PUBLIC INVOLVEMENT IN THE INDONESIAN EIA PROCESS: PROCESS, PERCEPTIONS, AND ALTERNATIVES

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ABSTRACT

The implementation of Environmental Impact Assessment (EIA) as a planning tool has been utilised for a relatively long time in Indonesia. It was introduced formally through the Act No. 4/1982. A supporting regulation was established in 1986 when Government Regulation No. 29 was enacted. After developing the EIA system over a period of fourteen years, Indonesia finally recognised the importance of emphasising public involvement in the EIA guidelines of 2000. In the previous Indonesian regulations, i.e. Regulation No. 29/1986 and No. 51/1993, EIA did not provide guidelines for direct public involvement.

The Indonesian Government Regulation No. 27/1999 is currently accommodating the above issue. Guidelines for public announcements and public involvement have been introduced in a decree issued by the Head of Indonesian Environmental Impact Management Agency (BAPEDAL), No. *KepDal* 08/2000. This was officially enacted on 7 November 2000 in response to the demand for more public involvement, an issue which was ambiguous in the previous legislation. Compared to other countries in Southeast Asia, the Indonesian EIA system is noted for its lack of public involvement practice, which is commonly found in other developing countries.

This thesis evaluates the implementation of public involvement in the Indonesian EIA system and investigates the involvement of stakeholders in the EIA process. The challenge of this study is to examine the characteristics of public involvement in the EIA process where recent democratisation processes in Indonesia were expected to introduce more participation. Through comprehending the development of public participation practice in EIA in Indonesia, it will enrich the knowledge of public participation practices in less developed countries and in the broader context of international EIA practice.

This research was designed to evaluate the implementation of public involvement policy in the Indonesian EIA process through the observation of three EIA case studies. The research investigates the development of EIA in Indonesia since the mid-1980s until late 2003. Recent improvements in EIA legislation incorporated the introduction of public involvement. Following the enactment and dissemination of guidelines for public involvement procedures, these procedures were incorporated into project proposals which advised their implementation. After an introduction stage, constraints are apparent but it is believed that they will not diminish the value of public involvement implementation. EIA will continuously improve with the support of all EIA stakeholders.

After two decades of EIA implementation and two amendments of EIA regulations, Indonesia started to introduce public involvement in the EIA guidelines. However, public involvement is only incorporated into a few stages of the EIA process: in the scoping and review process, and not in the overall EIA stages as suggested by the theoretical EIA process. Findings from the field research suggest that there are still many constraints in applying public involvement in the Indonesian EIA. These include the lack of procedures, EIA budgeting system, the availability of information infrastructure, the public's lack of knowledge about EIA, and the absence of a representative culture.

Case studies show that some public notices were inadequate, either because of poor media selection or cost factors. Public notices were not accompanied with the provision of related EIA information resulting in less focused comment from the public. Furthermore, information infrastructure such as libraries, environmental centres, and document distribution strategies are inadequate. Case studies show that the willingness of the proponent is an important factor in an effective public involvement process. The lack of a public representation structure in Indonesian communities complicates the participation process where public representatives need to be elected as members of the EIA Review Commission. Participation through traditional means, which is expected to be the trigger for a local community to initiate involvement in the EIA process, is not well developed. Particular attempts by EIA stakeholders are necessary to promote and adopt traditional methods in order to facilitate public involvement.

Public involvement in Indonesia appears different to other developing countries for a number of reasons. First, the implementation plan for public involvement in EIA was introduced at the same time as the EIA institutional changes and other over-riding legislation. Second, the move toward better public involvement in EIA came at the same time as Indonesia's decentralisation process resulting in the transfer of the EIA administration authority to local governments. Third, BAPEDAL as the main institution administering EIA was no longer responsible for coordinating EIA.

This research proposes models for improvement of the public involvement process in the Indonesian EIA. While the research focuses its review on the Indonesian EIA system, the experience is hopefully relevant to many other developing countries which are starting to promote public involvement in their decision-making processes. Thus, this research is expected to contribute towards better international EIA practices.

Keywords: Indonesia, Environmental Impact Assessment, Public involvement

DECLARATION

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university and that, to the best of my knowledge and belief, the thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

I consent to this copy of my thesis, when deposited in the University Library, being available for loan and photocopying.

Dadang Purnama

October 2003

I would like to offer this work as a tribute to the environmental movement in Indonesia

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ABBREVIATIONS

AMDAL	*Analisis Mengenai Dampak Lingkungan* or EIA (Environmental Impact Analysis), used similarly with the term Environmental Impact Assessment.
ANDAL	*Analisis Dampak Lingkungan* (see EIS)
ANZECC	Australia and New Zealand Environment and Conservation Council
ARCO	Atlantic Richfield Company
BAPEDAL	Indonesian '*Badan Pengendalian Dampak Lingkungan*', see EIMA.
BP	a multinational company comprising British Petroleum Amoco, ARCO and Burmah Castrol
CEQ	US Council on Environmental Quality
DAO	Department Administrative Order (the Philippines)
DEIA	Detailed assessment or Detailed EIA (Malaysia)
DENR	Department of Environment and Natural Resources (the Philippines)
DOE	Department of Environment (Malaysia)
	Department of Energy (US)
DKI Jakarta	*Daerah Khusus Ibukota* (Special Capital City Area) Jakarta
EER	Environmental Evaluation Report (or PEL, *Penyajian Evaluasi Lingkungan* in the Indonesian EIA system)
EIA	Environmental Impact Assessment (*AMDAL* in the Indonesian EIA system)
EIA Review Commission	(*Komisi AMDAL*), a specific commission which is responsible to assess the EIS and EMPs document during EIA process in Indonesia.
EIE	Environmental Impact Evaluation (in the Indonesian EIA system)
EIMA	Indonesian Environmental Impact Management Agency (see BAPEDAL, *Badan Pengendalian Dampak Lingkungan*)
EIR	Environmental Impact Report (in the California EIA system)
EIS	Environmental Impact Statement (see ANDAL in the Indonesian term)
ELSHAM	*Lembaga Studi dan Advokasi Hak Asasi Manusia* (the Institute for Human Rights Studies and Advocacy at West Papua)
EMB	Environmental Management Bureau (the Philippines)
EMD	Environment Minister Decree (Indonesia)
EMDI	Environmental Management Development in Indonesia
EMP	Environmental Management Plan or Environmental Monitoring Plan (Indonesia) or Environmental Management Planning (the Philippines)
EMPs	Environmental Management and Monitoring Plans (Indonesian)
EP(IP) Act	Environment Protection (Impact of Proposals) Act (Australia)

EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (in Australia)
Foker	*Forum Kerjasama Lembaga Swadaya Masyarakat* (NGOs Cooperation Forum) at Jayapura, West Papua
FORDA	Forum Daerah (Local Forum)
IER	Initial Environmental Report (or *PIL, Penyajian Informasi Lingkungan*)
JATAM	*Jaringan Advokasi Tambang* (Indonesian Mine Advocacy Network)
KA ANDAL	*Kerangka Acuan ANDAL* (EIS Terms of Reference or EIS TOR)
KepDal	*Keputusan Kepala BAPEDAL* (the Decree of the Head of BAPEDAL)
KKN	*Korupsi, Kolusi, dan Nepotisme* (Corruption, Collusion, and Nepotism)
LBH	*Lembaga Bantuan Hukum* (a NGO specialising in legal assistance)
LKMD	*Lembaga Ketahanan Masyarakat Desa* (Village Community Security Institution)
LMA	*Lembaga Masyarakat Adat* at *Teluk Bentuni* (the Organisation of Traditional Community in Bentuni Bay)
LMMA	*Lembaga Musyawarah Masyarakat Adat at Kecamatan Babo* (the Organisation Assembly of Traditional Community of Babo District)
LNG	Liquefied Natural Gas
LP2UKTI	a NGO in West Papua
LP3BH	*Lembaga Penelitian, Pengkajian dan Pengembangan Bantuan Hukum* (a NGO at Manokwari West Papua, specialising in legal assistance)
LPMA	*Lembaga Pemberdayaan Masyarakat Adat Sanggaria Atiati* (the Organisation for Empowerment of Traditional Community)
LSM	*Lembaga Swadaya Masyarakat* (Self-Reliant Community Institution, NGO)
MNC	Multinational Corporation
MNKLH	*Menteri Negara Kependudukan dan Lingkungan Hidup* (the Indonesian State Ministry for Population and the Environment)
MNLH	*Menteri Negara Lingkungan Hidup* (the Indonesian State Ministry for the Environment)
MRT	Mass Rapid Transit
NEB	National Environmental Board (Thailand)
NEPA	National Environmental Policy Act (US)
NEQA	National Environmental Quality Act (Thailand)
NGO	Non Government Organisation (ORNOP or LSM in Bahasa Indonesia) BINGO = Big NGO GONGO = Government Organised Non-Government Organisation LINGO = Little NGO
OEPP	Office of Environmental Policy and Planning (Thailand)
ONEB	Office of the National Environmental Board (Thailand)

ORNOP	*Organisasi Non Pemerintah* (literally translation of Non Governmental Organisation in Indonesia, see LSM)
PER	Public Environment Report (the Australian Commonwealth EIA)
Perdu	or Perdu Fondation, a NGO in West Papua
PIL	'*Penyajian Informasi Lingkungan*' or Initial Environmental Review
PPLH	*Pusat Pendidikan Lingkungan Hidup*
PT IBR	PT Indo Bharat Rayon
RKL	*Rencana Pengelolaan Lingkungan* (Environmental Management Plan, see EMP)
RPL	*Rencana Pengelolaan Lingkungan* (Environmental Monitoring Plan, see EMP)
SEL	*Studi Evaluasi Lingkungan* (Environmental Impact Evaluation, EIE)
SKEPHI	*Sekretariat Kerjasama Pelestarian Hutan Indonesia* (Indonesian NGOs for Forest Conservation)
SOP	Standard Operation Procedures (or UKL/UPL in the Indonesian EIA system)
TOR	Terms of Reference
WALHI	*Wahana Lingkungan Hidup Indonesia* (the Indonesian Environment Network or Forum)
YALHIMO	*Yayasan Lingkungan Hidup Humeibou Manokwari* (Manokwari Humeibou Environment Foundation)
YBLC	a NGO in Manokwari West Papua
YPMD	*Yayasan Pengembangan Masyarakat Desa* (the Rural Community Development Foundation) of West Papua

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CHAPTER 1 – INTRODUCTION

> Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided (Principle 10 of the Rio Declaration on Environment and Development, UNCED, 1993).

A distinctive role for public involvement or public participation can be found in the Environmental Impact Assessment (EIA) process. This is a key element of the planning and decision-making process for many forms of development around the world. There is a substantial body of literature on EIA that discusses some form of public involvement as an integral part of the EIA process (Bregman, 1999; Canter, 1977; Gilpin, 1995; Glasson, Chadwick, & Therivel, 1999; Harrop & Nixon, 1999; Harvey, 1996; Lee & George, 2000; Morgan, 1998; Thomas, 1998; Wood, 1995, 2003).

EIA originated in the US National Environmental Policy Act (NEPA) in 1969 (Canter, 1977: 1; Gilpin, 1995: 2; Bregman, 1999: 1) and the application of EIA has since spread around the globe. It is estimated that more than 100 countries have national EIA systems currently in place (Sadler, Canadian Environmental Assessment Agency, & International Association for Impact Assessment, 1996: 25; Glasson et al., 1999: 37-38). EIA is also recognised by many countries as agreed to in the Rio Declaration on Environment and Development by adopting EIA as a principle in their declaration (Principle 17, UNCED, 1993). Nowadays, the application of EIA is not only used in advanced countries but is also becoming more widespread in many developing countries. It is clear that EIA has become a critical tool to manage environmental considerations in development activities.

> Formal EIA is essentially a technique for drawing together, in a systematic way, expert qualitative assessment of a project's environmental effects, and presenting the results in a way which enables the importance of the predicted effects, and the scope for modifying or mitigating them, to be properly evaluated by the relevant decision-making body before a decision is given (Para. 7, UK Department of Environment 1988 in Wood, 1995: 1).

This is only one definition of EIA while many similar definitions can also be found, such as the definitions by Munn & International Council of Scientific Unions (1979), Davies & Muller (1988), Gilpin (1996: 76), Kemp (1998: 128), and Harvey (1998: 2). EIA is generally defined as a statutory regulation which is implemented following certain directions established by one country or a specific administration agency. EIA regulations will always develop in terms of technical and methodological aspects and in terms of the specific procedures that are mostly preferable among EIA stakeholders. Most definitions of EIA emphasise the identification and prediction of potential impact including communication of its findings to decision-makers. However, the EIA process cannot disregard the necessity for all stakeholders to be informed through the public involvement process.

EIA in essence is a process: an advanced systematic process that seeks environmental outcomes of development action (Glasson et al., 1999: 4). EIA procedures outline the formal process for conducting EIA preparation and assessment to obtain its goals, whether to estimate the implications of projects in the environment or its integration into decision-making and a project cycle. This is also affirmed by Ebisemiju (1993: 259), that EIA processes contain some procedures that arrange tasks among EIA participants or stakeholders. The existence of procedures ensures that all environmental considerations are thoroughly and consistently examined. The EIA process is usually undertaken through several stages including screening, scoping, document preparation, evaluation and approval, public participation, as well as post-decision activities such as monitoring and auditing (Harvey, 1998: 19; see also Glasson et al., 1999: 4-6 and Wood 1995: 5). Within the EIA process, public involvement is a significant stage that influences the overall EIA process.

1.1 Public Involvement in EIA

Public involvement or public participation is an essential part of the planning and decision-making process. The role of public involvement is important in the EIA process. Morgan (1998: 147) claims that: "Public participation is critical to the success of EIA". This can be understood given that the decision-making process should take into account community interests and EIA is a process preceding decisions on a particular development project. The importance of public participation is also argued by Glasson et al. (1999) who state that the public as well as statutory consultation can help to ensure the quality, comprehensiveness and effectiveness of EIA, while public participation can also ensure the consideration of various groups' views in the decision-making process. Moreover, Thomas (1998: 53, 191) argues that better decision-making will result from the public

participation process, because it enables the dissemination of information, the identification of relevant issues and values as well as opening up the decision-making process to public scrutiny. Ebisemiju (1993: 265) also asserts that public participation creates an enabling environment for environmentally sound decisions to be successfully instituted.

O'Riordan & Hey (1976) claim that political culture shapes the public participation in an evolutionary process. Consequently, establishing the system of public involvement or public participation in EIA is not only setting up a process or regulation but it needs consideration in terms of the socio-cultural roots and the political will of all stakeholders in a particular society. Public involvement procedures can be set up by using or adopting the successful example of public involvement in countries with more experience of EIA. However, analysis of public involvement is not possible without considering the roots of public involvement culture in a particular society.

While patterns and procedures of public involvement vary worldwide, the practice of public involvement in EIA also varies in each country. For example, Morgan (1998: 34) notes that public involvement is high in the USA and low in Thailand. A comparative review on EIA implementation in seven developed jurisdictions by Wood (1995: 225-240; 1997: 20-56) shows that in those EIA systems all procedures have provision that consultation and participation must be made following the release of an EIA report. However, not all the systems mandatory set the participation prior to the EIA report or during study stages. Lack of a culture of involvement or participation and lack of education within the public are usually the cause of minimum public involvement in EIA. According to Wood (1995: 307), there may be no tradition of consultation and participation in developing countries while Wilbanks, Hunsaker, Petrich, & Wright (1993) claim that even the notion of public participation may be revolutionary in developing countries. Furthermore, George (2000: 43-44) has also noted this lack of having a tradition for public participation in Middle Eastern and North African countries, except in Turkey which has an EIA system including provision for public hearing. He shows that the more rapidly developing countries in East Asia, despite a recent economic slow down, have had EIA systems which contain formal provision for public involvement, although this tends to be rather general and the practice of public participation is relatively limited.

The importance of public involvement is particularly important because of the need for better decision-making. Levels of democracy, different political cultures, government administrations, the cultures of participation, paradigms in a particular society and the

levels of education are all influencing factors that need to be comprehended to analyse or implement the public involvement process. The state of democracy in a particular system is a strong controlling factor. Because of variation between different democracies, there is no universally ideal model for public involvement. Therefore, application of public involvement in a particular society should carefully consider all of the above issues.

1.2 Factors Affecting Public Involvement in EIA

As stated above, some factors affect the implementation of public involvement in the EIA. Two of the most important factors are outlined below.

1.2.1 The Principle of Democracy

Democracy is a relatively unique concept and it depends upon social interpretation. The term democracy is often applied in governmental affairs, but in general may also be relevant in any system, process or organisation. It can be defined in a simple dictionary definition as a system where "the supreme power is retained by the people, but is indirectly exercised through a system of representation" (The University of Chicago, 2002). In this way, democracy needs participation since it emphasises people's representatives and social equality. A democratic system should ensure the right to take part in decision-making. Hence, democracy and participation are like two sides of the same coin. However, since democracy is socially constructed, its implementation varies in each country and depends upon each country's social system, traditions and needs.

