
Environmental and Health Impact Assessments (EIA/EHIA)

Situation and impacts

1. Thailand's Environmental Impact Assessment (EIA), has been developed and put in force since 1975 under the Enhancement of Environmental Quality Act. The objective is for it to serve as an important tool and mechanism for government agencies when considering approving developmental projects with possible impacts on the environment and public health. Each project is required to prepare an EIA report delineating expectations and impact assessment, including measures to prevent/manage/reduce and examine possible environmental and health impacts. The EIA reporting has been beset with a number of problems resulting in a host of social conflicts mainly because its system and structure have not been updated to reflect the changing economic, social and political realities. Several EIA reports approved by the public agencies have met with distrust and opposition from the people sector (especially the community in the project area). At the same time, some project owners had a negative attitude toward the approval process in such a way that they did not really put into action measures and recommendations on impact reduction as suggested in the report. Besides, at the beginning the reports paid little or no attention to possible impacts on people's health, giving rise to such conflicts as in the case of the Mae Mo power plant and Maptaphut Industrial Estate. Attempts, therefore, have been made to improve the EIA system.

2. The Constitution of the Kingdom of Thailand B.E. 2550 (2007) has provisions that attach importance on environmental and health impacts, while the people sector has taken a keen interest in projects and activities with possible serious public impacts on the environment, natural resources and health. In 2009 attempt were made to include health impact assessment (HIA) into the EIA report in line with the requirements set out in the Constitution B.E. 2550 (2007); as a result, there are now EIA (for regular development projects) and EHIA (Environmental & Health Impact Assessment) (for projects or activities with possible serious impacts on the community)¹. At present there are 35 types of projects/activities that require EIA² and 11 types that require EHIA³. Nevertheless, despite continuous efforts to improve EIA/EHIA systems, social conflicts continue to mount and escalate, thus, reflecting the fact that the problems have not yet been truly tackled at the root cause and that the systems are too much weighed down by the limitations to function effectively and, therefore, cannot properly serve as a tool and mechanism to prevent and reduce environmental and health impacts.

3. The structural and systemic problems besetting the EIA/EHIA⁴ work can be divided into the rationale and system, reporting, report consideration, and examination and evaluation as follows:

3.1 Rationale and system:

3.1.1 EIA/EHIA is only an impact analysis at the project level without studying the carrying capacity of the area regarding the environment, society, and health. This limitation has made EIA/EHIA a reactive measure inadequate for environmental management, resulting in adverse effects and conflicts with the community in the vicinity of the project/activity. For example, in the case of Maptaphut industrial estate⁵, pollution affected the environment and nearby areas so much that the people sector demanded solutions and remedial actions. Suggestion was made to upgrade the EIA reporting to cover development at the policy level or area level to ensure sustainable policy planning and area development. In addition, although at present there is a resolution passed by the National Environmental Commission (on 9 June 2009) requiring Strategic Environmental Assessment (SEA)⁶, the connection between SEA and EIA/EHIA is still lacking.

3.1.2 The feasibility study of the project/activity reveals two kinds of problems:

1) The fact that the feasibility studies were undertaken separately from EIA/EHIA reporting made EIA/EHIA unable to play a role in the consideration to change or stop projects with high risks for adverse impacts on the environment and community. There was a lack of participation right from the project preparation and site selection. Besides, it did not allow for other feasible options, especially in mega development projects.

2) Actual costs were not included, such as environmental and social costs, thus distorting actual economic returns and causing other problems to follow.

3.1.3 Although EIA/EHIA preparation has seen more public participation and hearing, the participatory process was not carried out in a really meaningful way. It was almost a ritual practice carried out just to comply with legal requirements. In addition, there were questions of transparency of project implementation as well as public trust and confidence. For example, the power plant construction project in Prachuap Khirikhan province (Hinkrut/Bo-nok power plant)⁷ met with a strong opposition from the local community. There were even clashes between some community groups and government officials, primarily because the government agency concerned and the private operators did not impart (correct) technical information and did not allow local people at every level to come to grips with the situation and express their views adequately in a meaningful way.

