Introduction to the current status, development and statute of EIA in Taiwan

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The Function of Environmental Impact Assessment (EIA)

An ounce of prevention is worth a pound of cure. EIA is to ensure the issue of pollution prevention and ecological conservation are taken into count by decision makers to prevent the environmental damage from happening.

**Article 1 of Environmental Impact Assessment Act**:

This Act is formulated to prevent and mitigate the adverse impact of development activity on the environment in order to achieve the goal of environmental protection. The regulations of other laws shall apply to those matters not regulated by this Act.
The Development of EIA in Taiwan

- Environmental Impact Assessment was first commenced in USA and has been used increasingly around the world because it really can put forward constructive opinions.

- The National Environmental Policy Act enacted in 1970 in USA aims to establish a environment management system capable of empowering the federal government to develop a concise assessment for the construction project and take the environment protection into consideration.
The Development of EIA in Taiwan

- **Oct.17, 1985** Executive Yuan approved the "EIA Promotion" experimental project and appointed 14 construction plans, such as Taichung Power Plant, National freeway 3, and Lungmen Nuclear Power Plant as applicable national plan.

- **Apr.17, 1991** Executive Yuan approved the "EIA Promotion" "6-year subsequent project.

- **Dec.30, 1994** Enacted the EIA Act.
Challenges of EIAs in Taiwan

- Challenges of EIAs - Parties supporting the development (Local Government, Industry Group...

- Challenges of EIAs - Parties not supporting the development (NGO, community..)

- Challenges of EIAs - Judgment
Critical Factors for EIA Practicing

- Screening
- Scoping
- Public participation and (or) consultation
- Documentation
- Review
- Decision and monitoring
Laws related to Environmental Impact Assessment Act

- Environmental Impact Assessment Enforcement Rules
- Working Standards of the development activity applicable for EIA(Screening)
- EIA Enforcement Rules-Development Activities (Scoping, Public participation, Documentation)
- EIA Document Receiving and Payment Rules
- EIA Review Committee Articles(Review, Decision)
- EIA Enforcement Rules-Policy
Laws related to Environmental Impact Assessment Act

- EIA Enforcement Rules-Policy
- Working Standards of the development activity applicable for EIA
- EIA Enforcement Rules-Development Activities
- EIA Enforcement Act
- Policy Details applicable for conducting EIA
- EIA Public Briefing Rules
- EIA Public Hearing Rules

Law
Regulations
Administrative Rules
Article 4 of EIA Act

Definition of EIA and Development Activity

means an environmental management plan based on scientific, objective and comprehensive surveys, forecasting, analyses and evaluations conducted prior to project implementation in order to determine the degree and scope of the potential impact of development activity or government policy on the environment (including the living environment, natural environment and social environment), economy, culture and ecology, and the public explanation and review of such a plan.

The scope of development activity includes its planning, implementation and post-completion use.
Article 5 of EIA Act

Environmental impact assessments shall be conducted for development activities for which there is concern of adverse impact on the environment.

1. The establishment of a factory
2. The development of a road, railway, mass rapid transit system, harbor or airport
3. The extraction of soil and rock or the exploration and extraction of minerals
4. The development of water storage, water supply, flood control or drainage projects
5. The development or use of land for agriculture, forestry, fisheries or livestock
6. The development of recreational areas, scenic areas, golf courses or sports fields
7. The development of cultural, educational or medical facilities
8. The construction of new municipal districts, construction of tall buildings or renovation of old municipal districts
9. The construction of environmental protection projects
10. The development of nuclear energy or other energies or the construction of radioactive waste storage or treatment facilities
11. Those other activities officially announced by the central competent authority

Environmental impact assessment working standards applicable for those development activities for which environmental impact assessments are required to be conducted.
Article 4 of Working Standards
Park Development

Where one of the following circumstances applies with respect to the construction or expansion of a park, an environmental impact assessment shall be required:

I. The site is located in a national park.
II. The site is located in a wildlife refuge or a major wildlife habitat.
III. The site is located in an important wetland.
IV. The site is located in a nature preserve approved and announced under Taiwan Coastal Area Natural Environment Protection Plan.
V. The site is located in a reservoir watershed.
VI. The site is located in a water quality and quantity protection area.
VII. The site is located in the land reserved for indigenous people.
Article 4 of Working Standards
Park Development