Involvement could mean participation and a general interpretation of participation means sharing in common with others. It is about power distribution in political affairs and participation can be seen as empowerment of minorities as it accentuates social equality among its people. Participation is inevitable in a democratic system because there will be conflicting interests among its stakeholders. In any system, a majority is inevitable and it often denies the interests of minorities. Breton, Galeotti, Salmon, & Wintrobe (1997: 4) claim that: "Majorities tend to erode or neglect the interests of minorities." Therefore, a democratic system should facilitate participation in its implementation to avoid the domination of majorities. Annan (2000) argues that democracy may imply a majority, but this does not mean that minorities cannot voice their interests. He claims that the success of democracy will only be achieved if all groups in a community sense that they are part of the process of democratisation. This is the essence of participation and the participation process should accommodate the interest of minorities.

Involvement and participation in the EIA process is inspired by principles of democracy. This correlates with George's (2000: 29) suggestion that democracy and political liberalisation processes have influenced and are reflected in environmental regulatory systems while political circumstances are reflected in the degree of openness, access to information and public participation in environmental regulatory systems. In the context of public participation in EIA, Thomas (1998: 53) asserts the importance of "...the right of citizens to participate under a democratic system". Therefore, public involvement or participation in EIA is an example of the implementation of democratic principles. However, the implementation of public involvement or participation depends on the institutional and legislative or regulation system in a particular government administration, and it also depends on paradigms in a particular society.

In addition, Non Government Organisations (NGOs) are often considered as one tier of democracy since they often stand for minorities – especially for victims of environmental conflicts – and usually promote the whole process of democratisation. In some countries, environmental NGOs often act as the representative of the affected community in the public involvement process. NGOs emerge from grassroot groups and take initiatives in various environmental actions and some of them focus their actions on the EIA process. This close relationship between public involvement and the role of NGOs is not typical in every country. Consequently, the role of NGOs in the EIA process either as stakeholders or as representatives of the affected community is critical for further discussion.

1.2.2 The Role of Non Government Organisations (NGOs)

Besides the public, there are three distinct players in the arena of environmental management and environmental politics: Government, NGOs and Inter-Government Organisations. The government's role in the political system and in the framework of environmental management is clear: it regulates a nation according to consensus, ideology, and political regime while Inter-Government Organisations are external factors that provide important sites for joint international activity by civil society interest (Eccleston, 1996: 66). According to Doyle & McEachern (1998: 81), NGOs are the most visible players in environmental politics. Therefore, comprehending the role of NGOs and their actions in the framework of EIA is a critical aspect in the implementation of public involvement in EIA.

Bisset (2000: 149-150) claims that one reason for a national and international upsurge in concern for enhancing public participation in environmental assessment is recent political

and policy changes. An important factor is the growth of the influence of NGOs (UNEP, 1996: 150). Indeed, NGOs have many measures to influence environmental management and environmental policy in general such as lobbying, direct action or representing the public interest. One way to promote environmental concerns is lobbying stakeholders of environmental management in many forums as noted by Doyle & McEachern (1998: 90). Lobbying also influences the decision-making process through participation in the EIA process.

Another fact is that as a result of the lack of people's knowledge about formal EIA processes and procedures in some countries, affected communities hardly ever participate in the process. Consequently, NGOs often play an important role in conveying objections and recommendations or opinions on behalf of affected communities through the EIA process. However, different countries have different people and different levels of understanding in relation to the formal EIA process and this will influence the role of NGOs in respected countries. For example, when the people's knowledge of EIA in developing countries is limited, the role of NGOs may be expected to be dominant.

1.3 Comparative Study of Public Involvement in EIA

Since the origin of EIA in 1970 in the USA, it has been implemented worldwide in developed and developing countries. Many aspects of EIA have been studied and improved, yet there are still weaknesses that need further research to obtain effective EIA implementation. Wood in his comparative study of EIA (1997: 54) asserts that there are new generations of EIA – named as EIA with a Mark II version to express an advanced EIA. He suggests that further Mark III EIA systems could incorporate strategic environmental assessment (SEA). In the current situation, research studies in the EIA field have tended to focus on the development of new EIA generations – the widening of EIA scope such as SEA or CIA (Cumulative Impact Assessment).

Indeed, apart from those issues associated with new EIA generations, there are conventional issues of EIA practice such as weaknesses in public participation and post-EIA monitoring activities (Sadler et al., 1996; Glasson et al., 1999: 381-393; Wood, 1997: 53). Public involvement or participation is still viewed as a challenge in the application of EIA in developed countries, but particularly in less developed or developing countries. Therefore, there is a need for research into this particular aspect of EIA in the context of EIA development.

In addition, most EIA research has been carried out in developed Western countries. Briffett (1999: 143) argues that much research into environmental problems has focused on these countries, whilst developing countries may face different problems. He claims that it has been responsible for a large gap occurring between EIA theory and practice (Briffett, 1999). Recent international comparative studies on EIA have been prepared such as:

- EIA comparative study of seven Western jurisdictions by Wood (1995), also of eight jurisdictions in Wood (1997) and in Petts (1999);
- EIA effectiveness study by Sadler et al. (1996);
- Discussions of UK EIA system by Glasson (1997);
- EIA procedures and practice in Australia by Harvey (1998).

However, there are two recent references – George (2000) and Briffett (1999) – which examine EIA developments in the context of developing countries, although they are not detailed in the discussion of various countries' EIA systems.

George (2000: 35-70) put forward a comparative study of EIA practices in 126 developing and transitional countries, which are countries in Sub-Saharan Africa, East Asia, Pacific, South Asia, Central and Eastern Europe, Central Asia, Middle East, North Africa, Latin America and the Caribbean. He shows that more than 50% of the 126 countries have no detailed provisions for their EIA implementation. Particularly in regard to public participation, he claims that the implementation of public participation in EIA in developing countries is weak due to their lack in the tradition of public participation (George, 2000: 43-44). He argues that the public participation requirements are difficult to implement in those countries since the requirements often lack detail (George, 2000: 50).

Briffett (1999) discusses a comparative study for EIA implementation in 15 countries in East Asia, though some data seem to be out of date. He suggests that many countries in this region have had rapid economic development resulting in significant environmental impacts. He claims that fast growing population, lack of education, government administrations, technical capacities and most importantly governmental stability to deal with environmental issues, are critical components in achieving the quality of life (Briffett, 1999: 143). These in turn will cause high pressure on the environment. After Biswas & Agarwala (1992), Briffett argues that conventional EIA is inappropriate in developing countries due to its rigidity, cost and methodology (too academic and too mechanistic therefore EIA implementation has been generally weak) (Briffett, 1999: 143). Referring to

ten countries joining the Association of South East Asian Nations (ASEAN), the study results are summarised according to Briffett's rank order and criteria fulfilment as follows:

Table 1.1 Status of EIA in the Association of South East Asian Nations (ASEAN)

Country	EIA legislation			EIA practice									
	Date	L	AP	A	Sg	Sr	Sc	Pr	Mi	Mo	CIA	Pp	EMP
Malaysia	1987	√			√	√	√	√	√	X	X	√	√
Indonesia	1987*	√			√	√	√	√	√	√	X	X	√
Philippines	1977	√			√	√	X	√	√	√	X	√	√
Thailand	1978	√			√	√	X	√	√	X	X	√	√
Vietnam	1993	√			X	√	X	√	√	X	X	X	X
Singapore	–			√	X	X	X	√	√	X	X	X	X
Brunei Darussalam	–			√	X	X	X	√	√	X	X	X	X
Cambodia	–			√	X	X	X	√	√	X	X	X	X
Laos	–			√	X	X	X	√	√	X	X	X	X
Myanmar	–			√	X	X	X	√	√	X	X	X	X

Source: After Briffett (1999: 146)

Note: A, Ad hoc; AP, administrative procedures; L, legislation; CIA, cumulative impact assessment; EMP, environmental management plan; Mi, mitigation; Mo, compulsory monitoring; Pp, public participation; Pr, prediction; Sc, mandatory scoping; Sg, sectoral guidelines; Sr, screening list; √, adopted practice; X, not regularly used; –, not introduced yet

* In fact, Indonesia has had an environmental act requiring EIA implementation since 1982 (The Government of Indonesia, 1982).

The overview of those ten countries shows that Malaysia, Indonesia, and the Philippines are the three most developed in implementing the EIA process according to nine criteria. Those three countries fulfil all but two of the EIA criteria. All of them are weak in cumulative impact assessment but Indonesia is noted for its lack of public participation or involvement along with more than half of the ASEAN countries which have not included public participation in the EIA process. This is perhaps due to Indonesia having more ethnicities in comparison to Malaysia and the Philippines. It is claimed to have more than 300 ethnic groups in Indonesia (Consulate General of the Republic of Indonesia, 2002).

However, the research on EIA is still much less for developing countries, especially in Indonesia. There is a country study of EIA in Indonesia by Zulhasni (2000), yet this only covers two early phases of EIA regulations until 1993. Similarly, in the earlier literature Gilpin (1995) outlines the Indonesian EIA process but only covers the initial implementation phase during the 1990s although there have been improvements since then. In the context of EIA in developing countries, Lohani & Asian Development Bank

(1997) provide an extensive discussion of developments. This book discusses many examples of EIA practice in South Asia and Southeast Asia including two case studies from Indonesia. However, similarly to other work, it draws on largely out-of-date regulations that had tenuous provisions for public involvement and one case study in Indonesia in Lohani & Asian Development Bank (1997) is currently under strong public conflict. One shortcoming within the present literature is the apparent absence of a comprehensive overview of Indonesian EIA.

In a developing country like Indonesia, participation is an important issue (for example in Sumarto, 2003).There has also been a tendency to improve the EIA system in terms of including intensive public involvement in its process. This has been done by introducing a new regulation concerning EIA (Indonesian Government Regulation No. 27 of 1999, The Government of Indonesia, 1999). The mechanism for public announcement and public involvement recently introduced by the decree of the Head of Indonesia's Environmental Impact Management Agency, EIMA (*Badan Pengendalian Dampak Lingkungan*, *BAPEDAL*) in November 2000 (BAPEDAL, 2000a) is in response to the demand for more public participation. It was conceived as being too ambiguous in the previous legislation. Indonesia is a less developed country and it is of particular interest as a large, rapidly developing economy prior to the 1998 political instability and economic crisis, with potential environmental and natural resources concerns. In addition, the large population, mixed ethnic groups, and the geographical extent of the country are critical factors for evaluation and influence the effectiveness of public participation in the EIA application.

After approximately two decades of EIA implementation in Indonesia since its first enactment in 1982, it is appropriate to evaluate the role of EIA as a planning and a decision-making tool for development. While many issues in Indonesia's EIA system might be studied, this thesis will examine the specific issue of the implementation of public involvement within the EIA process in Indonesia. The challenge of this study is to examine the characteristics of public involvement in the EIA process where recent democratisation processes in Indonesia were expected to introduce more participation.

The research is important for several reasons. Through comprehending the development of public involvement practice in EIA in Indonesia, it will enrich the knowledge of public involvement practices in less developed countries and in the broader context of international EIA practice. From Indonesia's viewpoint, while the Government of Indonesia tries to improve democracy for its people and the implementation of public involvement in EIA is one example, it is still facing a monetary crisis and an unstable political situation.

Therefore, it will not be easy for the government to implement public involvement procedures. The research is also expected to answer questions such as to what extent public involvement is needed in Indonesia's EIA context.

It is necessary to investigate the process of public involvement during the implementation of a real project through case studies and to recognise different perspectives from the EIA stakeholders, institutions and legislative frameworks. The research is expected to show how far or how intensive public involvement is in the EIA process in Indonesia during the initial stage of the enactment of the new regulation (i.e. the decree of the Head of BAPEDAL regarding public involvement, BAPEDAL, 2000a). This will be supported by an analysis of the implementation of public involvement before and after the execution of the new regulation. From this research, alternatives will be suggested to refine the current public involvement process. The facts of public involvement from the case studies are expected to provide directions toward the effective practice of public involvement in Indonesia for the future implementation.

In addition, the research is also expected to answer the issue of EIA effectiveness. While EIA is used as an approach of planning and decision-making process, public involvement in the EIA process still needs to demonstrate its effectiveness in dealing with environmental issues. Furthermore, the attitude of EIA stakeholders is also critical in the success of the public involvement process. Though there are many EIA stakeholders that take part in the EIA process in order to achieve their interests, NGOs play a critical role in assisting the public. An investigation of NGOs' role in the EIA process will contribute to the comprehension of the public involvement process although the role of other EIA stakeholders is also crucial for study in order to obtain an effective public involvement process. This in turn will contribute to a successful planning and decision-making process.

1.4 Research Aim and Objectives

The overall aim of the research is to examine the changing roles of public involvement or participation within the Indonesian EIA process in order to achieve effective EIA implementation. In more specific terms, the research will evaluate the progression of public involvement concepts within the EIA process. It will start by reviewing the progression of public involvement concepts in the EIA process by analysing EIA regulations up to the implementation of public involvement in the EIA case studies. In accordance with the perspectives of the EIA stakeholders gained from the case studies,

the research is also aimed at offering alternative models of public involvement in the Indonesian EIA process.

In order to achieve the overall aim, the following research objectives provide a framework for the research:

1. To review the current legislative procedures regarding the EIA process in Indonesia.
   This objective will be achieved based on a literature review and analysis of various parts of EIA legislation. Step by step analysis of the EIA process will be outlined to show to what extent EIA has been implemented in Indonesia. The performance of EIA implementation will be chronologically discussed to observe its development. This objective provides the context of the foundation aim.

2. To examine the present EIA bureaucratic system in Indonesia in relation to the opportunity of public participation.
   A literature study on international experience and policy analysis regarding the Indonesian EIA will be utilised to examine how far public involvement has been adopted in the EIA process and to what extent it will be developed.

3. To investigate public involvement processes in practice and to find out the perspectives of the EIA stakeholders regarding the process.
   A field based research method will be used to fulfil this objective through analysis of three case studies relating to public involvement in the Indonesian EIA process. It is expected to obtain a more accurate picture of the practice of public participation. Attitudes of EIA stakeholders including proponents and the interested public will be observed, so their perspectives can be recorded and brought in for further discussion.

4. To investigate several processes of public involvement in the EIA process such as through traditional means, involvement of directly affected community or by means of NGO representation.
   During the implementation of public involvement observed in the case studies, many forms of involvement process would occur. Each proposed site or community possibly has its own tradition in the involvement process and this will influence the success of the process. Attitudes of the directly affected community and NGOs taking part in the involvement process will be examined to provide the contexts of current development of public involvement.

1.5 Thesis Structure

The thesis resulting from this research starts with an introduction outlining the context and scope of the research. Chapter Two contains the methodology employed in conducting the research. Furthermore, other countries' EIA practices in terms of public involvement will also be overviewed in Chapter Three for comparison to the Indonesian system. The development of the Indonesian EIA and legislation since the mid-1980s until late 2002 will be described in Chapter Four. This includes an historical overview and information on the present legal framework. A review of public involvement procedures within the EIA is then provided as a specific feature in the recent EIA improvement, followed by a review of the achievements to date. Chapter Five will review the concept of public involvement according to the perspective of EIA stakeholders. This will include an overview of the role of business, government, and NGOs in the EIA process, in both a general and specifically Indonesian context.

Case studies of the implementation of public involvement in the Indonesian EIA process will be presented in the Chapter Six using examples from three different areas representing big or metropolitan, medium and remote cities. Furthermore, the survey results of case studies will be presented in Chapter Seven. Review and synthesis of public involvement within Indonesia's EIA system will be discussed and analysed in Chapter Eight. Differences, similarities, advantages, and weakness of related public involvement in three case studies will also be presented in this chapter. In conclusion, Chapter Nine will summarise the overall thesis and offer suggestions and recommendations for alternative models. Possible improvement of public involvement processes in the Indonesian EIA will be proposed for further research, development or implementation.

CHAPTER 2 – RESEARCH METHODOLOGY

2.1 Introduction

Chapter One outlined the rationale of the research and provided an overview of the benefits of public involvement in decision-making, particularly in the EIA process. The benefits for EIA can be summarised as follows:

- Environmental issues are best handled with meaningful public participation or public involvement and this is in accordance with the fact that EIA is a tool for decision-making, where communication to the decision-maker is vital in the EIA process.
- Within the EIA process, public participation or involvement is a significant factor that influences the overall process. This is particularly relevant given that the decision-making process should take into account community interests and EIA is a process preceding decisions on any development proposal.
- The public can help to ensure the quality, comprehensiveness and effectiveness of EIA, while public participation can also ensure the consideration of various groups' views in the decision-making process. Better decision-making is believed to result from the public participation process because it enables the dissemination of information, the identification of relevant issues and values as well as opening up the decision-making process to public scrutiny.
- Differences in the social, political, and cultural context will shape public involvement or participation and it will not effectively work without considering the roots of the public participation culture in a society.
- Lack of a participation culture and a lack of advanced education levels within a community are usually the cause of minimum public participation in EIA. There may be no tradition of consultation and participation (in governmental development programs) in developing countries while the notion of public participation may be revolutionary in some countries.
- Levels of democracy, political cultures, government administrations, the tradition of participation, paradigms in a particular society, and the levels of education all influence the level of public involvement or participation.

- The limited knowledge of the community about the formal EIA processes and procedures restricts its effective participation in the EIA process. NGOs often play an important role to voice opinions and interests on behalf of affected communities in EIA processes. When people's knowledge of EIA is limited, the role of NGOs may be expected to be dominant.

