

Title: Recent Developments for EIA Implementations in Turkey: Establishing EIA Center and Sectoral Approximation Strategy

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Abstract

After officially becoming an accession country for the European Union in December 1999, Turkey prepared its National Program identifying the priorities for harmonization with the *acquis communautaire*. One of the most central of the item in the horizontal sector is Environmental Impact Assessment (EIA).

The Government of Turkey has almost completed the adoption of the EU Directive for EIA as of 16 December 2003, by enacting a revised EIA regulation. The only aspects of the EU Directive that this new legislation lacks are the issues related with the Aarhus and Espoo Conventions. A project funded by Senter (an entity of the Ministry of Foreign Affairs in The Netherlands), entitled “Establishing EIA Training and Information Center” will be implemented for two years starting from January 2004. By the help of this project, sectoral guidelines will be prepared for twelve sectors, training strategy will be prepared and intensive EIA Training will be conducted and EIA assessment techniques other than expert level will also be used in EIA Review Committee such as modeling programs, using GIS if required, using matrices and overlapping maps.

By the help of EU Project “Environmental Approximation Strategy For Turkey”, strategy has been developed for the sectors horizontal sector, water management, waste management, and industrial process control. EIA is the main component of the Horizontal sector. First of all, Directive Specific Implementation Plan (DSIP) for EIA, for SEA and for Access to Information about environmental issues has been prepared and after combining those DSIP's, Sectoral Approximation Strategy has been prepared focusing on training, institutional capacity, financial mechanisms and timeframe of the activities for 25 years of period.

Introduction

The EU Environmental Impact Assessment (EIA) Directive (85/337/EEC) was declared on 3 July 1985 and amended by Council Directive 97/11/EC (14th March 1997). Deadlines for transposition were 3 July 1988 and 14 March 1999 respectively for each Member State.

Environmental issues received consideration in Turkey during the 1970s in parallel to the consideration of environmental issues throughout the world, which in turn necessitated new policies and decisions yielding certain social and economic results. Following this, Turkey established its environmental legal and administrative structure and identified its environmental problems.

In Turkey, the EIA Regulation drafted by the Ministry of Environment and Forest enacted on 7 February 1993 was based on US and EU procedures and amended on 23 June 1997 and amended on 6 June 2002 and on 16 December 2003 in order to harmonize with the EU EIA Directive requirements.

Recent Developments in the EIA System

The new EIA Regulation covers all requirements of EU EIA Directive except the issues related to the Espoo Convention.

Within the key stages of EIA according to European Union requirements, scoping has been introduced as mandatory for Annex I Projects which are subject to the EIA procedure. Table 1. The developer has to request a Scoping Opinion from the Competent Authority (CA), which is represented by the Ministry of Environment and Forest (MoEF).

Table 1, The KEY STAGES OF EIA Process

The KEY STAGES OF EIA Process	NOTES , ACCORDING TO 16TH OF DECEMBER, 2003 REGULATION
Project Preparation	The developer prepares the proposals for the project.
Notification to Competent Authority	The developer must notify the CA in advance of the application for development consent.
Screening	The CA makes a decision on whether EIA is required. This decision may happen when the CA receives notification of the intention to make a development for a Screening Opinion.
Scoping	The EIA Regulation provides that developer has to request a Scoping Opinion from the CA. Other environmental authorities' opinions on the required scope of EIA information is taken into consideration as well. The Scoping Opinion identifies the matters to be covered in the environmental information. It is a mandatory process.
Environmental Studies	The developer carries out studies to collect and prepare the environmental information (EIS).
Submission of Environmental Information to Competent Authority	The developer submits the environmental information to the CA in the form of an Environmental Impact Statement (EIS).
Review of Adequacy of the Environmental Information	Formal requirement for the review process is carried by the EIA Committee, which includes the governmental organisations responsible for implementing environmental legislation, universities and NGOs. The developer may be required to provide further information if the submitted information is deemed to be inadequate.
Consultation with Statutory Environmental Authorities, Other Interested Parties and the Public	The environmental information is available to the environmental authorities, other interested organisations and the general public for review. They have an opportunity to comment on the project and its environmental effects before a decision is made on development consent.
Consideration of the Environmental Information by the Competent Authority before making Development Consent Decision	The environmental information and the results of consultations are considered by the CA in reaching its decision on the application for development consent.
Announcement of Decision	The decision is made available to the public and it is mandatory to explain the description of the measures that will be required to mitigate adverse environmental effects.
Post-Decision Monitoring if Project is Granted Consent	CA executes post-decision monitoring to ensure that those undertakings which are committed to by the developer are performed. CA may cooperate with other environmental authorities when necessary.