Where one of the following circumstances applies with respect to the construction or expansion of a park, an environmental impact assessment shall be required:

VIII. The site is located at an elevation of over 1,500 meters.
IX. The site is located in a slope land, national scenic area, or a general protected area approved and announced under Taiwan Coastal Area Natural Environment Protection Plan, and the application for development area or cumulative development area is one hectare or more.
X. The site is located in an agricultural land in a special agricultural zone, and the application for development area or cumulative development area is one hectare or more.
XI. The site is located on urban land, and the application for development area or cumulative development area is 5 hectares or more.
XII. The site is located on non-urban land, and the application for development area or cumulative development area is 10 hectares or more.
Attachment chart: The Flow Chart of Environmental Impact Assessment
The industry competent authority may not grant permission for a development activity prior to the completion of an environmental impact statement review or the authorization of an environmental impact assessment report; permission granted in violation of this regulation shall be invalid.

The industry competent authority may not grant permission for development activity to those developers that the competent authority determines through review shall not be granted permission to implement development activities. However, the developer may submit an alternate plan to the competent authority for a new review.
Comparison of Taiwan and Other Developed Countries

<table>
<thead>
<tr>
<th>Comparison</th>
<th>Competent Authority</th>
<th>With or Without Veto Power</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taiwan</td>
<td>Environmental agency</td>
<td>With Veto Power</td>
</tr>
<tr>
<td>USA</td>
<td>Regulating authority of a target business</td>
<td>No Veto Power</td>
</tr>
<tr>
<td>Germany</td>
<td>Regulating authority of a target business</td>
<td>No Veto Power</td>
</tr>
<tr>
<td>Japan</td>
<td>Regulating authority of a target business</td>
<td>No Veto Power</td>
</tr>
</tbody>
</table>
The contents of the original application of an approved environmental impact statement or final environmental impact assessment report may not be modified without the approval of the competent authority and the industry competent authority.

Article 16 Environmental Impact Assessment Act – Revise the original application contents
The revised contents are not related to environmental protection matters or without any negative impact. Please contact the environmental protection authorities for review (36) – free of charge.

- If it is involved with environmental protection matters
  - Revise the content comparison table (37) - $24,000
  - Environmental Impact Difference Analysis Report (37) - $70,000 to $300,000
  - Re-evaluation for the environmental assessment (38) – above $105,000
  - Change the data format submission
    - Article 37-1 of the Implementing Rules
Art. 16-1 of EIA Act: “When a developer starts development activity more than three years after the approval of its environmental impact statement or environmental impact assessment report and the acquisition of development activity permission granted by the industry competent authority, the developer shall submit an analysis of the difference between current environmental conditions and environmental conditions at the time its development activity permission was granted and a strategy evaluation report to the Ministry for review. “Once the construction is started, the development activity is deemed to be initialized.
The developer shall implement development activity strictly in accordance with the environmental impact statement, the content of the environmental impact assessment report and the review conclusion.

During performance of development activities and post-project facility use, the competent authorities should track and supervise the implementation of the environmental impact statements, assessment report, and review conclusions (item 1). Upon a showing of adverse impacts to the environment, the competent authorities shall order the project proponent to submit a description of environmental damage mitigation measures within a specified time period for approval and affirmative implementation (item 3).
EIA Act §7
Approve

EIA Act §16
Project change

more than three years after the approval of its environmental impact statement

Alteration

analysis of the difference between current environmental conditions and environmental conditions

Environmental Impact Survey report

Response

EIA Act §16-1

EIA Act §17
Implement

EIA Act §18

With concern of impact

Prepare

Environmental Impact Statement

Approve

Environmental Impact Assessment Report

EIA Enforcement Rules-Development Activities

Approve

EIA Act §7
Alteration
1. File for review
2. Alteration comparison
3. Environmental impact statement
4. Reconduct EIA

Analysis of the difference between current environmental conditions and environmental conditions

Environmental Impact Survey Report

Approval
- Approve: Implement as the alteration
- Fail: Implement as the original project

Adverse effect
- No adverse effect: Proceed to construct
  - Approve: Implement
  - Fail: Deny

Adverse effect
- No adverse effect: Proceed to construct
  - Approve: Implement
Article 20-24 of EIA Act
Penal Provision