The above assumptions together with research questions presented below guide the research in order to focus on the defined overall aim. More detailed objectives are also outlined in the last section of Chapter One. As previously mentioned, the aim of the research is to examine the changing roles of public involvement or public participation within the EIA process in Indonesia in order to achieve effective EIA implementation. Therefore, there are two issues of effectiveness related to the research aim: firstly, the effectiveness of the EIA process as the result of the changing roles of public involvement or public participation; and secondly, the effectiveness of public involvement itself.

The effectiveness of EIA at a project level can be examined from several angles. For example, an accepted project plan by the majority of EIA stakeholders is usually accompanied by mitigation efforts against predicted adverse environmental impacts. The mitigation plans, as the result of impacts assessment, are formulated in the provisions or conditions of EIA approval for the implementation of the proposed project. Better decision-making process can also be indicated by the satisfaction of the majority of EIA stakeholders, although possibly not all stakeholders will be satisfied. In fact, the EIA process is like a contest of many different stakeholders' interests. Each stakeholder will leave the process with various achievements and different levels of satisfaction.

Furthermore, a critical issue related to the effectiveness is the provision of equal opportunity for all stakeholders to voice and influence decision-making processes. This closely relates to the expected democratic principle. Consequently, this will also improve the legitimation of government administration since its actions are more accountable and transparent in making decisions. The public will be more confident with findings in EIA when most information has been conveyed during the process of decision-making and is carefully considered. Effective can also mean sufficient or appropriate level of participation.

2.2 Research Framework

Research questions serve as a guide in maintaining that the overall research and discussion are on the right track. A fundamental question can be put forward in the research. For example, does the Indonesian EIA system need public participation within its framework? Since many EIA systems in developed countries have been practising public participation, basic questions have arisen: should the Indonesian EIA copy the Western styles of public participation? If so, why? These questions are interesting to put forward since the research is not only intended to observe the implementation or introduction of public involvement in Indonesia, but also to investigate causal roots for public involvement operates. Furthermore, the government of Indonesia is expected to provide effective public involvement mechanisms that fulfil the needs of its communities. This could mean that public involvement should come from the wishes of communities, and this may require that the public involvement process incorporates the public traditions, structures, and beliefs. It cannot be artificially designed and copying public involvement or participation mechanisms from other countries may not work properly. Thus, in order to achieve acceptable outcomes from the research, research questions need to put forward:

- What are the existing provisions for public involvement or participation in the EIA system?
- If there are provisions regarding public involvement or participation, what are the mechanisms of public participation and how these are implemented?
- How does the 'directly affected local community' participate in a decision-making process in setting up a specific development in its neighbourhood?
- Are there any Indonesian traditional roots of public involvement that can be utilised in the EIA process? What are the local traditional means of public involvement?
- How do NGOs take part in the public involvement or participation process according to government's provisions or within the traditional means in responding to environmental concerns?
- How can those traditional public involvement methods be used in the EIA process?
- How effective are the provisions of public involvement influencing the effectiveness of EIA? How can the practice of public involvement be evaluated?
- What can be done to reshape environmental policy in terms of public involvement? What improvements can be suggested and designed for a better environmental policy from the public's point of view?

These questions detail and accommodate the formulated objectives as presented in the introductory chapter. Both questions and objectives will guide the overall research. To answer those questions, it is necessary to design an appropriate research approach according to the objectives in order to achieve the overall research aim.

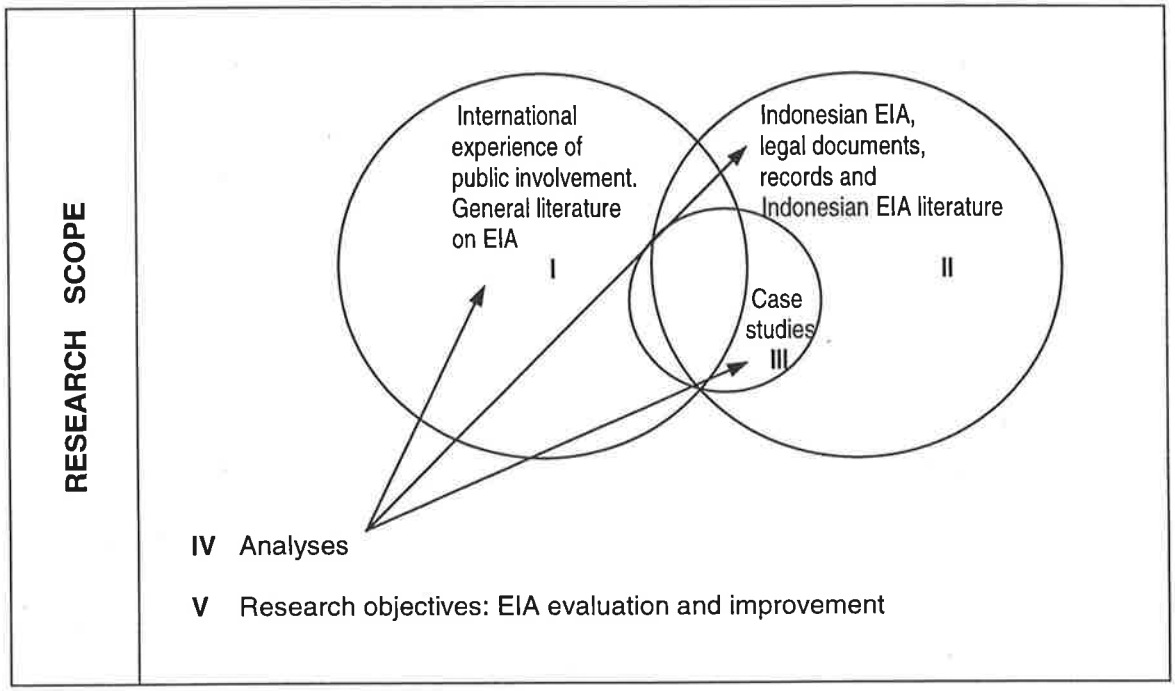
Figure 2.1 outlines the main elements and scope of the research and how they address the conceptual aims of the research. The framework of the research contains five main sections. The first section is formed by an introduction explaining the background and necessity of the research. This also contains international experience of EIA and public involvement or participation processes. Information is provided as to the EIA administration and procedural experience in selected countries. This will illustrate various models and methods of EIA in order to find the best practices of public involvement. Examples of good practices or problems in public involvement are expected to result from this section.

The second section is similar to the first but focuses more on Indonesian EIA literature and descriptions of national legislation and institutional arrangements for EIA administration. EIA developments are presented chronologically to comprehend the status of the EIA implementation in Indonesia as the research background. This section also discusses some general attitudes of EIA stakeholders such as proponents, consultants and NGOs. This is critical in comprehending the course of public involvement process.

The overview of case studies is presented in the third section. Since the case studies are carried out in Indonesia, they are expected to fulfil all EIA requirements set by the country's administration. However, slight alterations are possible due to the EIA innovation or adoption of other EIA systems by proponents or consultants. This will also overlap with some general EIA principles in the first section. This section also presents the results of fieldwork observation. Empirical information is presented as to existing EIA and public involvement practices in these case studies.

The core of this research is in section four where a comprehensive analysis is provided. Analyses of previous EIA implementation and public involvement in Indonesia and lessons from international experience are supported by detailed analyses from case studies' findings. The analyses are focused in the overlapping area of the previous three sections where public involvement practices can be compared and discussed.

Figure 2.1 Research Framework



The last section is the overall result of this research where research questions are answered and research objective are fulfilled. Based on findings and analyses, it is expected to suggest some improvement to the Indonesian EIA system and its public involvement and participation process.

2.3 Research Design

Before carrying out the research, the area of and approach to the research process must be understood. In other words, a process to gain knowledge through a particular approach and method of analysis should be planned. According to Webster (1996: 419), epistemology is the study or a theory of the nature and grounds of knowledge, especially with reference to its limits and validity. Therefore, it is important to examine the epistemology of this research.

In general, epistemology describes matters that will affect the research, the researcher and also the environment of its research such as dominant paradigms, justification, and the validity and reliability of used methods or tools. Research into the subject of public involvement is influenced by a particular paradigm such as cultural behaviour. After Werner, Schoepfle, & Ahern (1987), Bernard (1998) outlines that in cultural anthropology:

> epistemology addresses the scope of justification of factual knowledge that anthropologists have established through fieldwork, historical reconstruction, and comparative studies on human cultures past and present (Bernard, 1998: 39-40).

It is important to consider the methodology since this underpins the research itself. As noted by Taylor & Bogdan (1998: 3): "The term *methodology* refers to the way in which we approach problems and seek answers," and "how research is conducted". Moreover according to Webster (1996: 747), methodology is a body of methods, rules and postulates employed by a discipline: a particular procedure or a set of procedures and it is the analysis of the principles of procedures of inquiry in a particular field. Therefore, the chosen methodology defines the research process.

In order to achieve the research aim outlined in the research objectives, and to accommodate the above research framework, the research methodology needs to be selected. While literature contrasts two main approaches of qualitative and quantitative methodologies (for example in Bryman & Cramer, 1994; Hay, 2000; Neuman, 2000), this research overlaps both approaches. The research will mainly utilise a qualitative methodology while quantitative analysis will be employed to support the qualitative descriptions. The main reason for employing this methodology is due to the nature of subject matter where studies of public involvement have strong links with sociology which examines societies and human behaviour while anthropology studies human races including its belief and social habits. Since a large amount of anthropological and social science research utilises qualitative research methods, it is considered appropriate to apply it in this research.

According to Taylor & Bogdan (1998: vii): "The term 'qualitative research' is often referred as fieldwork, participant observation, ethnography, or *Chicago School* approach" and this approach emerged initially in the disciplines of anthropology and sociology. They elaborate that qualitative research in the broadest sense is a "research that produces descriptive data – people's own written or spoken words and observable behaviour" (Taylor & Bogdan, 1998: 7). Denzin & Lincoln (1994) also offer one definition for this methodology:

> Qualitative research is multimethod in focus, involving an interpretive, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural setting, attempting to make sense of, or interpret, phenomena in terms of the meaning people bring to them. Qualitative research involves the studied use and collection of a variety of empirical materials – case study, personal experience, introspective, life stories, interviews, observational, historical, interactional, and visual texts – that describe routine and problematic moments and meanings in individuals' lives (Denzin & Lincoln, 1994: 2).

The process of public involvement or participation is very specific and depends on its application, where it takes place and what community carries out the process. Moreover, public involvement develops through social processes and qualitative research is consistent with this fact. This is supported by the idea of Denzin & Lincoln (1994: 4) that: "Qualitative researchers stress the socially constructed nature of reality, the intimate relationship between researcher and what is studied, and the situational constraints that shape inquiry". Furthermore, comprehension regarding public involvement or participation in a particular event can be best obtained through its process while the value of public involvement is determined by its objectives and results. Therefore, the research will use a case study approach to reveal the authentic facts of the public involvement process.

2.3.1 Case Study

The term 'case study' is employed interchangeably with fieldwork (Yin, 1984). In a case study, the researcher can clearly picture the public involvement process by experiencing it first hand. The case study is a naturalistic approach in the sense that there is no artificial response as in laboratory work for example. Fetterman (1989: 41) argues that the fieldwork or case study approach in essence is "working with people for long periods of time in their natural setting". Taylor & Bogdan (1998: 9) assert that participant observation explores how people think and act in their everyday lives. Therefore, a case study using the participant observation approach is appropriate for this research.

The research will use case studies that are chosen according to certain criteria (determined in Chapter Six). Although more case studies are preferred to generate significant empirical data, three case studies only will be selected for the research due to the timeframe of this research. The case study approach is selected because the research relies on empirical evidence. Each case study will be influenced by the previous examples of EIA practices in the area producing updated empirical evidence, which then could be used to test the research issues. This research will rely on the nature of the EIA process such as existing political and institutional contexts, the involvement of various EIA stakeholders, and the range of opinions of EIA practitioners. The subjective nature of the EIA process is a critical issue in a qualitative research and should not be avoided. For this reason, it is to be addressed in the research using qualitative methods.

Since the research also uses an observation approach, it should maintain some degree of professional distance which allows sufficient observation. While to a certain degree the nature of case studies is unconstrained from artificial action, the researcher should

recognise its limitations such as uncontrolled events which can occur at any time and could change the overall outcomes of the research. Johnson (1998: 155) advises that in field experiments "the experimenter has little control over all possible extraneous factors..." although the method can be very informative. Therefore, research planning has to be made prior to the research and the selection of case studies is critical to its success.

2.3.2 Data Collection

Various data from primary and secondary sources will be produced from this research such as information on the perceptions and views from the EIA stakeholders, discussion in a formal public participation process during the EIA review process, observed events related to involvement processes, documents related to the EIA processes, media coverage and related literature. Considering those various data, a multi-methods approach will be used to collect those data. The approach is also known as "multiple methods of investigation" (Burgess, 1989a: 163-167) or "combined operations" (Stacey, 1969). Several technical methods used for this research are interviews, correspondence, observations, questionnaires, document analysis, records interpretation, media coverage, and literature study.

Interviews

Interviews will be employed as the main technique in the research since in-depth interviewing and observation are fundamental techniques for primary data collection in the qualitative research (Marshall & Rossman, 1989: 79). According to Marshall & Rossman (1989: 82-83) the purpose of an interview is "to obtain valid and reliable information" although not all interviewees may always be "willing to share all the information". However, the interview technique has advantages such as the rapid obtaining of large amount of data, getting information directly, immediate clarification or explanation of matters, and follow-up question or interview when necessary (Marshall & Rossman, 1989: 83; Sproull, 1995: 163).

Three interviews for different groups will be used for the research, in the form of semi-structured interview schedules. The first is the post-notice interview which is an interview with the general public at the proposed site of each case study soon after the public notice in the EIA process. The second is an in-depth interview with some EIA stakeholders who are members of the EIA Review Commission who obtained the questionnaire prior to interview. The third is an in-depth interview with various key persons from the government, NGOs, EIA consultants, proponents and community leaders. The third could

be categorised as elite interviewing, focusing on a specific type of respondents who are considered to be well-informed and having expertise (Marshall & Rossman, 1989: 94). To supplement the interviews, correspondence will be maintained either as personal communication or as formal correspondence through the Internet or telephone interviews. However, since not many members of the affected public can attend the EIA review process, further interview surveys will be carried out with the affected public in the three case studies using post-notice interviews.

Since some populations can be very large and all members are unlikely to be included (Bryman & Cramer, 1994: 99) for interviews, a sampling method rather than interview with the total population of the affected public will be carried out. This will reduce the cost in terms of time and money and becomes more practical (Sproull, 1995: 109). Simple random samplings are designed for that purpose, allowing a relatively flexible approach to the general public and achievement of the survey target. The selection of the random process also eliminates bias (Bryman & Cramer, 1994: 101) because random selection has no systematic error. The sample outcomes tend to occur with the same probability, and therefore a representative sample is more important than size of the sample (Sproull, 1995: 111). The size of the general public sample is designed as 50% of the directly affected public as outlined in Table 6.1: Population at the Case Studies. However, a relatively small sample of 120 respondents can only be approached in one case study from a total population of 1,415,128 inhabitants or 396,845 households (see also introductory section in Chapter 7 and Table 7.1).

Table 2.1 Sample Size

Data collection methods	Expected Interviewees		
	Case 1 Jakarta's MRT	Case 2 Hazardous Landfill	Case 3 Tangguh LNG
1. Post-notice interview with the affected public	120	56	68
2. Questionnaires' distribution to the EIA Commission members	23	N/A	27
3. In-depth interview	60		

Interviews with the general public are designed to be as simple as possible to get maximum understanding and response from the respondents. In this case, the length of interview will be carefully considered. According to Denzin & Lincoln (1994): "The

interview is a conversation, the art of asking questions and listening". However, an interview is less neutral, for the interviewer creates the reality of the interview situation and in this situation, answers are given. Therefore, the interview produces situational understandings based on specific interactional events. As a limitation, this method is "influenced by the personal characteristics of the interviewer, including race, class, ethnicity and gender" (Denzin & Lincoln, 1994: 353). An interview could create false information when inappropriate questions are asked or the answers are not understood by the interviewer (Marshall & Rossman, 1989: 83). Therefore, supplementary data from other methods are required to confirm the generated data from interviews.

Observation

Along with the interview, observations of the public involvement process will be carried out to obtain first hand information. Observation technique "is used only when subject are the best source of information" (Sproull, 1995: 164) and this technique is often used in natural settings such as characteristics of communication during meetings as in the EIA review processes. Observation requires description of events and behaviour. Through observation, the researcher is expected to learn behaviours and meaning attached to them (Marshall & Rossman, 1989: 79) and to analyse participants' attitudes (Becker & Geer, 1989: 239). To facilitate the observation process, the use of field notes, tape recordings, and filming of the public involvement process will be very useful. Audiovisual equipment generates materials that provide understanding and stand as evidence where the material "can capture the tone and inflection of voice, expression and verbal and body language" (Wadsworth, 1997: 56).