The highlighted steps must be followed in all Member States under Directives 85/337/EC and 97/11/EC. Scoping is not mandatory under the Directive but Member States must establish a voluntary procedure by which developers can request a Scoping Opinion from the CA if they wish. The steps which are not highlighted form part of good practice in EIA and have been formalised in some Member States but not in all. Consultations with environmental authorities and other interested parties may be required during some of these additional steps in some Member States.

CA = Competent Authority; MS = Member State.

Annex III selection criteria will be taken into account if any Annex II project is subject to EIA. For the Annex II Projects, a Project Introductory File submitted to MoEF by the developer. The CA will provide its opinion as to whether an EIA is required or not. Use of the Annex III selection criteria will lead to more environmentally sensitive decision-making.

Annex I and II projects have been amended to correspond to the lists of the EU EIA Directive. The new EIA Regulation has almost the same Annex I and II project lists. There have been some minor differences from the previous EIA Regulation such as mining projects, tourism development projects and energy projects.

Another change involves the public participation process, which will begin before the scoping stage rather than later in the EIA process. In the new Turkish EIA Regulation, the public hearing meeting will be arranged before the scoping stage. At the end of EIA process, the decision and the reason for the decision of the project will be declared to the public. As a result, the new EIA Regulation ensures that any environmental information gathered by the developer is made available to the public within a reasonable time in order to express its opinion before development consent is granted. Qualification of consultants again introduced with new regulation and consultant firms shall be responsible either preparation of EIA Reports or monitoring the EIA Projects during the construction period. Inspection reports will be submitted to MoEF during the construction phase of the project.

As mentioned above, EIA in the transboundary context is not yet a subject of the new EIA Regulation.

Overview of EU Legislative Requirements

The legislative requirements of the EU EIA Directive, the provisions of the Turkish EIA Regulation of 1997 and of the amended Regulation 2002 have been compared. Although new EIA Regulation has been developed in concordance with the Directive, due to the fact that Turkey is not yet a party to Aarhus and Espoo Conventions, the requirements arising from these Conventions are still gaps in the new Regulation.

EU Legislative Requirements	2002 Regn	2003 Regn
EIAs are mandatory for all those projects listed in Annex I of the Directive.	YES	YES
For those projects listed in Annex II, the Annex III selection criteria must be used to determine if an EIA is required.	YES	YES
Member States may decide which Annex II projects are to be subject to EIA either on a case-by-case basis and/or by setting thresholds or criteria.	YES	YES
The competent authority must make available to the public the decision on whether an Annex II project shall be subject to an EIA or not.	YES	YES
The developer must provide relevant Annex IV information to the competent authority which must include information on alternatives they have considered and the main reasons for their choice.	YES	YES
A public consultation process must be established and the results of any consultation must be taken into account by the competent authority in deciding whether to grant development consent.	YES	YES
There is a requirement to consult with other Member States if the proposed project may have trans-boundary impacts.	NO	NO
The competent authority must make available to the public: applications for development consent and other information within a reasonable time in order to give them an opportunity to express an opinion before development consent is granted; the content of their decision and any conditions attached; the main reasons and considerations on which the decision was based; a description, where necessary, of the main measures to limit the environmental impacts of the development.	YES	YES
The proposed directive amending the EIA Directive is intended to implement the provisions of the Aarhus Convention which has been ratified by the Community.	PARTIAL	PARTIAL
It strengthens the rights of public involvement in the decision-making process. It also extends public participation procedures into a series of environmental directives under which plans or programs must be drawn up.	PARTIAL	PARTIAL

Projects for improving EIA System in Turkey

1-Bilateral Agreement with The Netherlands Government: MATRA-PSO Program

The MATRA project “Approximation and Implementation of EIA Directive” has supported the Turkish Ministry of Environment and Forestry in strengthening the capacity for the implementation of the respective EU directive. The project has been implemented between 1 January 2002 and 1 July 2003, and will have resulted in the alignment of national legislation on EIA, the development of a general handbook on EIA as well as three sectoral guidelines (highways, waste disposal projects and coastal development projects).

There is a need to continue preparing the other sectoral guidelines, as well as an excellent equipped training center which can support in the implementation of priorities of the EIA system. In order to achieve this result, Establishing The EIA Training and Information Center project has been proposed and accepted by The Netherlands MATRA PSO Program. Centre will be officially resided under the Directorate General of EIA and Planning. Experienced staff on the implementation of the EIA Regulation from different sectors may assigned to work in the EIA Training Center. The Ministry of Environment and Forestry will cover all running costs and personnel expenditures.