3.1.4 Legal issues include the following:

1) EIA/EHIA is not always in line with applicable laws concerning, among others, town planning industrial considerations, industrial estates, building construction, and health impact mitigation measures. In some cases, before EIA/EHIA was granted legal approval, the project/activity had gone ahead with the work, thus putting pressure on the agency considering approving the EIA/EHIA concerned.

2) Legal contents, provisions, arrests, fines and punitive measures are outdated.

3) There is yet a law to empower responsible agencies, e.g. Environmental Commission and ad hoc expert committee, to put the project on hold or to a stop.

3.2 Problems of reporting preparation:

3.2.1 The relationship between the project owner and the people preparing the report/consultant company is comparable to that between the employer and employee. This could pose a problem when the employee (report maker/consultant company authorized by Office of Natural Resources and Environmental Policy and Planning) prepares the report to meet the requirements of the employer (project owner), trying to make sure that the EIA/EHIA will be approved. This would compromise the independent nature of the work and the contents, rendering the report not really useful.

3.2.2 There is a problem concerning the time limit of EIA/EHIA. Currently, no time limit is imposed on studies that have been completed. If the project that was given a green light did not start its operation in a short time, it might affect the situation or have consequences not in line with the findings of the study. Again, this might create more damages to the environment, society and health. Therefore, time limit should be imposed on the EIA/EHIA that has been approved by the ad hoc expert committee.

3.2.3 There is a problem about determining what type a project should come under. Although at present attempts have been made to decide what project type, size and site would need EIA and EHIA as set forth in the Announcements of the Ministry of Natural Resources and Environment dated 20 June 2012 and 31 August 2012 respectively, they do not cover every type of project that might cause risk. There are gaps that the project owner can exploit to evade EIA/EHIA reporting requirements. For example, they can reduce the site or project to a level that does not require the assessment or change project types and consequently do not need to seek approval, e.g. reducing the number of rooms for accommodation or reducing the capacity of the power plant.

2.1.4 There is a problem of EIA/EHIA not reflecting actual anticipated health risks to various groups. Other problems include no analysis connecting environmental to health

impacts, unclear measures designed to reduce health impacts, and shortage of experts responsible for analyzing and following up health issues.

3.3 Problems of considering reports:

3.3.1 It is difficult for the people sector to get access to EIA/EHIA report, resulting in reduced confidence and trust in the work of government agencies and authorized report preparers. In some cases, it is possible for the report to miss out necessary information, as the people sector was not allowed the opportunity to add important pertinent information on the area and voice its opinions.

3.3.2 When it comes to communicating the findings of the studies/reports to a public participatory forum, the contents were rather lengthy because of the report format, while the studies themselves are fragmented, making it difficult to see how they are all connected, not to mention excessive use of technical jargons. If the findings are shown at the public hearing, it may cause a lot of difficulties, as they are too complex for the civil sector to understand.

3.3.3 No conditions are imposed on the timeframe to improve the EIA/HIA reports after they are perused by the ad hoc expert committee (within 45 days). If the revision takes too long, the situation or certain information may have changed and will no longer be applicable for impact analysis in the reports.

3.3.4 The structure and composition of the National Environment Commission can be a cause for concern when considering EIA/EHIA of government projects and submitting its views to the cabinet for approval. According to the Enhancement of National Environment Quality Act B.E. 2535 (1992) (Sections 13-21)⁸, the Commission is composed of the Prime Minister as the chairperson with the Minister and agencies concerned including qualified persons chosen by the Minister as members. The commission may not always be independent in its decision, not to mention conflicts of interest, when considering EIA/EHIA reports, because in several instances the government agencies themselves are project owners.

3.3.5 Problems/difficulties of ad hoc expert committees regarding the project approval process as follows:

1) Composition of ad hoc expert committees: In 2011 ten ad hoc expert committees were appointed by the Chairperson of the National Environmental Commission under the Enhancement of National Environmental Quality Act B.E. 2535 (1992). Each committee consists of a chairperson, officials authorized by law or activity that requires EIA reporting, and 9 qualified persons. It is found, however, to lack elements from the civil sector/affected community.