- **Penalty**
  - (1) False information
  - (2) Developer fails to comply with an order to suspend development activity

- **Administrative sanction**
  - fined NT$300,000 to NT$1.5 million → ordered to make improvements within a limited time period → still failed to make improvements by the deadline → issued consecutive daily fines → severe circumstances → order the suspension of the implementation of the development activity
Penal Provisions for the Violation of the EIA Act

<table>
<thead>
<tr>
<th>Violations</th>
<th>Responsible Persons</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>A person who knowingly makes untrue statements in the documents of the environment impact statements, assessment report, and environmental impact survey report.</td>
<td>Documents submitted institution or Project responsible person</td>
<td>Shall be punished by imprisonment for no more than 3 years, or detention, and/or a fine of no more than NTD$30,000 (Article 20).</td>
</tr>
<tr>
<td>The project proponent disobeys an order, issued in accordance with this Act, to suspend development activities.</td>
<td>Project responsible person</td>
<td>Shall be punished by imprisonment for no more than 3 years, or detention, with the possible addition of a fine of no more than NTD$300,000 (Article 21).</td>
</tr>
<tr>
<td>A project proponent who commences development activities before receiving approval of the environmental impact statements or environmental assessment report.</td>
<td>Project proponent</td>
<td>Shall be punished by a fine of between NTD$300,000 to $1,500,000, and may request the competent authorities to suspend the performance of the development activities (Article 22).</td>
</tr>
<tr>
<td>Violations</td>
<td>Responsible Persons</td>
<td>Penalties</td>
</tr>
<tr>
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<tr>
<td>Disobey the suspension order of the development activities issued by the competent authorities</td>
<td>Project Responsible Person</td>
<td>Shall be punished by imprisonment for no more than 3 years, or detention, with the possible addition of a fine of no more than NTD$300,000 (Article 22, 23).</td>
</tr>
<tr>
<td>Failing to implement the contents and review conclusions of the environmental impact statement and assessment report.</td>
<td>Project proponent</td>
<td>Shall be punished with a fine of between NTD$300,000 to $1,500,000, and ordered for compliance within a specified time period. If the violation continues after the specified time period, then continuous daily fines shall be imposed. In the event that the violations are found serious in nature, the competent authorities for this Act may request to suspend the development activities. If necessary, the competent authorities may directly order the suspension of the performance of the development activities (Article 23).</td>
</tr>
</tbody>
</table>
According to the violation of the Environmental Impact Assessment Act, the competent authorities shall punish the responsible persons with the amount of fines designated by the provisions. Additionally, they shall also consider the level of blame, impact, and the benefits acquired through the violation against the law. The competent authorities shall consider the financial strength of violators, and determine the punishment level accordingly.

When the benefit derived from the preceding paragraph exceeds the maximum amount of statutory penalty, it shall be exacerbated within the scope of the benefits obtained, and is not subject to the maximum amount of statutory penalty.

It shall be punished if violates this Act, however, if others obtained the interests of the property but not being published as stipulated in Section 1 and 2 of Article 20, the Administrative Penalty regulations, the competent authorities may recover the interests of the property it receives.
# EIA Review and Competent Authority

<table>
<thead>
<tr>
<th>Type of development</th>
<th>Environmental impact assessment review and the supervised competent authorities</th>
<th>Central Governing Authority</th>
<th>Municipal Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.Factory Establishment</strong></td>
<td>State-owned factory</td>
<td>Non-state-owned factory</td>
<td></td>
</tr>
<tr>
<td><strong>2.Park development</strong></td>
<td>The development area is over 30 hectares.</td>
<td>The development area is under 30 hectares.</td>
<td></td>
</tr>
</tbody>
</table>
| **3.Road development** | 1. National road, provincial road.  
2. The roads crossing more than two municipalities and counties (cities). | Any roads in the city, county, district, township, urban, and other roads within the municipality, county (city). |
| **4.** | **..** | **..** |
## Development to be reviewed by Phase II EIA

### Appendix 2 for the Implementation Rules of the Environment Impact Assessment Act

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
</table>
| I. Development of Park | 1. The petrochemical industrial area covers an area over 50 hectares.  
2. (2) Other parks cover an area more than 100 hectares. |
| II. Development of Road | 1. New construction of highways or expressways.  
2. Extended construction of highway or expressway with a length of more than 30 Km |
| III. Development of Railway | 1. New or extended construction of high-speed railways.  
2. In additional to high-speed railways, the development or other railways that is more than 30 Km in length |
| IV. Development of the Mass Rapid Transit System (excluding light rail) | 1. New construction of the network for the MRT System.  
2. (2) (2) The extended construction of the MRT System with a length of more than 30 Km. |
| V. New construction projects for commercial ports, fishing ports and special industrial ports. | |
| VI. | |
EIA Review Committee

- The term of the committee is 2 years, which should consist of no less than two-thirds of experts and scholars.