Developing the 12 sectoral guidelines will be realised for the selected sectors in Annex 1. In addition, procedural implementation guidelines will be focused on stakeholders needs. Guidelines will include the current environmental permit system and initiation of EIA Process will also be studied whether EIA's submitted on time, late or earlier. Then screening and scoping procedures will be defined in terms of identifying the roles and responsibilities of related stakeholders. After determining the predicted impacts on natural, living, and social environment, EIA Report format is determined. EIA With respect to training, there is still a great need for additional training at expert level.

The EIA Training Center will mainly responsible for:

- training in the area of EIA;
- scientific research on EIA;
- information distribution on EIA studies;

The Project purpose is to support the Turkish Ministry of Environment and Forestry with the establishment of a EIA Training and Information Center for the execution of training, advisory services, and overall co-ordination of EIA studies. Project results are;

- Consensus achieved on the requirements of a EIA Training and Information Centre;
 - an EIA training strategy and programme developed;
 - an EIA research strategy and programme developed;
 - an information and communication strategy developed;
- relevant documents adapted and new materials developed.

2- Leonardo da Vinci Project: Training of the EIA Training and Information Center Trainers

EIA Training and Information Centre will be established in Ministry of Environment and Forest in General Directorate of EIA and Planning by the end of March, 2004. Implementation of EIA Regulation in the same line with EU EIA Directives has a priority in short term in two National Programs and improving the EIA implementations has been underlined in the Regular Report towards Accession of Turkey through European Union. The purpose of the proposed project is to train the EIA Experts and Decision Makers who will be responsible from conducting EIA Training through EIA stakeholders in EIA Training and Information Center, learning of working principles and roles and responsibilities of two well known EIA Center, namely Manchester and Imperial College, examining the EIA Directive implementations of UK central and local level authorities, conducting field visits for selected infrastructure projects and their EIA implementations.

General Directorate of EIA and Planning is responsible for assessing and monitoring of EIA Reports which are prepared for infrastructure and industry projects in planning stage. EIA report contains information about the project, place of the project, properties of current project place, impacts of the projects, impact predictions, impact evaluation techniques, mitigation measures, follow-up procedure and action plan for follow-up.

During this project, UK Prime Minister Office Environment Department and Imperial College EIA Center will be visited and their roles and responsibilities will be studied and local level environmental agencies will be visited for examining their EIA implementations. This project has been prepared together with the experts of Ministry of Environment and Forest and the academicians of Manchester University EIA Center. This project will be conducted for two groups for two weeks for 7 (seven) participants of EIA experts and EIA decision makers of EIA general Directorate in June and July, 2004.

3- Environmental Approximation Strategy (SAS) for Turkey, EU Funded Project,

Environmental Approximation strategy has been prepared for the sectors of horizontal, air, water, chemicals, nature protection, waste, nuclear safety and industrial pollution.

3.1 Sectoral Approximation Strategy For Horizontal Sector:

The Sector Approximation Strategy (SAS) for the Horizontal Sector has been prepared by officials from three departments in the general Directorate of EIA and Planning, co-ordinated and supported by an EU-funded Technical Assistance Team. Other ministries and agencies were consulted through three Sector Working Groups each focusing one of the three key directives in the sector. The work was carried out between April 2003 and March 2004.

The three key directives in the horizontal sector are:

- Environmental Impact Assessment (EIA) Directives (85/337, 97/11 and 2003/35);
- Strategic Environmental Assessment (SEA) Directive (2001/42);
- Access to Environmental Information (AEI) Directive (90/313 and 2003/4).

Other relevant legislation in this sector includes:

- Directive on Reporting on the Implementation of Certain Directives (91/692);
- Regulations on the European Environment Agency (1210/90 and 993/99);
- Regulation on the LIFE Programme (1655/2000);
- Decision on a Programme to Promote European Environmental NGOs (97/872);

Directive Specific Implementation Plans (DSIP) have been prepared for the three key directives, and a single Summary DSIP has been prepared for the other items of legislation identified above.

The EIA Directive has links to legislation in most other sector of the environment, because activities covered by directives in those sectors are also subject to EIA such as the IPPC Directive, the Incineration Directive and the Landfill Directive. The SEA Directive has links with many directives in other sectors that require the preparation of strategies and plans, including the waste and water framework directives. The Reporting Directive has links with those directives in other sectors for which reports to the standards of the Reporting Directive are required.

The MoEF has overall responsibility for the co-ordination and implementation of horizontal sector legislation across Turkey. This responsibility is discharged both at national level and through the ministry's provincial offices.

Legislation in this sector is implemented through the Environment Act (1983) and subsidiary regulations. At present the only other relevant legislation is the EIA Regulation (2003), although Turkey is a member of the European Environment Agency (EEA) and participates in the LIFE programme and the IMPEL Network (which plays a key role in setting standards for environmental inspection).

The horizontal sector differs from other sectors in that the implementation is more related to co-ordination and information management than to 'conventional' inspection and enforcement. In some cases this makes the situation more complex because of the large number of disparate organisations affected by the legislation.

