultural heritage.
		Decree No. 100-116 of 12 April 2011	Relates to the demarcation of the Gisagara protected landscape.
		Environment Code, Law No. 11-010 of 30 June 2000	Articles 95-99 relate to the protection, preservation and management of cultural heritage.

Appendix 5-1: Projects which require an EIA

Annex I of Decree No. 100-22 of 7 October 2010

- 1 Construction works or public infrastructure projects such as roads, dams, harbours, bridges and airports.
- 2 All rural or urban land use management plans specifically those for industrial purposes.
- 3 Mining operations or quarries for stone or other minerals (as determined in Articles 35 and 36 of the Environment Code).
- 4 Construction or maintenance works which could affect the hydrological regime in lakes and water courses and which could alter the banks or harm aquatic species.
- 5 Clearance of protected forests, as well as afforestation projects which are subject to management plans in terms of the Forest Code and associated regulations.
- 6 All category 1 classified installations specified in Articles 107-111 of Chapter 1, Part V of the Environment Code.
- 7 All sites and facilities for the storage and treatment of wastes, as well as waste water treatment works for urban sewage and industrial effluents.
- 8 The works, facilities, management plans and other operations to be subjected to an EIA by virtue of sectoral Codes and laws dealing specifically with various components of the environment.
- 9 Rural land consolidation projects.
- 10 Land clearance and land use change projects of more than 10 hectares, as well as afforestation operations larger than this area.
- 11 Thermal power plants and other installations with an installed capacity of more than 200MW, as well as the construction of hydro-electric power plants.
- 12 Factories which make or store chemical products or pesticides or other hazardous substances.
- 13 Sugar mills and refineries.
- 14 Tanneries.
- 15 Construction of hotels with more than 50 beds.
- 16 Storage of powders and explosives.
- 17 Breweries.
- 18 Subdivision projects for the establishment of cities or urban centres.
- 19 Wetland development.
- 20 Textile factories (natural and artificial fibres).
- 21 Abattoirs in an urban area.
- 22 Cemeteries.
- 23 Coffee factories.

Appendix 5-2: Projects which could require an EIA

Annex II of Decree No. 100-22 of 7 October 2010

- 1 Exploration for water supply sources and geothermal energy.
- 2 All other installations for the production of energy other than those listed in Annex I (Appendix 5-1).
- 3 Biogas production.
- 4 Reclamation of wetlands less than 5 hectares in size.
- 5 Above-ground and below-ground storage of hydrocarbons and combustible gases.
- 6 Power transmission and distribution lines.
- 7 Workshops for stamping or metal works.
- 8 Boiler-making facilities.
- 9 Cemeteries.
- 10 Food processing factories and storage facilities.
- 11 The establishment and operation of brick and tile factories.
- 12 Piggeries with more than 500 animals and chicken farms with more than 1,000 birds.
- 13 Abattoirs in the rural areas.
- 14 Land restoration projects in the mountainous areas.

Acronyms

CEA	country environmental assessment (World Bank)
EIA	environmental impact assessment
EMP	environmental management plan
F	Franc
GHG	greenhouse gas
GoB	Government of Burundi
IGEBU	Geographic Institute of Burundi
MEEATU	Ministry of Water, Environment, Land Use Planning and Urban Development (former ministry)
MINEAGRIE	Ministry of Environment, Agriculture and Livestock
NDP	National Development Plan
NEAP	National Environmental Action Plan
NGO	non-governmental organisation
OBPE	Burundi Office for Environmental Protection
REDD	Reduction of Emissions from Deforestation and Forest Degradation
SEA	strategic environmental assessment
ToR	terms of reference
UNFCCC	United Nations Framework Convention on Climate Change
WB	World Bank

Useful contacts

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