- The organizational regulations of the Environmental Impact Assessment Review Committee of the Department
  - The panel of experts and scholars can be re-elected once.
  - The new elections should account for half of the committee members each time.
  - According to the selection criteria of experts and scholars of the Environmental Impact Assessment and Review Committee of the Department, 14 experts and scholars were appointed.
# Policies to be reviewed by EIA

<table>
<thead>
<tr>
<th>Title of Policy</th>
<th>Descriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Industrial Policy</strong></td>
<td>Industrial area setting</td>
</tr>
<tr>
<td></td>
<td>Industrial policy for fundamental intensive energy</td>
</tr>
<tr>
<td><strong>2. Mining development policy</strong></td>
<td>Supply and development of Sandstone</td>
</tr>
<tr>
<td><strong>3. Water development policy</strong></td>
<td>Development policy for Water resources</td>
</tr>
<tr>
<td><strong>4. Land Use Policy</strong></td>
<td>Golf course setting</td>
</tr>
<tr>
<td></td>
<td>Change the scope of tap-water quality and quantity in the protection area</td>
</tr>
<tr>
<td></td>
<td>Change the scope of drinking water quality and resource in the protection area</td>
</tr>
<tr>
<td></td>
<td>New or expanded urban plans (only for areas over 10 hectares)</td>
</tr>
<tr>
<td></td>
<td>Regional plans for Municipal or county (city).</td>
</tr>
<tr>
<td><strong>5. Energy Policy</strong></td>
<td>Development policy for energy</td>
</tr>
<tr>
<td><strong>6. Traffic Policy</strong></td>
<td>Critical development for railways and roads</td>
</tr>
<tr>
<td><strong>7. Waste disposal policy</strong></td>
<td>Waste treatment (convert incinerators into regional biomass energy center and landfill regeneration)</td>
</tr>
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<td></td>
<td>Business waste cleaning</td>
</tr>
<tr>
<td><strong>8. Radioactive nuclear waste disposal policy</strong></td>
<td>Radioactive waste management</td>
</tr>
</tbody>
</table>
The environment impact assessment of the offshore wind power block policy

Submitted by MOE on Dec.30, 2015; the official opinion was made on Dec.28, 2016 after two times of group meeting.

- In order to achieve the effective guidance for the policy, it should establish the reference criteria for the development planning and environmental impact assessment against common environmental issues and relevant measures.

- In addition to consulting the various parties, it should continue to communicate with the Energy Bureau of the Ministry of Economic Affairs, such as the power generation impact of the Chinese White Dolphin Buffer Zone.

<table>
<thead>
<tr>
<th></th>
<th>Original Plan</th>
<th>Planned 500 m</th>
<th>Planned 1000 m</th>
<th>Planned 1500 m</th>
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</thead>
<tbody>
<tr>
<td>Area km²</td>
<td>1,528</td>
<td>1,520</td>
<td>1,510</td>
<td>1,498</td>
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<tr>
<td>Power GW</td>
<td>5.46</td>
<td>5.43</td>
<td>5.40</td>
<td>5.35</td>
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</tbody>
</table>

Policy environmental impact assessment has achieved common issues and relevant responsive measures, which will accelerate the efficiency of individual environmental impact assessment review.
環評會議公告
預告7日內環保署部分地方政府預定召開之「環評審查會議」，以及10日內環評開發單位成員的業務主管機關預定舉行之「說明會(或公聽會)」。

預告7日內本署預定召開之「環境影響評估書審查會」，以及10日內環評開發單位預定舉行之「環境影響評估書審查會(或公聽會)」等會議時間，您可至本署網站查詢。

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<th>開會日期</th>
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<td>上午09:30</td>
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Thanks for your attention.