2) The working process can be problematic; for instance, there is no local representative/information support needed to consider projects, as well as inability to get access to the project site for lack of budgets and time.

3.3.6 There is a structural problem regarding the Office of Natural Resources and Environmental Policy and Planning, Ministry of Natural Resources and Environment when it comes to considering EIA/EHIA reports. It is found that the office is the main structure responsible for enforcing the EIA/EHIA system from report consideration – screening/examining/making recommendations to each ad hoc expert committee – to the development of techniques/processes involved in the EIA/EHIA system. It is overburdened with work and is short of technical experts necessary to consider reports in each year. The project-based approach makes it difficult to see the overall picture or use the results of project approval in various sites for local evaluation processes in an effective manner.

3.4 Problems of follow-up and evaluation:

3.4.1 The approving/permitting agencies can conduct a follow-up and examination of the work regarding mitigation of environmental impacts as put forward in the EIA/EHIA reports and included as part of the condition at the end of the permit only when the matter is in

the purview of the law governing their operations or the project sites, thus making it difficult to coordinate the work with other related agencies in a systematic manner.

3.4.2 The lack of follow-up and evaluation of the implementation of measures specified in the EIA/EHIA reports has given rise to several projects failing to strictly follow the laid down conditions. Although the Office of Natural Resources and Environmental Policy and Planning has set up internal follow-up teams, it is beset with a host of problems including personnel shortage, lack of power and penalty for the wrong-doing project owners. It is not even possible to follow up the coordination efforts in the locality concerned to see whether there is any EIA/EHIA violation by the projects.

Relevant policy and measures

4. Currently the laws directly concerned with environmental impact assessment reports (for project/activity set out in ministerial regulations) include the Enhancement of Environmental Quality Act B.E. 2535 (1992) and provisions on health impact analysis added in 2009 under Article 67 Paragraph 2 of the Constitution B.E. 2550 (2007). Still, there are problems about the system and structure of EIA/EHIA reporting as mentioned earlier. Although the Ministry of Natural Resources and Environment has undertaken to amend the Enhancement of Environmental Quality Act to include EHIA, it is not geared toward the reform of the EIA/EHIA system and structure. At present, the proposed amendment bill is being considered by the Council of State and will be further submitted the cabinet for consideration.

Issue for consideration by National Health Assembly

Requesting the National Health Assembly to consider Document Health Assembly 5/Draft Resolution 5

References

¹ The EIA/EHIA reports show different levels of health impact assessment. EHIA for projects/activities that may have a serious impact on the community will be greater in intensity of health impacts than does EIA for regular development projects.

² From Notification of the Ministry of Natural Resources and Environment on Determination of Categories and Sizes of Projects/Activities that Require Reporting, 20 June 2012

³ From Notification of the Ministry of Natural Resources and Environment on Determination of Categories and Sizes of Projects/Activities that May Cause Serious Impacts on the Community, 31 August 2010

⁴ Referenced from Survey of EIA Status, Problems and Solutions, Intellectual Creativity: Public Policy Series No. 2, December 2002

⁵ See detailed guidelines for rehabilitation and assistance for those affected by Maptaphut cases in Collected Work of the Committee for Solving Problems Arising from the Implementation of Article 67 Paragraph 2 of the Constitution of the Kingdom of Thailand, June 2011

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- ⁶ Short for Strategic Environmental Assessment, an instrument for assessing environmental impacts at local level and for individual branches ranging from policy setting to ensure cost-effective and sustainable use of resources to preventing or minimizing environmental, social and economic impacts
- ⁷ Power plant construction project at Prachuap Khirikhan province in line with the guidelines for the management of infrastructure mega-projects of the Office of National Economic and Social Development Board, June 2003
- ⁸ See details of the composition of the National Environment Board on the following website:
http://www.onep.go.th/neb/1.About_neb/webpage/neb_complement.html