3.2 Priorities for Transposition

The EIA Regulation (2003) transposes most of the requirements of the 1997 EIA Directive, but further transposition is needed to make Turkish legislation consistent with the ESPOO Convention (transboundary

issues) and, under the 2003 Directive, the Aarhus Convention (public information). No other legislation in this sector has been transposed into Turkish law, although a regulation on SEA is in preparation.

The four priorities for transposition (in order of importance) are:

- Transposition of the SEA Directive;
- Completion of transposition of the EIA directives;
- Transposition of the Access to Environmental Information Directive;
- Transposition of other horizontal sector legislation.

A TA project funded by the Dutch government (MATRA programme) over the period from 2003 to 2005 will focus on the implementation of the SEA Directive, including transposition (drafting of the SEA Regulation). A second MATRA project is proposed to draft the regulation needed to implement the Access to Environmental Information Directive over the period from 2004 to 2006.

Beyond this, there is a requirement for additional work in four areas in order to complete transposition of the legislation in this sector:

- Staff inputs and capacity building to secure enactment of the SEA Regulation drafted through the MATRA project;
- Staff inputs and capacity building to prepare and enact changes to the EIA Regulation to make it fully compliant with the latest EIA Directive;
- Staff inputs to secure drafting and enactment of the Regulation on Access to Environmental Information;
- Staff inputs to the drafting and enactment of legislation transposing other EU legislation in this sector, both through amendments to existing legislation (including the Environment Act) and through new secondary legislation.

3.2 PRIORITIES FOR INSTITUTIONAL STRENGTHENING

Institutional strengthening is required for all the three key directives in this sector, together with the Recommendation on Inspection and the legislation relating to EU funding programmes (LIFE and NGOs).

There is at present EU-funded technical assistance project focusing on institutional strengthening in this sector which is focused on the AEI Directive from 2004 to 2006. There is also a Dutch MATRA project to establish an EIA Centre (2004-6), with a further MATRA project planned to establish the information office needed for effective implementation of the AEI Directive.

There are much wider institutional strengthening requirements for all three of the key directives.

- For the EIA Directive four separate training programmes are required, covering MoEF staff (2004-6), sector specialists (2005-7), transboundary issues (2006-7) and provincial/local staff (2008-25).
- Implementation of the SEA Directive also requires initial training at national level for staff from ministries (2006-10), followed by a wider training programme at local and provincial levels (2010-25).
- For the AEI Directive, the EU-funded technical assistance and establishment of the information office are complemented by 'training of trainers', local training and public awareness campaigns.

Further training of experts needed along with an increase in the resources allocated to the management of EU funding programmes (LIFE and NGOs) in order to promote them more effectively to potential applicants.

The benefits deriving directly from the implementation of Horizontal Sector legislation have not been quantified. Nevertheless, it is clear that Horizontal Sector legislation will contribute to achieving higher environmental standards by:

- Ensuring that all relevant plans are subject to environmental assessment and public consultation (SEA Directive)
- Ensuring that many new projects are subject to detailed environmental assessment and public consultation (EIA Directive)
- Ensuring that environmental data is produced consistently and made available where required, including to the general public (Access to Environmental Information Directive plus other legislation)
- Ensuring that high standard funding applications are submitted to the LIFE and NGO programmes by eligible Turkish organisations
- Ensuring that standards of environmental inspection and enforcement are improved.

The key issues and uncertainties associated with this strategy and plan are:

- The limited availability of the qualified staff and government funding needed to implement the Sectoral Approximation Strategy quickly and effectively
- The high work-load in the early years of the programme (particularly 2005 to 2007)

Conclusions

Guidelines should be introduced to the EIA system soon. Training program for central and provincial level should be conducted. Common implementation of the EIA Regulation should be provided. In order to achieve this requirements, "EIA Training and Information Centre" may be a key element for this purpose. Bilateral agreements, EC funded projects and other ways for financial support shall be useful to achieve desired situation as well as MoEF own training programs. NGO's, general public, consultants, developers and their representatives should be informed more often about implementations of EIA by MoEF and its updated services.

In coming years, EIA Training and Information Centre may serve as International EIA Training through Middle East, Caspian Region and Newly Independent States.

Collective responsibility feelings through environmental problems by each level of the community may result in pollution prevention and protection of natural, living and social environment.

References

- 1- EIA Directive 85/337/EEC and amended EIA Directive 97/11/EC.
- 2- EU EIA Scoping and Screening Guidelines.
- 3- Terms of Reference of MATRA Projects.
- 4- Sectoral Approximation Strategy for Horizontal Sector
- 5- Turkish EIA Regulation (1993,1997, 2002 and 2003)