The observation method could be passive as observer or active as participant (Wadsworth, 1997: 54). Similarly, Marshall & Rossman (1989: 79) assert that observation ranges from complete observation to full participation. It is not simple to define whether all observations are carried out totally passive or active since each case study is different. It is more within the continuum of observation and participation. However, the research uses a participant observation technique which allows flexibility and more than an observation. This will provide additional data to that gained from interviews. However, this technique has some limitations especially in terms of the time in the field and possibly cannot be carried out repetitively at a similar stage for each case study. Observation is not always possible due to time and money constraints compared to interviews (Becker & Geer, 1989: 239). However, since all observations will be made during the processes and are supported by other field data, this will be complementary to the obtained data.

Questionnaires

Questionnaires and surveys are categorised as supplemental data collection techniques in qualitative research (Marshall & Rossman, 1989: 83). Questionnaires are also known as instrument administration (Sproull, 1995: 162) since they use tools to facilitate information collection. While questionnaires are more flexible and convenient in eliciting self-reporting information from respondents (Marshall & Rossman, 1989: 85) and could get valid information (Sproull, 1995: 165), several weaknesses are attached to them. They sometimes miss out "on what people really mean" and the research subject could become simplified or distorted (Wadsworth, 1997: 45) because respondents change their behaviour (Sproull, 1995: 165). However, the multi-method approach in this study is expected to minimise such weaknesses.

Field surveys using questionnaires will be carried out to obtain the perceptions and views of EIA stakeholders. This will be effective if respondents are familiar with the method and have adequate appreciation of the research. Therefore, the questionnaires are intended to be distributed in a formal manner to certain EIA stakeholders, who are members of the EIA Commission. This will be carried out during the EIA assessment stage after a short explanation about the research, requesting respondents to assist the research in order to improve the overall EIA process. A survey will be carried out for all delegations in the EIA review process. However, since the survey is a voluntary one, a 100% return of questionnaires is unlikely (see Tables 2.1 and 7.1).

A set of questions is prepared in advance for questionnaires and interviews using a semi-structured technique. Structured in a way that situation, form of question, and question order are prepared in advance (Burgess, 1989b) but some open questions will also be used in limited situations to explore the respondents' perceptions. A pilot test then is administered with the assistance of a group of EIA practitioners in Indonesia to ensure questionnaires' wording, meaning, and clarity. Alterations will be made according to the result of the pilot test. Furthermore, when a questionnaire is used as a source for interviews, it is called an "interview schedule" (Wadsworth, 1997: 44) that could be read to the respondents (Neuman, 2000: 250). Basically, the questionnaire and interview techniques use similar semi-structured questions and they only differ in terms of delivery. While the questionnaire technique will allow respondents to answer in a more formal, independent, and more confidential manner, the interview will have a close contact between interviewer and respondents.

Document Analysis and Records Interpretation

To supplement the previously outlined methods, document and records analysis is also used in this study. This method frequently produces more valid data (Sproull, 1995: 164) compared to an interview or questionnaire. Since this method does not involve respondents, it is non-reactive and unobtrusive. This technique is mainly used to investigate the content of project proposals in EIA documents. Minutes of meetings will be very useful to track the ongoing EIA and participation process. EIA submissions collected by the EIA administration and proponents are also valuable primary data shedding light on public perceptions. These data are authentic and very useful for further analysis because documents or records are likely to preserve actual data and figures. For the Indonesian context, the personal experience of the researcher in EIA cases can be used as an advantage and therefore facilitate access to necessary data.

Since documents and records are mute evidence yet endure physically and leave traces of the past, these data need interpretation. The constructivism argument is perhaps the central consideration in using this method: through a set of interpretive practices, theoretical analysis is conducted on the material and evidence (Denzin & Lincoln, 1994: 355). Following the stage of data collection where documents and records are obtained from relevant agencies, interpretation and triangulation will be made on those records. Triangulation is "the act of bringing more than one source of data to bear on a single point" (Marshall & Rossman, 1989: 146). This method is important in strengthening the research and minimising the weaknesses of each separate method (Burgess, 1989a; Denzin, 1978; Douglas, 1976; Marshall & Rossman, 1989; Stacey, 1969). A research subject is better seen from several angles than from only one view (Neuman, 2000: 124).

Media Coverage and Literature Study

Another source of data is found in the mass media. This is an important secondary data source. Many events related to the EIA processes or public involvement are usually covered in media publications. Data collection through newspaper clippings will be carried out during field trips. With advanced communication nowadays, media coverage can be monitored even more intensively through the Internet, hence it is hope that all relevant data can be obtained.

The literature study is a part of document analysis and records interpretation. However, the literature study emphasises the previous results of many studies rather than raw records. For example, a literature study of the relevant EIA seminars and workshops is very important to keep the research informed by recent EIA developments. Furthermore, a

review of previous results can provide the researcher with the necessary circumstances of evidence for his research. After consideration of proven theories and practices, the researcher can make assessments through questioning, criticising, judging, recombining ideas and information and may also construct different arguments. In addition, EIA is a well-documented subject of extensive study; hence many documents and records have been already included in the literature.

2.3.3 Research Participants

The participants fall into two categories: research partners and respondents. The research partners are chosen to provide a good access to the research information sources. Contacts to the partners have to be continuously maintained so that no important events will be missed. The research partners are as follows:

- Government officers from an environmental agency at the national level;
- Government officers from three environmental agencies at the provincial level;
- Members or the executive of NGOs;
- Consultants and their staff;
- Managers or representatives of proponents.

Necessary permission has to be obtained from several EIA stakeholders in order to get easier access to related information, specifically from environmental agencies, proponents, local leaders and NGOs.

Respondents are mainly all EIA stakeholders from each observed case. They are chosen due to their involvement in the public participation process in EIA. They are as follows:

- The proponent or representatives of a company;
- Consultant that assists the proponent;
- Government representatives (from several agencies and departments);
- NGO representatives;
- Members or representatives from a 'likely affected community' at the proposed site plan;
- The general public;
- Observers or associations.

2.3.4 Data Processing and Presentation

Data processing or analysis is designed mainly to manage and establish documentation of collected data. Through data management, high quality of data, readability and validity can be tracked. Records are collected, categorised, and coded systematically for easy access to data. The technique of data processing and presentation distinguishes some analysed cases and at the same time emphasises the necessary connection between any given theory and its concepts. Then the empirical result of the study will be used to revise and refine the theoretical framework of public involvement or participation. Furthermore, Denzin & Lincoln (1994: 356) state that – drawing on the grounded theory approach – it can be shown how codes, memos and diagrams can help a researcher work from field notes (or records) to some conceptual understanding of the processes being studied.

Analysis is the main issue in the empirical case study and is closely related to the success of the data collection stage. Data processing or analysis is the process of bringing in all collected data and make in order, structure, and meaning (Marshall & Rossman, 1989: 112). This is a critical stage because facts from collected data do not automatically provide a conclusion (Jorgensen, 1989: 108). Data analysis involves processes such as data collection, data reduction, coding, consideration of the nature of the data, data presentation, conclusion, and validation. To facilitate the retrieval and presentation of data, coding is important. Coding transforms qualitative data into specific categories according to themes or patterns (Neuman, 2000: 420; Wadsworth, 1997: 103). Discussion on a coding system is provided in the literature (for example in Becker & Geer, 1989; Jorgensen, 1989; Neuman, 2000). Coding is usually carried out in an alphanumeric form to make it manageable and rapidly retrievably.

Primary or secondary data collection from field research will produce a large amount of data. Therefore, an adequate technique is necessary to manage the textual data and then to present them later for discussion. Using a personal computer to assist the coding and data processing is vital (Durkin, 1997: 92-105; Hay, 2000: 144-155; Jorgensen, 1989: 12). With computer assistance, little or no coding is required (Durkin, 1997: 100-101). However, considering the large amount of data in this research, data management will be assisted by computer programs such as a spreadsheet software program for tabulation and Nudist™ for textual qualitative analysis. Specific data coding will be utilised to categorise them to facilitate data processing. This has been designed to make it easier to identify the sources of the data. The code is referred to in presenting the result later in the thesis. The coding's general feature is as follows:

XC#ZZ123 and MC#123

X represents the chosen research method: 'I' for interviews, 'Q' for questionnaires, 'O' for observations, 'D' for documents, and 'M' represents media coverage.

C# represents a particular case study: C1 for Jakarta's Mass Rapid Transit project, C2 for Hazardous Waste Landfill project, C3 for Tangguh LNG project, and C0 for general issues related to EIA and public involvement.

Z or ZZ represents the category of respondents: 'E' for expert, 'P' for proponent, 'G' for government officer, 'C' for consultant, 'N' for NGO member, 'GP' for general public.

123 represents the order of numbers according to each case study and chronological order

2.4 Research Limitations

Data acquisition and collection are not simple, especially when the researcher has to cope with political background in the planning system that contains many involved interests. This is a common issue for a research in developing countries as discussed by Devereux & Hoddinott (1992). There are factors that influence a successful study dealing with the general public in Indonesia. Respondents from the general public may be curious or even suspicious of the research that may affect the outcomes. Suspicions could occur either to the researcher or to the research subject. Razavi (1992) points out that respondents in Third World countries may be extremely suspicious of officials because of their previous experience (1992) or dubious of researchers for some other reasons. Unfamiliarity with the research communication approach may make the respondents feel like an object of research which could potentially colour their responses. For example, the respondents may say what they think the researcher wishes to hear rather that to say what they know or feel.

The field survey was carried out using certain methods in accordance with research principles to fulfil the research objectives. Pro-forma letter consisting of the description of research background, objectives, and expected data from respondents was prepared. However, an application of the formal interview may not always gain sufficient responses from the respondents at the initial stage of the research. Questionnaires distributed to EIA stakeholders, who are mostly educated and familiar with the nature of the research and the EIA procedures, were not all returned. Similarly, with respondents from the general

public, there were not many respondents who were willing to engage in a formal interview due to various reasons.

Suspiciousness from the general public's respondents also constrained the research. This can be observed when the researcher approached the public for interviews. Many avoided the interviews with reasons such as that they have no time, not interested in the research, or even inquisitive yet unwilling to respond the interview. This was also seen when telephone interviews were piloted, which were ceased after significant attempts produced a low rate of successful interviews. One reason in the Indonesian context is perhaps because the interview technique was often previously misused. This was explained by some respondents in a case study when the interviews were carried out. They illustrated that there were many sales agents who pretended to carry out a market survey but then forced the respondents to buy their products. Therefore, there was some opposition or reluctance to be interviewed.

The interviews of the general public in an urban area are different to the rural or remote area. The researcher should able to place himself among the public. While many Western researchers were successful with their research in Indonesia, this is not always the case for indigenous Indonesian researchers. It could be attributed to the general perception of Indonesians who appear to favour Western researchers, and therefore they are keen to interact with them. Francis (1992) discusses factors affecting the way local respondents and various types of outsiders interact in developing countries. In contrast, Razavi (1992) discusses factors affecting the fieldwork of indigenous researchers. Research difficulties could occur in developing countries when the respondents are frightened by any future implications due to their responses; hence they are less willing to answer. This was experienced by Razavi (1992: 155) during her research in her own country. Efforts to acquire and collect primary data is getting more complicated and the target achievement of respondent number is difficult.

Considering particular Indonesian case studies, the researcher has to be innovative in carrying out the field survey and always has to find an alternative strategy to approach the respondents, for example changing the formal approach to a more informal one. Formal interviews were appropriate for well-known EIA stakeholders or practitioners but not for the general public. Using different approaches, contacts with NGOs and dissenting groups became easier, especially when they are convinced that the researcher is not the 'spy' of or work for the proponent or government agencies. To introduce the researcher as a student was sufficient to assure them that the researcher more or less has a similar

position to the public or at least had a neutral position in the case studies. A specific approach was also used. For example, they would assist the researcher by providing the necessary data and make themselves available for interviews when the researcher offered support such as providing technical opinions, supplying some government regulations, or sharing general data that they did not have.

The research was based on the selected case studies according to certain criteria (outlined in Chapter Six), for example the relative distance to the central government administration and the size of the city area. Case study research relies on empirical evidence, which cannot be provided artificially in a laboratory. Therefore, to evaluate the effectiveness of public involvement or participation in the EIA process, it would be necessary to apply the process to real situations. However, in the Indonesian context, the research was complex providing the regulations and guidelines of public involvement or participation in the planning system (especially in EIA) are still recently introduced. Therefore, historical practices are still limited and the research should rely on on-going EIA processes, which are limited due to the selection criteria.

This research will depend on the nature of the EIA process such as the existing political and institutional contexts and on the involvement and range of opinions of various EIA stakeholders. An EIA process for a proposed project may cease at any time due to financial and investment considerations or political pressures. Therefore, the research is extremely vulnerable to political systems and the subjective attitudes of EIA stakeholders. A critical reason is that its social and subjective components are actually too big for testing within a two or three year period of research time; hence the weaknesses of the research become obvious. Furthermore, it is not simply a case of establishing case studies according to the criteria and their availability. The location of case studies in Indonesia is another research constraint, considering the distance to and from facilities in remote areas.

CHAPTER 3 – PUBLIC INVOLVEMENT IN EIA

3.1 Introduction

The terms public involvement and public participation are used interchangeably. These terms need defining particularly for EIA which requires a degree of certainty for legislative requirements. This chapter outlines the use of the term public involvement EIA and discusses the scope, terms, and forms of public involvement in various EIA systems. This chapter will also discuss the definition of 'the public' as it has different meanings to different EIA stakeholders.

Another critical question is: what is the benefit of public involvement in EIA. Chapter One suggested that environmental issues and decision-making are best handled by meaningful public participation. Similarly, public involvement is a general requirement for worldwide-accepted democratic systems. However, these systems need to encourage EIA stakeholders to facilitate public involvement. A literature study will discuss the potential benefits or disadvantages of public participation in the EIA process. Available methods of public involvement and participation will also be presented for consideration in formulating a policy of public involvement.

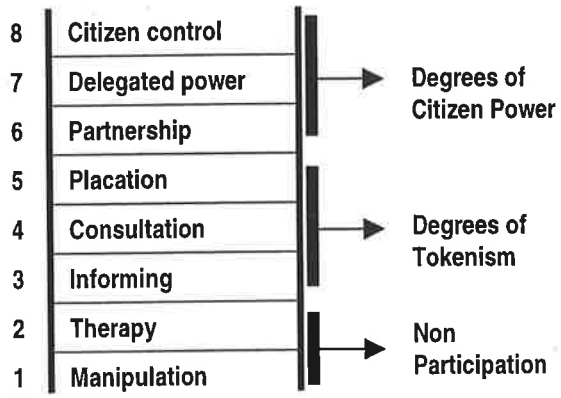
The first section will provide a literature study of international experience in EIA and public involvement or participation outlining the EIA administration and procedure in selected countries. Various models and methods of EIA will be put forward in order to find out best practices in public involvement. The literature study starts with an overview of the concepts and implementation of public involvement in EIA from its origin in the US NEPA. Subsequently, public involvement mechanisms from several developed and developing countries will also be discussed.

3.2 The Scope of Public Involvement

There are terms in addition to the term 'public involvement' that are often used to describe this process such as: 'public participation', 'public consultation', 'citizen participation', 'popular participation', 'information provision', 'mediation', 'conflict management' or 'environmental dispute resolution'. These terms are often used interchangeably, often with little consideration to their differing purposes and potential outcomes (Petts, 1999: 146).

Roberts (1995: 224) claims that there is a tendency to use the terms with no recognition of differences. Harding (1998) claims that forms of public involvement can be through participation or consultation. She defines public participation as involving the community in the decision-making process (Harding, 1998: 108-109). The term involvement may be used to describe a formal process that includes the community in environmental decisions or even to describe more informal means of public input where invitation to play a role in decision-making does not rest on a legislative basis. It seems that the term 'involvement' implicitly covers a broader scope including 'participation' and 'consultation'. The scope of consultation and participation can be seen as stages according to Arnstein (1969).

Figure 3.1 Steps of Participation



Source: Adapted from Arnstein (1969)

Arnstein further classifies these steps into three broader categories which explain the effect of participation implications: non-participation, tokenism and empowerment of individuals (Arnstein, 1969). A similar typology is used by Pretty (1995) who groups the typology of participation as follows:

- passive participation or manipulation,
- information provision,
- consultation,
- intensive material,
- functional,
- interactive,
- self-mobilisation.

With these groupings, participation levels will always be different. Perhaps this is the reason why the terms have no consensus. NEPA in its regulations and guidelines describes and utilises the approach of a 'sliding scale' that the appropriate level of public participation depends on the unique set of circumstances in the proposal (US DOE, 1998).

The World Bank uses a concept that public involvement consists of participation and consultation (Rusdian Lubis, pers. comm., 2003): "public consultation is a preliminary stage of participation". After the World Bank (1993), Roberts (1995: 224) defines Public involvement as "a process for involving the public in the decision-making process of an organisation". He continues to explain that public involvement "can be brought about through either consultation or participation". According to the World Bank (1993: 1), "The key factor that distinguishes consultation from participation is the degree to which those involved are allowed to influence, share or control decision-making". Furthermore, the Asian Development Bank defines public participation as "a two-way communication between the project EIA team and the targeted and/or affected peoples" (Lohani & Asian Development Bank, 1997: 2-22).

