

### 3.2.10 Swaziland

#### a) Governance

Swaziland attained its independence from Britain in 1968, and adopted a Westminster type of a constitution in 1973. The Westminster model was replaced by the *Tinkhundla*<sup>3</sup> system to facilitate the practice of traditional and the western styles of government. This system also allowed for the election of parliamentary representatives from specific constituencies. After its inception, through the King's Order-in-Council of 1978, the *Tinkhundla* electoral system was later revised in 1992/93 when its members were elected into parliament through a three-stage electoral system. As a result, a bicameral Parliament exists consisting of the House of Assembly and the Senate. The Assembly is elected through the *Tinkhundla* (constituency/local councils) electoral system, which involves nomination within an *Inkhundla* and primary and secondary elections by secret ballot. The King has power over the executive and legislature. He appoints the Prime Minister, who in turn chooses members of his Cabinet, subject to approved by the King. A Swazi National Council, composed of the *Ngwenyama* (King), the *Ndlovukazi* (Queen Mother), *Bantfwabenhosi* (Princes and Princesses), Chiefs and nominated adult Swazis, acts as an advisory body to the King.

The local government structure has over 200 chiefs, who have control and jurisdiction over the Swazi Nation Land. There are four administrative regions, namely: Hhohho, Lubombo, Manzini and Shiselweni, each of which is governed by a Regional Administrator and his Secretary who is charged with the overall development programme. There also exist town councils and town boards, which are municipal governments responsible for urban development.

#### b) Legal Framework

The Environment Management Act No. 5 was passed into law in November 2002 and replaces the Swaziland Environment Authority Act of 1992. Regulations gazetted under the SEA Act, namely the Environmental Audit, Assessment and Review Regulations (2000) and Waste Regulations (2000) remain in force under the Environment Management Act. Air and water pollution regulations are currently in draft form.

Part VIII of the Act is dedicated to public participation. It requires that the authority should create and maintain an environmental information registry in the form of documents that are accessible to the public. However, facilities for photocopying for people on demand do not exist, though the new act does allow such to be done at cost of copying. The vast majority of 'old' and on occasion current EIAs can be taken out upon signing out the document leaving contact details and name. EIAs under review as part of the public review process are usually not allowed to be removed, though it discretionary depending who you are and if you are known by the SEA. The Act also provides for carrying out of public reviews or environmental impact reports, public hearings in the event that a publicly reviewed report receives 10 or more 'substantive' comments or

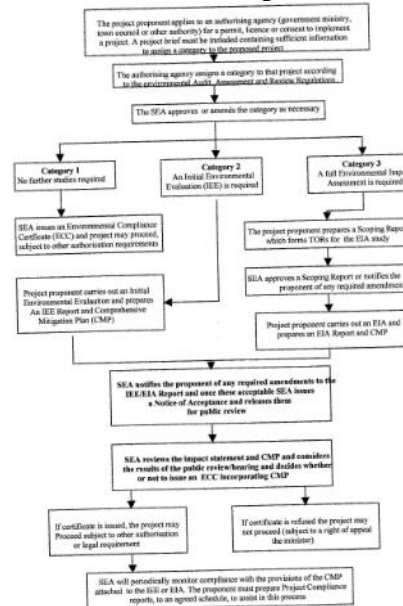
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<sup>3</sup> The term *tinkhundla* (singular *inkhundla*) means an area outside of a cattle kraal where men traditionally sit to discuss matters related to governance; women are excluded in the process.

objections [no definition of ‘substantive’ exists so it’s a judgmental opinion of the SEA] and public participation in licensing decisions. The public can also initiate prosecutions by writing to the authority to carry out investigation on their concerns, and process prosecution if any such a concern is in the interest of protecting and enhancing quality of the environment.

The Environmental Audit, Assessment and Review Guidelines (1999) indicate that consultation and public participation are an integral part of the EIA process. (See Figure 7).

Figure 7. Swaziland Environmental Assessment procedure



The categories in Figure 7 above are defined as follows:

- Category 1: Projects that are not expected to result in any significant negative environmental impacts, and which do not require any additional environmental assessment.
- Category 2: Projects which may cause a limited number of significant negative environmental impacts, but impacts and relevant mitigation measures are well known. These can be implemented after a limited environmental study called Initial Environmental Evaluation (IEE) and the production of an IEE Report and Comprehensive Mitigation Plan (CMP).
- Category 3: Projects which are likely to cause a range of significant negative environmental impacts whose extent and magnitude cannot be determined without a detailed study. Appropriate mitigation measures cannot only be devised until the results of this study have been obtained. These projects cannot only be implemented after a full EIA (EIA) study, and production of an EIA Report and Comprehensive Mitigation Plan (CMP).

Consultation and public participation form, on paper, an integral part of the EIA process for as categories 2 and 3. Those affected by a proposed development, often referred to as “Interested and Affected Parties (I&AP)”, are expected to be involved throughout the EIA process. Their involvement, on paper, starts during the initial design phase and continues through construction, implementation and monitoring for compliance.