The US Council on Environmental Quality (CEQ) under NEPA also uses the term 'public participation' and 'public involvement' interchangeably (CEQ, 1978). While Section 1506.6 of the CEQ Regulations uses the term 'public involvement', all other CEQ Sections utilise the term 'public participation'. Public participation is defined by the US Department of Energy (US DOE) in its Policy Statement relating to the Effective Public Participation under the NEPA as "open, ongoing, two-way communication, both formal and informal, between DOE and its stakeholders – those interested in or affected by its actions" (US DOE, 1998: 5).

The term 'public involvement' has a broader definition and covers the terms participation and consultation. 'Participation' has a higher emphasis on a direct contribution or taking part in decision-making compared to 'consultation'. In the context of EIA, the latter reflects a limited action where a proponent gives information and asks the public for input. The participation process is expected to produce more outcomes than consultation and it also covers the consultation process. The term 'participation' implies a greater role for the public in decision-making and public participation covers a range of interactions between decision-makers and the public. With those perspectives, in this thesis the author will use to the general term 'public involvement' which is used broadly to illustrate every contact

among EIA stakeholders. The specific term 'public participation' will be used for any issue consisting of the element of a decision-making process.

3.3 The Public

Another important issue for discussion is the term 'the public'. It is critical because it covers many groups in a community. Morgan (1998: 154) argues that although the term 'the public' is convenient, it is misleading. He claims that the term gives the impression that all community members can be treated in the same way or as a group as if they shared same values and concerns. On the one hand, there are always well-defined groups within communities and on the other hand the values expressed by members of one group are not necessary representing of other groups' interests (Morgan, 1998).

A similar opinion put forward by Petts (1999: 149-150) is that the term public is inappropriate. She claims that the term is "one of the most overused and abused" in environmental decision-making and it leads to a homogeneous perception. Roberts (1995: 224) also claims that the public "is a constantly shifting multiplicity of affiliations and alliances... according to the issues... There is no single 'public'; ..." Therefore the participation process involves many groups and different interests. Some definitions are useful to clarify the usage of this terminology.

The US DOE (1998) uses the word 'public' broadly:

> to include any and all interested or affected parties. The "public" includes: interested or affected private citizens; state, local, and tribal governments; environmental groups; civic and community organizations; business and labor groups; and independent experts from the scientific, technical, and academic communities (US DOE, 1998).

Moreover, the Canadian EIA system defines the term as any person or group of people that has a distinctive interest (stake) in an issue (The Canadian Federal Environmental Assessment Review Office, 1998). The definition implies a general term of 'stakeholder' which can be accepted and accommodates various groups or interests. Harding (1998: 109) describes 'the public' through two different definitions, which are the community and stakeholder:

> The community refers to people affected by a decision. A person can be a member of several communities simultaneously depending on the project where they live, their profession and their cultural background. A community may also refer to an interest group which may have specific stakeholder interests in the

> outcomes of an environmental decision (eg an environmental group or an industry association). Communities also vary with respect to scale, for instance a local community is different from the global community.
>
> Stakeholder: include those with any "stake" or interest in a proposal and may include identifiable groups (eg industry groups, environmental groups); special interest groups (eg a bush walking club); and members of the general public.

Typical stakeholders in environmental decisions include (Sarkissian, Cook, & Walish, 1997: 87):

- client group
- the general public
- State agencies
- local councils
- media
- industry
- politicians
- local agencies
- business/traders
- community activists

It is necessary to be aware that besides the 'directly affected' public or community, there are also other groups which can be affected indirectly and have interests to be considered. The use of the term 'stakeholder' could be considered as reductionism, but it is appropriate in this thesis since the term embraces many parties including both directly or indirectly affected communities and groups.

3.4 Why Involvement is Necessary

Public involvement is a critical stage in the EIA process. It is a process to make information available for communities affected by or with an interest in a specific development project. Ideally, public involvement involves a two-way communication among EIA stakeholders. Involvement can therefore be seen as a continuum ranging from simple forms of information exchange through to wider degrees of involvement and decision sharing. It is consistent with the aims of the EIA process of communicating the whole process to decision-makers, and the decision should also be made after taking community interests into account. In this sense, participation in EIA allows the public to influence decision makers, rather than actively partake in making decisions. Therefore, communication of information about environmental (including social) impacts should be as wide as possible to all stakeholders, including the community.

In a broad context, the necessity of public participation was endorsed by the United Nations conference on the Environment and Development (UNCED) in Agenda 21. It emphasises that the role of public participation in environmental decision-making is crucial

for sustainable development. Agenda 21 also adopts public participation in its principle stating that: "Environmental issues are best handled with the participation of all concerned citizens ..." (Principle 10 of the Rio Declaration on Environment and Development, UNCED, 1993). In a more practical decision-making process, Dunphy (cited in Gilmour, 1987: 33) argues that many skills exist in the public that a government or company does not always have. Similarly, Thomas (1998: 53, 191) claims that better decision-making will result from the public participation process, because it enables the dissemination of information, the identification of relevant issues and values as well as opening up the decision-making process to public scrutiny. In this way, the public is expected to supply further information, exchange and verify related information, be aware about a decision and be involved in supervising the process of decision-making.

In the EIA context, Glasson et al. (1999: 160) argue that the public as well as statutory consultations can help ensure overall EIA quality, comprehensiveness and effectiveness. They add that this process also ensures that various groups' views are sufficiently taken into consideration in the decision-making process. Ebisemiju (1993: 265) also affirms that the public participation creates an enabling environment for environmentally-sound decisions to be successfully implemented. Here, public participation is also anticipated to enhance the EIA process by supervising the EIA quality and its coverage since the public is believed to better understand their environment.

To appreciate more about public involvement in EIA, a variety of benefits have been identified. A list of these benefits from the literature is provided in Box 3.1. Those benefits depend on objectives set by the public involvement process. It may be viewed that public involvement can serve many ends although it will not be simple to achieve all the objectives. Besides the set objectives, outcomes from the public involvement process also rely on the nature of a proposed activity and community factors such as levels of education or community awareness. Conceivably, this is what the US DOE means by its 'sliding scale' approach (US DOE, 1998); to implement adequate public involvement or participation according to the actual situation. Harding (1998: 108) warns that achieving the 'right' level of participation, achieving its objectives, and satisfying a community desires are difficult and the wrong form of participation or facilitation by someone inexperienced may do more harm than good.

Box 3.1 The Benefits of Public Involvement and Public Participation

- promoting better understanding of a proposed activity, its objectives and potential impacts (Sarkissian et al., 1997). therefore it plays a validation role by reassuring the public that a thoughtful assessment has been carried out and it will avoid or reduce possible objections or opposition in the future (EIA Centre, 1995; Gariepy, 1991) and it increases public confidence and reinforces accountability of decision-makers (Lucas, 1976; Harding, 1998);
- identifying and addressing interests, preferences and values of all EIA stakeholders (Lucas, 1976; Sarkissian et al., 1997), hence it plays an internalisation function (Gariepy, 1991);
- identifying potential areas of conflict amongst stakeholders;
- providing an opportunity for unrepresented persons to present their views (Lucas, 1976);
- avoiding community resentment and potential delay by providing a means to resolve issues before decisions are made and a proposed action commences (Sarkissian et al., 1997);
- providing additional information to decision-makers (Lucas, 1976), including local or indigenous expertise (Harding, 1998; EIA Centre, 1995) and cultural values (Sarkissian et al., 1997);
- assisting the public to become more responsible and democratic citizens (Webler et al., 1995) and giving people a more direct and active role in decision-making (Hyman & Stiftel, 1988);
- identifying long-term effects of the proposed actions which may have been overlooked by the proponent (Thomas, 1998) and adding alternatives;
- empowering local communities by giving them some control over affecting decisions and it makes them to support activities they help in its preparation (Sarkissian et al., 1997);
- encouraging transparency and trust amongst stakeholders (Harding, 1998) and ensuring that the EIA process is open for the public;
- promoting cooperation and partnership amongst stakeholders (Harding, 1998);
- making participants feel they have been treated fairly (Hyman & Stiftel, 1988);
- improving the quality of decision-making as it ensures that final decisions have legitimacy and validity amongst prominent participants (Harding, 1998);
- clarifying facts and values (Hyman & Stiftel, 1988);
- ensuring the public is informed in an adequate and timely manner (ANZECC, 1991).

Delays in the decision-making process and wasted resources are the obvious consequences of unplanned involvement. Furthermore, it will also cost public confidence. If public involvement is not well planned, there will be some potential disadvantages as identified below, though there is still debate on these issues.

Box 3.2 The Potential Disadvantages of Public Involvement and Public Participation

- encourages litigants to disrupt the proper process of EIA (Molesworth, 1985);
- the lay public often does not understand the formal process of EIA (Molesworth, 1985);
- only those with scientific or technical background are able to contribute to constructive decision-making (Molesworth, 1985);
- public participation is not efficient since it involves a large number of people in making decisions; the issue of time efficiency and decisiveness (Molesworth, 1985);
- the public tends to be subjective, while technical professionals and bureaucrats are thought to be objective (Molesworth, 1985);
- public participation is not thought to accurately represent public opinion (Molesworth, 1985);
- public participation adds to the cost of projects (Molesworth, 1985);
- the public cannot appreciate the importance of many affairs of State, which only a government can fully understand (Molesworth, 1985);
- delays and additional costs are raised in relation to the implementation of public participation (Thomas, 1998).

These points seem to support the view that the public should not contribute to the decision-making process. However, to argue that experts know everything and the best decision is made by experts are not always true. Knowledge of potential disadvantages is necessary in designing a program for public involvement. Therefore, it is critical to set up some criteria before the introduction and implementation of public involvement and to choose the right techniques for conducting public involvement and participation.

3.5 Forms of Public Involvement

There are theoretically many techniques for communicating with the public. The choice and application of each technique depends on the purpose, situation and context. One example is offered by Canter (1977: 226) in his "Capabilities of public participation techniques"; each technique has appropriate uses, strengths and weaknesses. These can be categorised according to the purpose of the involvement itself. Box 3.3 lists some techniques for public involvement.

Box 3.3 Methods for Public Involvement

Public involvement methods can be categorised by the primary purpose as follows:

- Information provision and education purpose:
- Information collection and feedback:
- Consultation:
- Participation, information exchange and interaction:

Each method can serve many purposes:

1. Information provision and education.
   Advertisements, leaflets and brochures, news conferences and press releases, local newspapers, television and radio, video, display and exhibitions, field trips or site visits, telephone help lines, newsletters, computer bulletin boards and internet sites, model demonstration projects.
2. Information collection and feedback.
   Questionnaires, interviews, surveys, written submissions, talkback or interactive radio and television.
3. Consultation.
   Public meetings or community group meetings, small group meetings,
4. Participation, information exchange and interaction.
   Open houses, hot lines, community liaison officers, operating field offices, community advisory groups or committees, workshops – full or half-day, group presentations, panels and conferences, public meetings, public hearings and inquiries, Delphi process, charretes, task force, public review, ombudsman.

Sources: Petts (1999), Morgan (1998), Harding (1998), and Thomas (1998).

3.6 Examples of Public Involvement Implementation

Public involvement processes are distinctive and vary from country to country. This depends on the political system, the legislative or regulative process, and cultural paradigms in any particular society. There is no single model of public involvement that is universally ideal. An overview is put forward to show the implementation of public participation from several developed and developing countries.

This starts with an overview of the American EIA system through its NEPA. This is critical since the US NEPA is the original EIA model that was implemented. The EIA system in Canadian British Columbia is also chosen for review in this thesis due to its influence of Indonesia's EIA (for example in Heroepoetri, 1993). This influence will be discussed in Chapter Four. The British Columbian EIA served as the model during the preparation of the public involvement policy in Indonesia in 2000 (BAPEDAL, 2000d). Furthermore, the Australian Commonwealth EIA system will also be discussed since it has certain practices

and procedures in its public involvement model. In the context of developing countries, the EIA systems of the Philippines, Thailand, and Malaysia are chosen due to similarities with the Indonesian context. These three countries are also included for their use of public participation in their respective EIA systems (Briffett, 1999).

3.6.1 The US NEPA System

The NEPA of 1969 became effective on January 1, 1970 (Canter, 1977) and its fundamental requirement of public involvement in EIA is described under the Section 102(2)(C), which states that copies of detailed statement or EIS shall be made available to the public (US DOE, 1998). Section 102(2)(G) emphasises public disclosure by asserting that all Federal Government agencies shall "make available to ..., individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment".

Public involvement as an essential element of EIA can also be found in legislation under NEPA such as the Regulations for Implementing NEPA established by the Council on Environmental Quality or CEQ (CEQ, 1978). Contacts with the public appear everywhere in the Regulations and in many stages of the EIA process. Basic procedures for involvement are under Section 40 CFR 1506.6 regarding public involvement (see Appendix 1), which briefly consists of six sub-sections which require all US federal agencies to:

(a) make efforts to involve the public in preparing and implementing NEPA procedures,
(b) provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents,
(c) hold and sponsor public hearings or public meetings.
(d) solicit appropriate information from the public,
(e) explain where interested persons can get information on environmental impact statements (EISs) and other NEPA elements, and
(f) make EISs, the comments received, and any underlying documents available to the public (CEQ, 1978).

Many sections of the Regulations also guide the procedure of public involvement in each EIA stage. Box 3.4 below shows those Sections in NEPA which relate to public involvement.

Box 3.4 Specific Statements in relation to Public Involvement in the CEQ – Regulations for Implementing NEPA

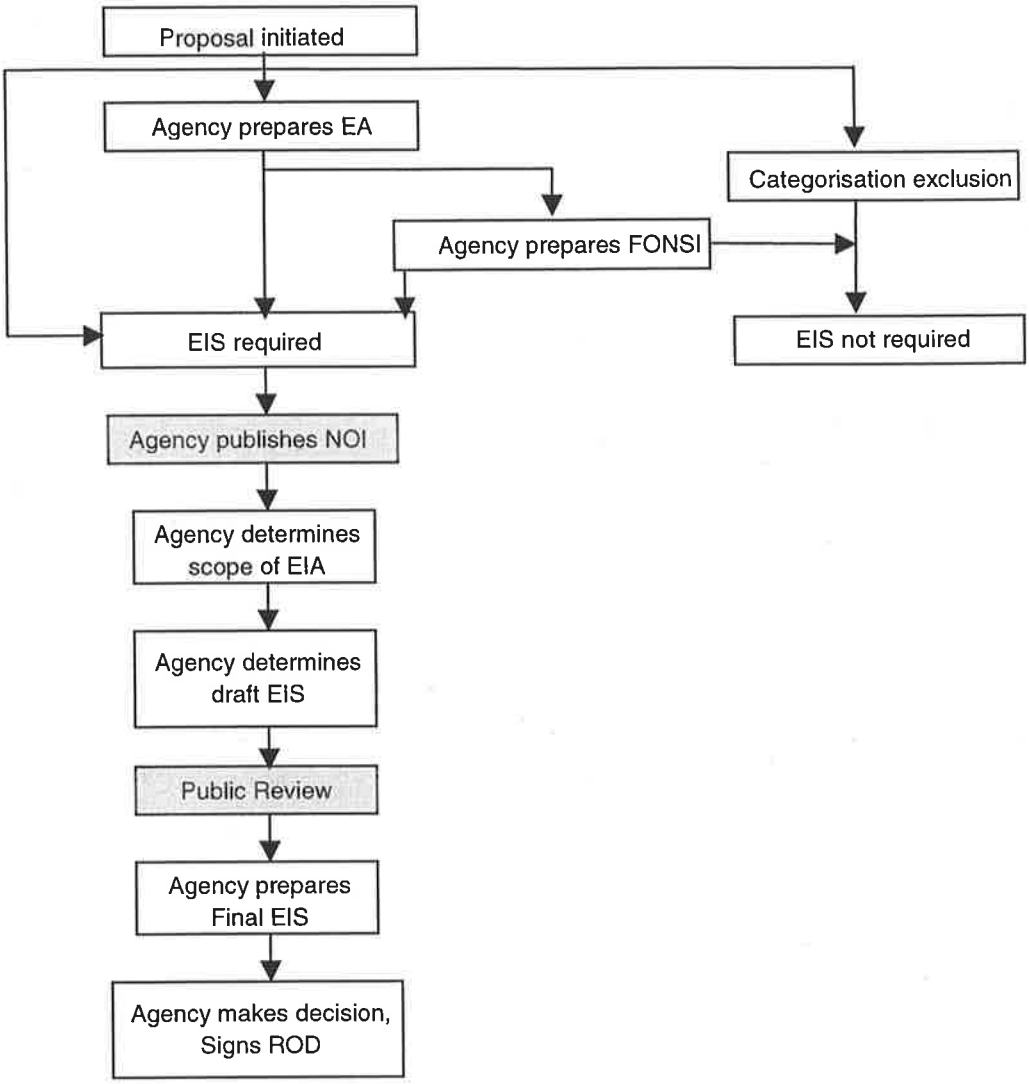
Section 1500.1 (b), (c) Purpose of the Regulations
Section 1500.2 (b), (c), (d) Policy of federal agencies
Section 1500.4 (f) Reducing paperwork in the EIS by emphasising the portion that is useful to the public
Section 1501.4 (b), (e) Screening process, requirements for EIS
Section 1501.7 (a), (b), (c) Scoping process
Section 1502.1 The purpose of EIS
Section 1502.8 The writing style of EISs, therefore the public can readily understand them
Section 1502.9 (b), (c) Response and comment on draft, final, and supplemental statements
Section 1502.12 Adequate and accurate EIS summary
Section 1502.14 Alternatives including the proposed action, a clear basis for choice among options by the public
Section 1502.19 (a), (b), (c), (d) Circulation of the EIS to the public
Section 1502.21 Incorporation by reference for supplementary material
Section 1503.1 (a) (4) Inviting comments from the public
Section 1503.4 (a), (b), (c) Response to comments for the EIS
Section 1505.1 (e) Agency decision making procedures; to make available to the public any part of decision document before the decision is made
Section 1505.2 Public record of decisions in cases requiring EIS
Section 1505.3 (4) Implementing the decision, making available to the public the results of implementation
Section 1506.6 (a), (b), (c), (d), (e), (f) Public involvement procedures
Section 1506.8 (a) Proposals for legislation, a legislative EIS which can serve as the basis for public and Congressional debate
Section 1506.9 Filing requirements for EISs by the EPA
Section 1506.10 (a) Timing of agency action, publication by the EPA
Section 1507.3 (a), (c) Adoption of agency procedures after public review and making the procedures available to the public
Section 1508.9 (a) Terminology of the environmental assessment definition as a concise public document
Section 1508.22 (a), (b), (c) Terminology of the notice of intent which contains a description of the detailed information for any scoping meeting for EIS.

Adapted from US DOE (1998)

According to Wood (2003), agency consultation and public participation in the US Regulations occur in the following stages:

- in screening (preparation of, and comment upon, the environmental assessment, and comment upon the finding of no significant impact);
- on publication of notice of intent;
- in scoping;
- in preparation of, and comment upon, the draft EIA;
- in preparation of the final EIS;
- on the record of decision;
- on monitoring results following implementation (Wood, 2003: 282).

Figure 3.2 The US Federal Environmental Impact Assessment Process



Source: Wood (1995: 22, 2003: 23)
Note: FONSI = finding of no significant impact NOI = notice of intent
ROD = Record of decision EA = environmental assessment
Shaded boxes are stages with the public involvement provision

The following description summarises Wood (2003: 24-25). Public involvement starts when a notice of intent (NOI) is published by the agency leading to the scoping process which inturn brings those with different interests to an agreement regarding the EIA scope. Once the draft EIS is prepared, it is sent to the Environmental Protection Agency (EPA) for review and forwarded to all the relevant federal, state, tribal and local organisations likely to comment. Local groups and the public could participate by making comments on the documents within a minimum period of 45 days. The comments are then used to prepare the final EIS. Following this, a record of decision (ROD) is published which is

occasionally circulated for a period of time. After Kreske (1996), Wood (2003: 282) asserts that a public hearing on the draft EIS must be held in a case of substantial controversy. There is also possibility for recourse to the court by filing lawsuits where NGOs use NEPA to access the court.

3.6.2 EIA System in British Columbia

The EIA process in British Columbia is notable in that the process involves intense public involvement. The Environmental Assessment Act received Royal Assent on July 8, 1994 and its proclamation took place on June 30, 1995 (Environmental Assessment Office, 1995: ii). Public involvement is a key feature of the Act that "proponents (project sponsors) must consult with the public" and the consultation programs must be approved and monitored by an agency named the Project Committee. In addition, the Environmental Assessment Office may require supplementary public involvement and initiate a Public Advisory Committee. An outline of the EIA process is provided in Figure 3.3 below.

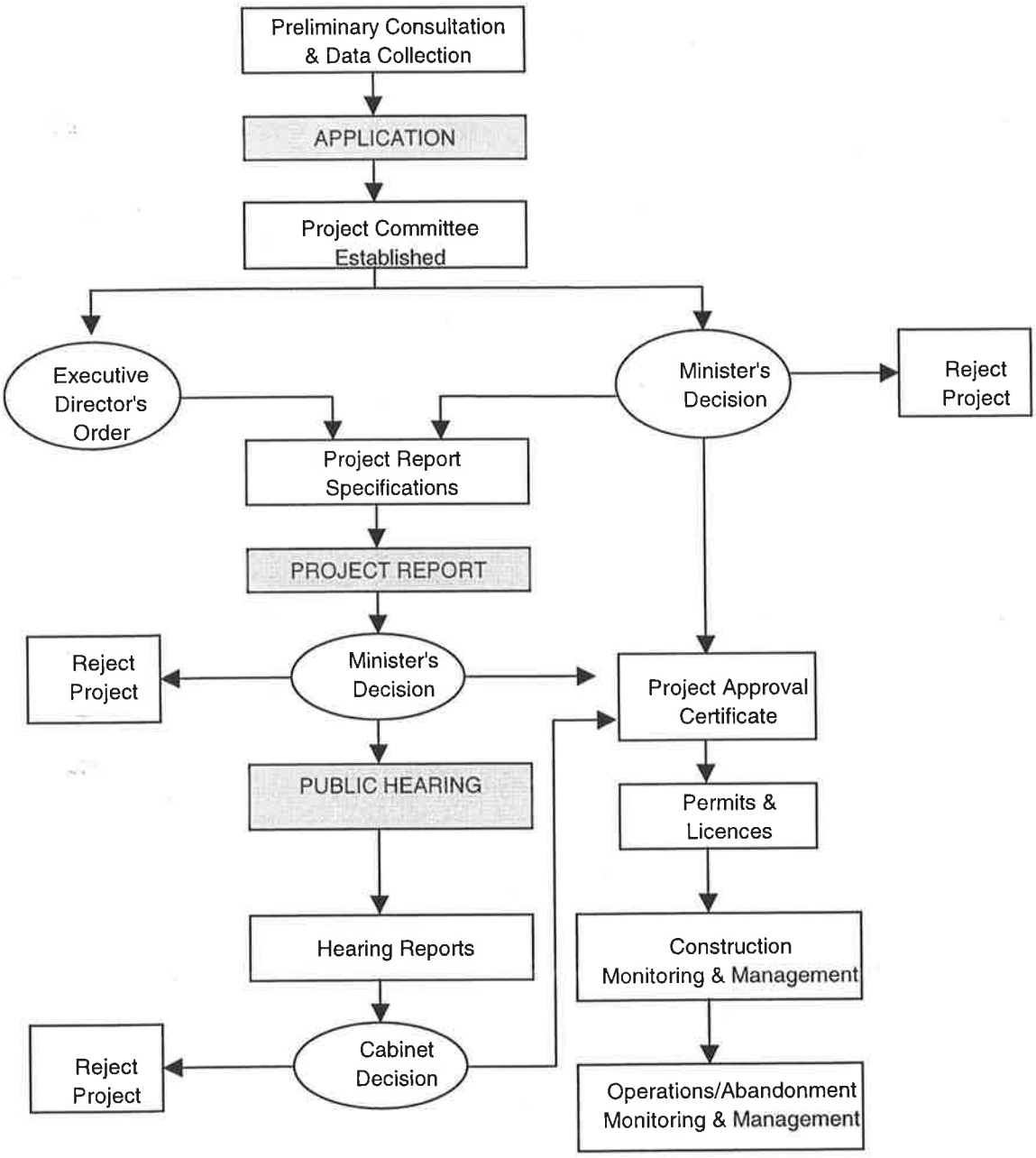
There are three review stages within the EIA process: the application, project report and public hearing. Public involvement starts when the proponent notifies the public regarding its application during the initial application stage. At this stage the public has an opportunity to review the application for a period between 30 and 75 days through a Project Committee which comprises representatives from government agencies, the First Nations (Canadian indigenous people consisting over 630 communities) and the public. Based on the review outcomes, a decision is made either to reject the project, approve or proceed to the further review stage: the project report.

At the second stage, the proponent is required to prepare the project report according to specifications set by the Project Committee based on the issues which arose during the review in the previous stage. The specification must be circulated to all parties including the public for comment and review for between 15 and 30 days. The project report prepared by the proponent is then reviewed for a period of between 45 and 60 days. A similar process of public notification, review and recommendation is conducted before another decision is made for the project report: to reject, approve or proceed to the last stage which is the public hearing.

In the early public hearing stage, the draft Terms of Reference (TOR) for the hearing are prepared and filed in the Project Registry for public comment. The final TOR is issued after considering public comments and the Environmental Assessment Board is directed to

conduct the hearing. A report and recommendations based on the hearing is submitted to the Cabinet for a final decision. In addition to the British Columbian system, there is an interesting example from the Canadian Federal EIA system where funding is provided for indigenous people to employ researchers to prepare and argue a case (Wood, 2003: 290).

Figure 3.3 The British Columbia Environmental Assessment Process



Source: Environmental Assessment Office (1995)
Note: Shaded boxes are the three review stages requiring public involvement

3.6.3 The Australian Commonwealth EIA System

The Australian Commonwealth Government has its own EIA system, and this exists along side the EIA systems in every State and Territory. The Commonwealth of Australia's EIA started on 17 December 1974 and is determined by the Act No. 164 of 1974: *Environment Protection (Impact of Proposals) Act* or EP(IP) Act 1974. After amendments in 1987 (Gilpin, 1995: 124), the Act was repealed and replaced by the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which came into force on 16 July 2000. Along with the new Act, the following were promulgated:

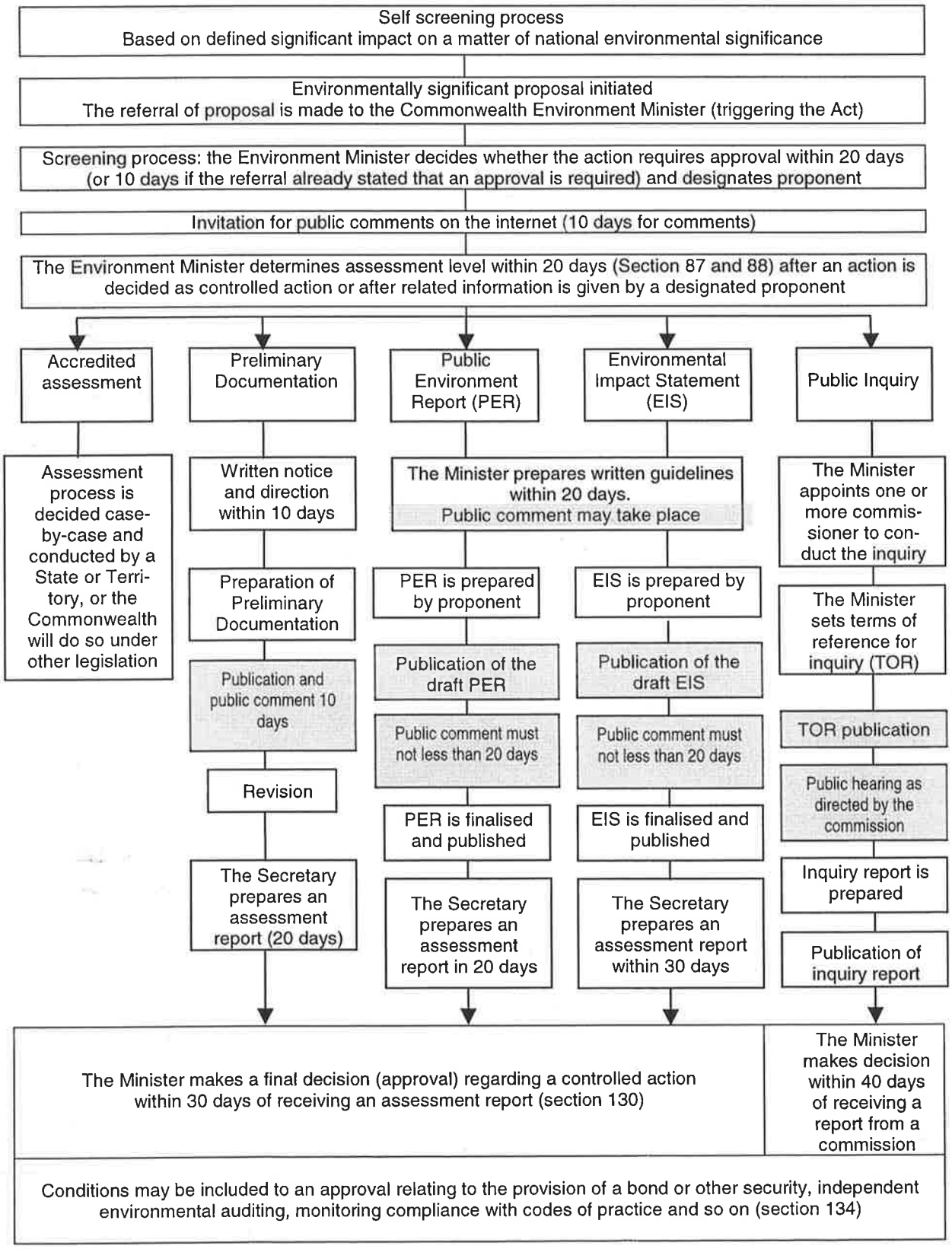
- Environment Protection and Biodiversity Conservation Regulations 2000
- Environmental Reform (Consequential Provisions) Act 1999
- EPBC Act Administrative Guidelines on Significance (screening criteria), July 2000 (Environment Australia, 2001)

The Act is administered by 'Environment Australia' under the Department of Environment, Sport, and Territories (DEST). In 1996, the Commonwealth Environmental Protection Agency (CEPA) became part of the Environment Protection Group within Environment Australia. According to Harvey (1998: 162): "Within the Environment Protection Group is the Environmental Assessment Division, which is responsible for EIA".

Some similarities between the Commonwealth EIA system and State and Territory systems are perhaps due to fact that the EP(IP) Act was established before any State or Territory in Australia instituted EIA in its own governmental administration. Recent changes on related EIA legislation to some extent modifies the EIA relationships between the Commonwealth and State or Territory. However, the federal EIA system still accommodates the EIA systems in the States and Territories, for example within the provision of a bilateral agreement and an accreditation process under Chapter 2 Part 4 and Chapter 3 of the EPBC Act. Figure 3.4 below shows the EIA process.

When a person refers a proposal to the Environment Minister, a screening process takes place and the Minister must decide within 20 days whether the action needs approval (Section 75 of EPBC Act) and therefore needs to proceed with an assessment. A proponent is then designated to carry out the EIA process. Within the referral process, provision is made for public involvement in a form of public comment (Section 74 (3)). The provision states that invitation for public comment toward the referral is published on the Internet for 10 days.

Figure 3.4 The Australian Commonwealth EIA Process under the EPBC Act 1999



Source: Interpreted from EPBC Act 1999 (Environment Australia, 2001)

The Act sets out different processes and timing requirements for each assessment level (see Figure 3.4). The process for accredited assessment is determined on a case-by-case basis and depends on selected EIA processes. Assessment by preliminary documentation involves four main steps: (1) preparation and publication of draft assessment documentation in accordance with regulations and published guidelines, (2) a public comment period for 10 days, (3) finalisation of the assessment documentation by taking public comments into account, and (4) preparation of an assessment report by the Secretary of Environment Australia for the Commonwealth Environment Minister within 20 business days of receiving final documentation from the proponent.

Assessment by PER and EIS involves six similar steps. After guidelines are given by the Minister (1), the proponent prepares draft assessment documentation (2), a draft PER or EIS is then published (3), and invites for public comment for at least 20 days (4). After the proponent has finalised and published the documentation (5), the Secretary of Environment Australia prepares an assessment report within 20 days for PER and 30 days for EIS (6). In contrast, assessment by public inquiry relies on the initiative of a commission appointed by the Minister. All steps in the public inquiry, including its timeframe, are determined by terms of reference set by the Minister. An inquiry report is also prepared by the commission for further consideration by the Minister in decision-making. All final decisions (approvals) are made by the Minister within 30 days after receiving an assessment report for all assessment levels but within 40 days for public inquiry. In addition, the scoping process also includes public comment on each assessment level while a public hearing is the main method on public inquiry.

It appears that public involvement uses several methods such as public notices, public comments or submissions, public availability of related documentation, and public hearings. Public involvement starts from the screening process, scoping and continues through to the comment process. After the draft preliminary documentation (a PER or EIS) is prepared, public involvement becomes the central activity in the process and the EIS or PER shall be made available for comment. The difference between preliminary documentation, the PER, and the EIS is the period of public comment. Moreover, in EPBC Act the minimum period of public comment has declined from at least 28 days to 20 days (though the Minister may determine a longer period). Furthermore, the opportunity for discussions regarding an EIS or PER, which in the previous Act may be held in the form of round-table discussions (among authorities, the public, and the proponent), is no longer available and is replaced by the process of public comment only. The previous Act

stipulates that the Environment Minister has to recommend the result of EIA to the relevant action Minister for the final decision, while in the new Act the approval rests with the Environment Minister.

The previous sections discussed some examples of EIA systems with their public involvement procedures. Wood (1997, also 1995 and 2003) compares eight EIA systems in developed countries where he categorises public involvement as an essential aspect in his evaluation. The summary of Wood's study is provided in Table 3.1. For comparison, George (2000) also makes a comparative study in many developing countries in Table 3.2. Appendix 2 also shows the requirement set by Inter Government Agencies. As they might be expected, each EIA system has different requirements for public involvement.

Table 3.1 Consultation and Participation in the Developed Countries' EIA Systems

Jurisdiction	Requirement for Consultation and Participation
USA	EIA reports must be publicly reviewed and the proponent must respond to the points raised. Lead agency must respond to agency and public comments on published draft EIS in final EIS. Consultation and participation take place at several stages in EIS preparation, limited in environmental assessment stages.
California	EIA reports must be publicly reviewed and the proponent must respond to the points raised. Lead agency must respond to all relevant comments on published draft EIR in final EIR. Public participation and consultation take place at various stages in preparing EIRs.
United Kingdom	EIA reports must be publicly reviewed. LPA may request further information and proponents usually provide it. Proponents under no duty to respond to comments. Consultation often takes place prior to ES, participation rare. Both must be undertaken following ES release.
The Netherlands	EIA Commission reviews the EIS and, where necessary, supplementary information is requested by competent authority. Formal requirements for consultation and public participation in both scoping and review.
Canada	EIA reports must be publicly reviewed and the proponent must respond to the points raised. Discretionary public review of screening reports, public review of comprehensive study reports, and extensive public review, with proponent response, of EISs. Participation and consultation mandatory throughout panel reviews, required following comprehensive studies and discretionary in screenings.
Commonwealth of Australia	EIA reports must be publicly reviewed and the proponent must respond to the points raised. Formal requirement for public participation in screening and discretionary power for involvement in scoping expected to be used routinely. Agency consultation takes place throughout EIA process.
Western Australia	EIA reports must be publicly reviewed. Proponent must publicly respond to agency and public comment on EIA report.
New Zealand	EIA reports must be publicly reviewed and the proponent must respond to the points raised. Local authority power to commission independent review of public EIA report at developer's expense and to demand more information for notified projects. Duty to consult public following EIA report publication and virtually compulsory to consult earlier for notified projects.

Source: Wood (1995: 240, 1997: 39, 2003: 298)

Table 3.2 Public Involvements in EIA in Selected Developing Countries

Country	Requirement for Public Involvement
Sub-Saharan Africa	
Ghana	Public notices, optional public hearing
Malawi	Policy to make ES public for comment
Mauritius	EIS available for public inspection
Nigeria	FEPA decision published, documents made available, provisions for participation in scoping
South Africa	EIS made public
Swaziland	EIA report is a public document
Tanzania	Minimal
Zambia	EIS made public for comment, optional public hearing
East Asia	
China	No formal provision
Indonesia	Discretionary
Malaysia	Limited
The Philippines	Discretionary, optional public hearing
South Korea	Discretionary public hearings
Taiwan	Public meetings
Vietnam	No formal requirement
South Asia	
Bangladesh	No requirement
Bhutan	Draft EIA report circulated to concerned parties and NGOs
India	Public hearings made mandatory by 1997 Notification
Nepal	EIA report accessible for public review
Pakistan	Provision for public review but confidential information withheld
Sri Lanka	EIA reports are open for public review
Central and Eastern Europe and Central Asia	
Bulgaria	Mandatory public hearing, EIS available to public
Croatia	Public hearing, EIS available to public
Estonia	EIS available to public for comment
Latvia	Limited
Poland	SEA reports readily available, EIA reports not readily available
Russia	Optional public review, public meetings
Slovakia	Public EIS, public hearing
Ukraine	Optional public review, EIS not public

Country	Requirement for Public Involvement
Middle East and North Africa	
Egypt	EIS not made public
Jordan	EIS not made public
Morocco	EIS not made public
Oman	No provision
Syria	N/A
Tunisia	No provision, no public access to EIA report
Turkey	Public Meeting
Latin America and the Caribbean	
Belize	Public review
Bolivia	-
Brazil	Public hearings, mandatory publication of EIA
Chile	EIS available for comment
Mexico	Limited access to documentation
Peru	Public access to EIS, public meeting required by Ministry of Energy and Mines
Uruguay	Discretionary
Venezuela	Limited

Source: George (2000: 55-67)

From Table 3.2, it appears that public involvements within EIA systems in developing countries are similar in terms of its implementation. Comparing all EIA systems from developing countries will perhaps need more detailed study. Since the Indonesian EIA is the main focus in this research, studies of three EIA models from Southeast Asia (the Philippines, Thailand, and Malaysia) are more relevant due to their similarities to Indonesia in terms of economy level, their proximity, and the adoption or development of the EIA system in the planning process.

Compared to Indonesia's EIA system, these three countries are more advanced in their adoption of public participation (Briffett, 1999). Therefore, many lessons could be derived from those systems. Comparison between the Indonesian EIA and other Southeast Asian EIAs shows that all EIAs developed at relatively the same period in the 1970s – 1980s. For example, EIA legislation in Malaysia was established in 1987 and in the Philippines in 1977 (Briffett, 1999: 146) in comparison to Indonesia in 1982.

3.6.4 The Philippines' EIA System

The introduction of EIA in the Philippines started in 1977 with a Presidential Decree (PD) No. 1151 through the Philippines National Environmental Policy (Cooper & Elliott, 2000: 180). Presidential Decree No. 1586 of 1978 established 'the Philippine EIS system' which defines scope, coverage, organisation – including the National Environmental Protection Council (NEPC) as an over-riding agency – and sanctions for non-compliance (Cooper & Elliott, 2000: 180; Gilpin, 1995: 144; Ross, 1994: 219). To implement EIA, the council issued guidelines in concurrence with a presidential proclamation (No. 2146) to establish certain project types and areas as 'environmentally critical' and therefore was required to fulfil EIA requirements (Gilpin, 1995; Ross, 1994).

Table 3.3 Major Events in EIA Development in the Philippines: 1977-1996

1977:	Philippines National Environmental Policy introduced EIA and was established by Presidential Decree (PD) 1151 and PD 1152 regarding Philippine Environmental Code.
1978:	'The Philippine EIS system' is established by the Presidential Decree No. 1586. The National Environmental Protection Council (NEPC) was also instituted to administer the EIA process. Environmentally critical projects (ECP) and environmentally critical areas (ECA) are broadly defined.
1978:	NEPC was integrated into the Ministry of Human Settlement (MHS) which controls the EIA process.
1981:	Guidelines for EIA implementation were established in concurrence with a presidential proclamation No. 2146 prescribing certain type of projects and areas as 'environmentally critical' and therefore was required to fulfil EIA requirements.
1982:	EIA became operational by establishing EIA legislation for its implementation.
1986:	The Environmental Management Bureau (EMB) set under the Department of Environment and Natural Resources (DENR) to implement EIA.
1987:	Executive order (EO) 192 promulgated and identified EMB as the implementing agency for the EIS system.
1992:	Introduction of social acceptability criteria through Department (DENR) Administrative Order no 21 (DAO 92-21).
1992:	EIA decentralisation through the regional offices of DENR.
1996:	The issuance of new EIA guidelines including public participation in the EIA process in Department Administrative Order (DAO) No. 37 (DAO 96-37).

Source: Cooper & Elliott, 2000: 180,186; Gilpin, 1995: 144; Ross, 1994: 219; George 2000: 56; Briffett, 1999: 156; Department of Environment and Natural Resources (DENR), 1996.

In 1978, the NEPC was integrated into a new super-agency, the Ministry of Human Settlement (MHS) which controls the EIA process (Briffett, 1999). Further EIA development took place in 1982 when EIA became operational by establishing the necessary legislation of EIA for implementing PD 1586 (Cooper & Elliott, 2000: 181).

During its development, EIA finally was managed by the Environmental Management Bureau (EMB) under the Department of Environment and Natural Resources (DENR) in 1987. EMB is responsible for reviewing EIA and issues the Environmental Compliance Certificate (ECC) for all environmentally critical projects (ECP) signed by the DENR Secretary (DENR, 1996). The bureau staff, assisted by the independent EIA Review Committee, recommend the bureau director to make an approval decision and a public hearing if needed (Ross, 1994: 220). EIA was partially decentralised in 1992 through the regional offices of DENR where projects not classified as ECP but located in an environmentally critical area (ECA) are reviewed and approved at the DENR regional level by the Regional Executive director (DENR, 1996).

Furthermore, a major change in EIA policy introduced social acceptability criteria in 1992 through Department Administrative Order No. 21 (DAO). Further EIA guidelines were set in DAO No. 37 of 1996 (DAO 96-37) from the DENR (Cooper & Elliott, 2000: 180). Provisions for public consultation meetings, public hearings and endorsement of local community acceptance in the guidelines are supported by the 1987 Constitution, the 1989 Philippine Strategy for Sustainable Development, the Local Government Code of 1991 and the Philippine Agenda 21 of 1996 (Cooper & Elliott, 2000). Those policies recognise the important role of the people in nation building as NGOs and as members of people's organisation (POs). This led to the issuance of new comprehensive EIA guidelines which covered all EIA procedures in 1996 (Briffett, 1999) and the EIA procedures in 1997 (George, 2000: 56). The recent EIA guidelines set four EIA stages that are open to public involvement.

There are two types of documents in the Philippines EIS system: Project Description and EIA (DENR, 1996). The former document is required if a project is not an ECP but shall be located in an ECA. It contains a description of the project, its size and scale, processes involved, mitigating measures to address possible impacts and socio-economic issues. This is a basis for issuing an Environmental Compliance Certificate or for requiring a more detailed study (screening exercise), i.e. EIS. The latter document is a detailed and in-depth analysis of the environmental consequences of a proposed project and produces EIS reports (DENR, 1996).

The EIA process is started by circulating an EIS draft to government agencies and other stakeholders and all comments on the draft will be collated by the council. The need for a public hearing is decided also by the council, which further reviews the EIA documents for

final approval with or without amendment. Finally, the council issues a certificate of compliance with the EIS system or Environmental Compliance Certificate to enable the project to continue. After the approval, the council monitors the implementation of the project once every three months at least (Gilpin, 1995; Cooper & Elliott, 2000).

Opportunities for the public to participate during the EIA process are arranged in:

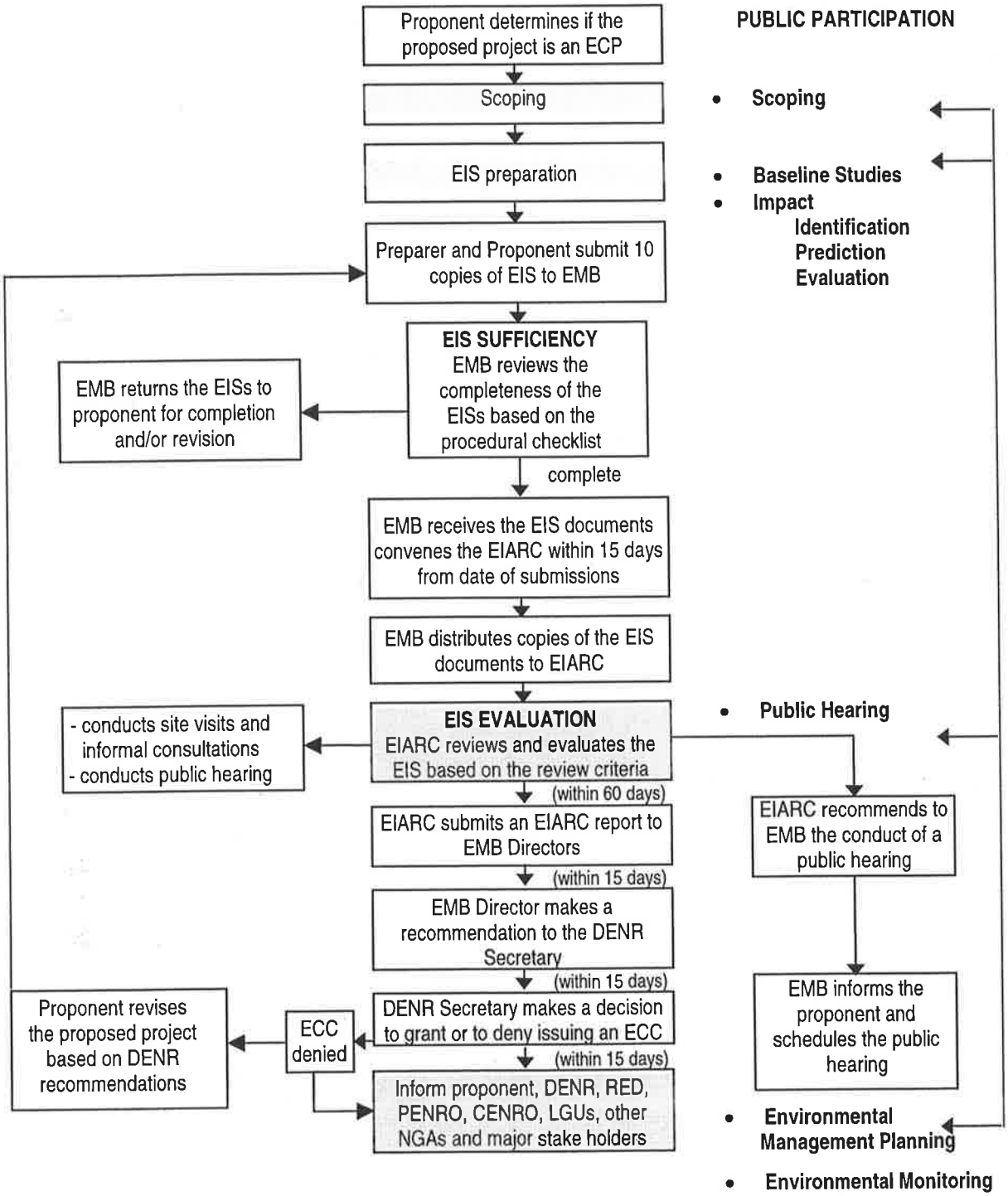
- a mandatory scoping process;
- EIS preparation especially in baseline data acquisition and the identification, prediction and evaluation of environmental impacts;
- EIS evaluation process where the public can attend a public hearing;
- Post-EIA activities in the implementation of environmental management plans and monitoring activities.

Reports from the scoping process have to be endorsed by EIA stakeholders and be part of EIS documentation. Scoping also gives an indication of whether the project will be acceptable to the local community and then it is continued to further EIA study or rejected early in the process. All EIS documents were required to include any comments (as well as replies to these comments) and recommendations received in order to demonstrate acceptance during the public involvement process. The DENR suggests that public participation in the EIA process is the essential means for achieving social acceptability by defining that it is the result of a process that is mutually agreed on by EIA stakeholders. In this way, their concerns are fully considered and/or resolved in the decision-making process (Cooper & Elliott, 2000: 186).

The main thrust of public involvement in the Philippines EIA is established in DAO 21 and 37. In these orders, the main EIA stakeholders are:

- NGOs or NGAs (non-governmental agencies);
- people's organisations (POs);
- local government units (LGU);
- Provincial Environmental and Natural Resources Office (PENRO);
- Community and Natural Resources Office (CENRO);
- Environmental Management Bureau (EMB);
- Regional Executive Director (RED);
- EIA Review Committee (EIARC).

Figure 3.5 The Philippines EIA Process



Source: Adapted from DENR, 1997 (in Cooper & Elliott, 2000: 187)
Note: Shaded boxes are the opportunities for public involvement

EIA guidelines also set indicators on the effective implementation of public involvement (see Box 3.5). With these indicators, the EIA proponent is guided to implement best practice in conducting the public involvement process which in turn will demonstrate social acceptability. It appears that the Philippines EIA system provides adequate provisions for this. However, the most important aspect is the implementation of these provisions. Ross (1994: 220) asserts that: "this trend toward more public hearings was intentional and reflected both a deliberate policy of the Environmental Management Bureau and more public interest in the environment". Briffett (1999: 146) claims that public participation is an adopted practice in the Philippines system although George (2000: 57) argues that the nature of public involvement in the Philippines is discretionary and the public hearing is only optional.

Box 3.5 Indicators of Social Acceptability in the Philippines EIA

For *ecological and environmental soundness* of the proposed project:

- management plan, environmental management and monitoring plan;
- municipal and *barangay* (village) resolution endorsing the project;
- endorsement letters from local NGOs and POs.

For the *effective implementation of the public participation process:*

- process documentation reports signed by stakeholders;
- scoping report signed by all key parties and stakeholders' representatives;
- detailed description *of* the EIA process with concurrence of all stakeholders who participated;
- signed MOA for the establishment of a multipartite monitoring team;
- report of the hearing officer during public hearing.

For the *resolution of conflicts:*

- negotiated agreements on conflicts should be included in an MOA between the proponent, the DENR, local government units and stakeholders;
- a resettlement and relocation plan;
- social development programme.

For the promotion of *social and intergenerational equity and poverty alleviation:*

- an environmental management and monitoring plan which includes a social development programme, compensation and resettlement plan;
- endorsement letters from local NGOs and POs;
- municipal and *barangay* resolution endorsing the project.

Source: DENR, 1997 (in Cooper & Elliott, 2000: 188).

3.6.5 Thailand's EIA System

EIA in Thailand was established by the National Environmental Quality Act (NEQA) 1975 (this is also known as the Improvement and Conservation of NEQA), as amended in 1978 (Briffett, 1999: 154; Shepherd & Ortolano, 1997: 334; Tongcumpou & Harvey, 1994: 272). An environmental agency – the Office of the National Environmental Board (ONEB) – was instituted in 1975 and administers the Thailand EIA process, yet the enforcement of EIA was begun in 1981 (Briffett, 1999: 154). Guidelines were established to implement the EIA such as: by the notification of the Minister of Science, Technology and Energy in 1978 specifying projects and activities' types and sizes subject for EIA (Tongcumpou & Harvey, 1994: 272); and the requirement in 1984 that EIA had to be prepared by consultancies registered with ONEB. The NEQA was revised in 1992 to improve the effectiveness of the EIA process (Tongcumpou & Harvey, 1994: 272; Gilpin, 1995: 149; Briffett, 1999: 154). A summary of Thailand's EIA development is shown in Table 3.4 below:

Table 3.4 Major Events in EIA Development in Thailand: 1972-1992

1974:	National Constitution established a commitment to environmental protection. Technological and Environmental Planning Division created under the National Economic and Social Development Board (NESDB).
1975:	Improvement and Conservation of National Environmental Quality Act (NEQA) passed, establishing the National Environmental Board (NEB) and the Office of the National Environmental Board (ONEB) as the executive arm of NEB.
1978:	NEQA was amended: mandatory requirement to prepare EIA.
1979:	ONEB published a manual of NEB guidelines for preparation of EIA.
1981:	National policy on environmental development was adopted. Thai government issued first official notification of types and sizes of projects and activities which require EIA reports through the Ministry of Science, Technology and Energy.
1984:	Requirement that EIA reports have to be prepared by consultancies registered with ONEB.
1992:	Revision of NEQA and called the Enhancement and Conservation of National Environmental Quality Act. Recognition of the need to involve local communities; expansion of ONEB and inclusion of four public committees from NGOs and/or the private sector in ONEB members. ONEB is divided into three agencies: the Office of Environmental Policy and Planning (OEPP), the Department of Pollution Control and the Department of Environmental Quality Promotion.
1992:	First notification (under new act ICNEQA 1992, part 4, section 46) listed 11 types and sizes of projects/activities subject to EIA in August 1992. Nine activities were added in the prescribed list by the second notification during September 1992.

Sources: Shepherd & Ortolano (1997: 334); Tongcumpou & Harvey (1994: 272-278); Gilpin, (1995: 149); Briffett (1999: 154).

After Thailand's EIA was criticised due to the public's non-involvement, the absence of provisions for public hearing and the non-independent status of review committee

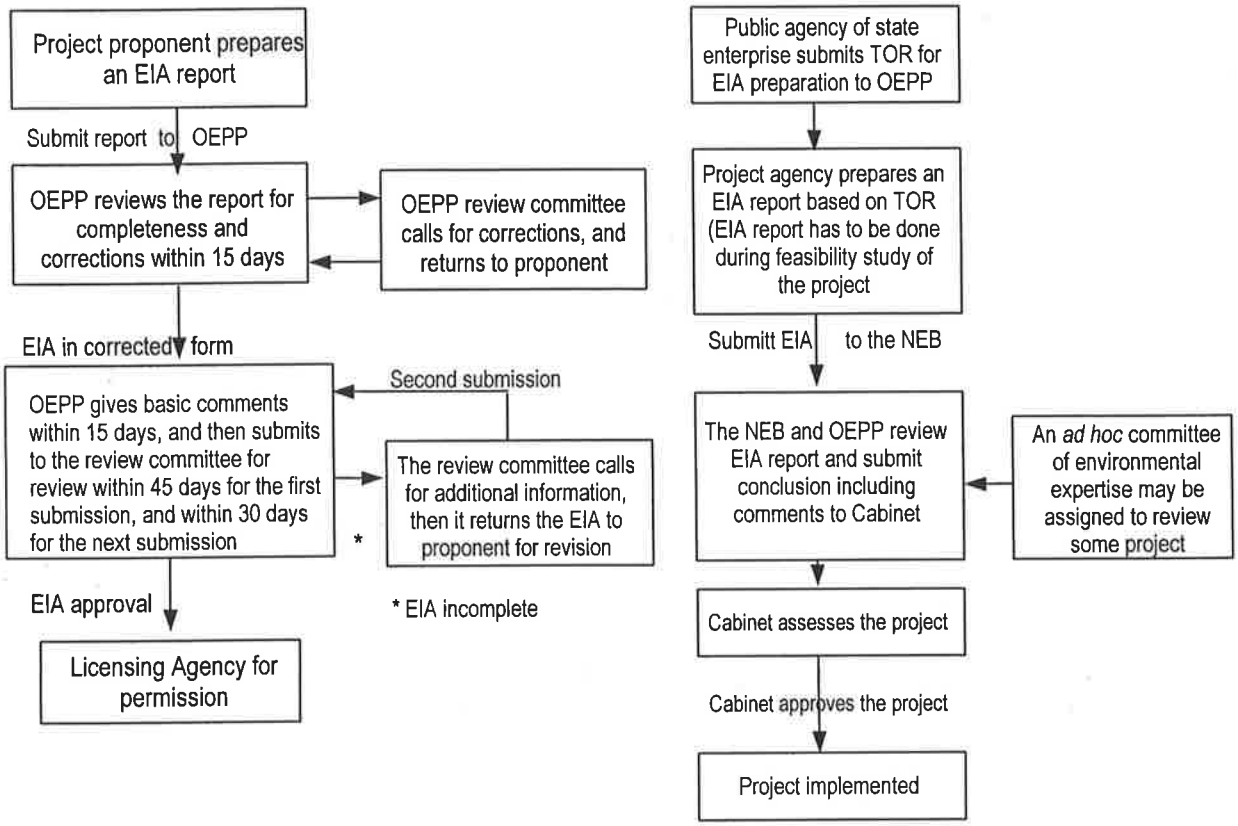
(Briffett 1999, after Phantumvanit & Lamont, 1991), the NEQA revision of 1992 and the 7th National Economic and Social Development Plan 1992-1996 (NESDP) recognised the need to involve local communities in environmental management (Briffett 1999, after Suphapodok & Chueyprasit, 1993). The new act of 1992 also encourages the public's right and NGOs to access EIA information. The NEB – chaired directly by the Prime Minister – was expanded to have more representatives including four public committees as environmental experts. The public was referred to as representatives from NGOs and/or the private sector (Tongcumpou & Harvey, 1994: 272-273). In addition, a new procedure under the new act of 1992 introduced an EIA review committee comprising:

- the secretariat of OEPP as a chairperson,
- the head of the licensing agency,
- the head of involved governmental agencies,
- a maximum of seven environmental experts who are appointed by ONEB, and
- an OEPP official as a secretary of the review committee (Tongcumpou & Harvey, 1994: 275).

There are two components of Thailand's environmental impact evaluation. These are the Initial Environmental Examination (IEE, for a screening exercise) and the EIS with a detailed review (Briffett, 1999: 154). The EIA terms of reference (EIA TOR, scoping exercise) can be obtained from ONEB under the direction of the Division of Environmental Impact Evaluation (Gilpin, 1995: 149; Tongcumpou & Harvey, 1994: 274). There are also two project categories: private projects that should be processed by OEPP and the review committee; and government projects that need Cabinet approval. The EIA process is shown in Figure 3.6 below.

For the first category projects, after the proponent prepared and submitted the EIA documents, OEPP will review their completeness within 15 days. When the documents are correctly prepared in compliance with guidelines, OEPP will make a preliminary review within another 15 days. Along with the comments from OEPP, the documents will then be referred to the review committee for further evaluation within 45 days (Tongcumpou & Harvey, 1994, 275-276). Further corrections and additional information resulting from the review process are requested from the proponent. A second submission is carried out for further review process by OEPP and the review committee within 30 days for final approval. The project proposal along with the EIA approval is submitted to the licensing agency to obtain development permission.

Figure 3.6 The Thailand EIA Process



The EIA process for private projects **The EIA process for government projects**

Source: Tongcumpou & Harvey (1994: 279)
Note: OEPP = Office of Environmental Policy and Planning
TOR = Terms of Reference
NEB = National Environment Board

For the second category, EIA is prepared by a relevant agency at the stage of feasibility study (Tongcumpou & Harvey, 1994, 275). The EIA process is started by the EIA TOR preparation that will be submitted to OEPP. Based on the TOR, the EIA documents are prepared and submitted to NEB. The EIA review is carried out by NEB and OEPP where an ad hoc committee of environmental experts may be assigned to join the process. Recommendations following the process are put forward to Cabinet for further assessment before an approval is provided.

It seems that public involvement in Thailand's EIA process is not explicitly described and accommodated. The only opportunity for such participation is the limited involvement of

NGO representatives (contesting with other representatives from the private sectors in the four public committees) within NEB which only reviews the second category of projects or activities. The other category is reviewed mainly by OEPP and the review committee without the involvement of NEB while the committee is not fully independent and does not involve NGOs.

Obviously, the implementation of public participation within the Thailand EIA process still needs further guidelines since NESDP is only a general direction and will not be automatically adopted by the EIA stakeholders. While Briffett (1999: 146) asserts that public participation is an adopted practice in the Thailand EIA, there is no clear and explicit procedure for the general public to get involved. Tongcumpou & Harvey (1994: 292-293) also argue that under the 1992 regulations, EIA still does not have appropriate stages of public involvement and they suggest adding public participation especially in EIA guideline preparation and document review. If the EIA system expects a wider public participation, setting up a review committee will not fulfil the need of independent committees because the elements are not free from the government involvement. Moreover, the four committees in the NEB are the experts (not necessarily the public) including academics while NGOs do not always speak on behalf of the public.

3.6.6 Malaysia's EIA System

Malaysia set EIA as a mandatory requirement under the Environmental Quality Act 1974 and amended in 1985 (Gilpin, 1995: 140). The main agency administering EIA is the Department of Environment (DOE) which also oversees pollution control and environmental policies and reports directly to the Ministry of Science, Technology and Industry (Gilpin, 1995: 140; Briffett, 1999: 153). Projects subject to EIA are prescribed in a list as required by the EIA regulation in 1988 and this was the first time when EIA become a mandatory requirement (Gilpin, 1995: 140; Leu, Williams, & Bark, 1997: 91) and 27 EIA guidelines have been introduced by DOE (Department of Environment, 2001). Milestones in the Malaysian environmental legislation are outlined below:

Table 3.5 Major Events in EIA Development in Malaysia

1920:	Waters Enactment.
1960:	Land Conservation Act.
1974:	Environmental Quality Act.
1985:	Amendment of Environmental Quality Act.
1987:	Environmental Quality (Prescribed Activities) Order (EQO), EIA is also required for any project located in the exclusive economic zone (EEZ) defined by EEZ Act 1984.
1988:	EIA becomes mandatory; 19 categories of industry required to submit EIA reports.
1991:	331 major projects are subject to EIA.

Sources: Gilpin (1995: 140); Briffett (1999: 153-154); Leu et al. (1997: 91-92); Department of Environment (2001).

The Malaysian EIA procedure consists of three main steps: preliminary assessment of all prescribed activities; detailed assessment of the activities for which significant residual impacts have been predicted in the preliminary assessment; and review of assessment reports (Department of Environment, 2001; Modak & Biswas, 1999: 58-59). Preliminary assessment is normally initiated at the early stages of project planning. Detailed assessment (detailed EIA or DEIA) is conducted during project planning until the project plan is finalised. Preparation of DEIA is carried out through specific TOR based on the results of preliminary assessment. Besides DEIA continuing a preliminary assessment, DOE lists 10 activities which have to conduct DEIA immediately without prior preliminary process. Some form of public participation is mandatory during the preparation. The final step of EIA, the EIA review process, is carried out internally by DOE for preliminary assessment reports while DEIA reports are reviewed by an ad hoc review panel (Department of Environment, 2001). Objectives for each main step are outlined in Box 3.6.

The EIA process starts when a proponent making a preliminary submission identifies environmental impacts and general descriptions of the proposed project (see Figure 3.7). An EIA technical committee under DOE reviews the EIA report in concurrence with opinions from other EIA stakeholders especially from selected government agencies and private sectors. The committee will decide whether the report is accepted and can be continued for the licensing process by an approving authority or if the report only needs more relevant information. If not, then the proponent needs to carry out further detailed assessment. Another review will take place for an incomplete report. If the proponent is required to conduct further assessment, it should contact DOE for setting the scope and extent of the assessment in an EIA terms of reference (scoping exercise). The review of

DEIA reports is carried out by an ad hoc review panel. DOE maintains a list of experts who may be called as members of any review panel and this selection depends on the issues of environmental impact (Department of Environment, 2001).

Box 3.6 Specific Objectives for Each EIA Stage in Malaysia

Preliminary Assessment

- to examine and select the best from the project options available;
- to identify and incorporate into the project plan appropriate abatement and mitigating measures;
- to identify significant residual environmental impacts.

Detailed Assessment

- to describe the significant residual environmental impacts predicted from the final project plan;
- to specify mitigating and abatement measures in the final project plan; and
- to identify the environmental costs and benefits of the project to the community.

The EIA Review Process

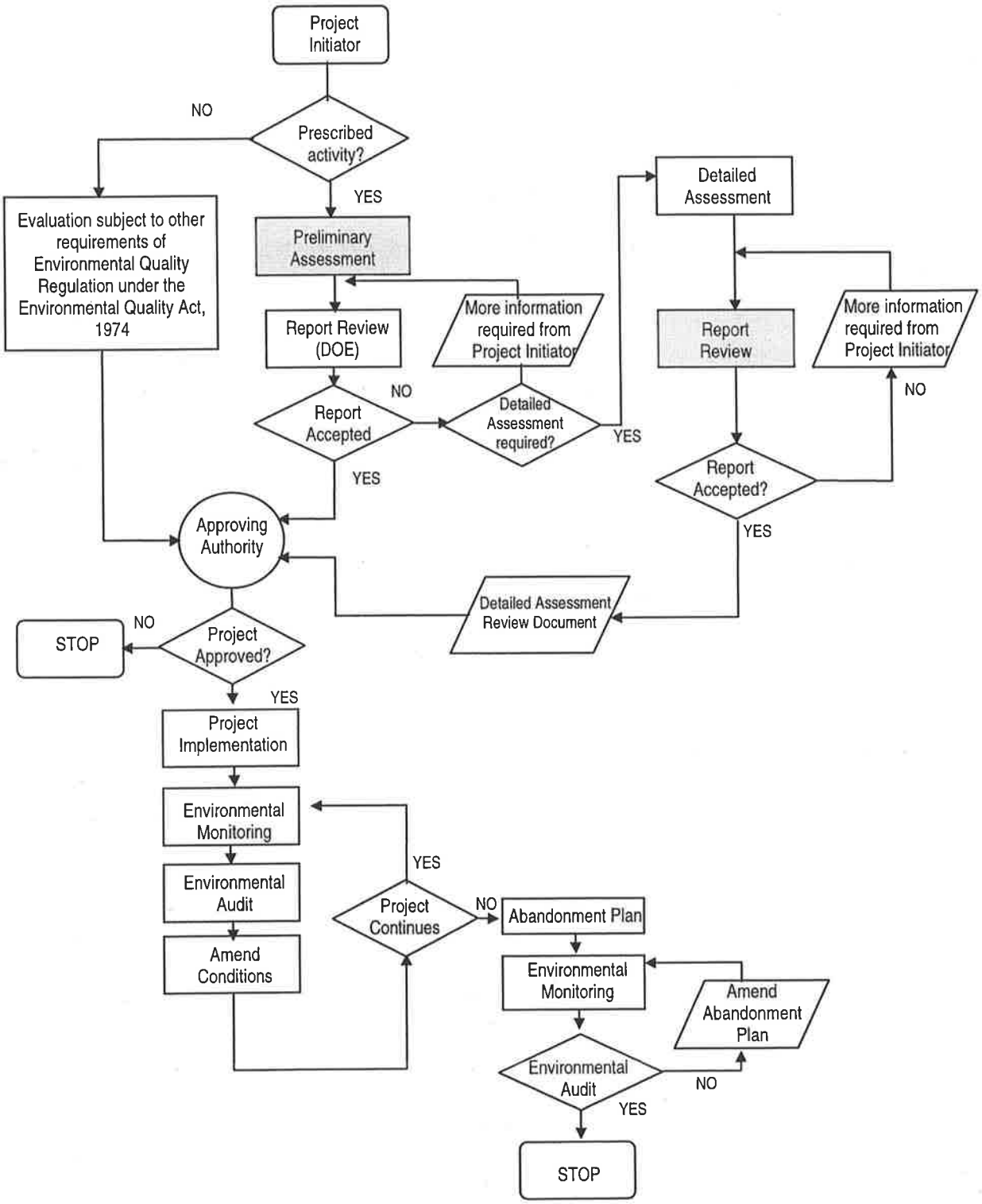
- to critically review the Detailed Assessment reports;
- to evaluate development and environmental costs and benefits of the final project plan; and
- to formulate recommendations and guidelines to the project approving authority relevant to the implementation of the project.

Source: Department of Environment (2001)

The decision of EIA approval or rejection is the responsibility of the Director General of environmental quality (Modak & Biswas, 1999: 60) under DOE. The Director General is assisted by the director of the prevention division (chairing the EIA technical committee meeting), the head of the evaluation section and the EIA report processing officers. While the review of preliminary assessment is the main task of the EIA technical committee, the function of the ad hoc review panel is to review the DEIA. Members of the panel come from relevant disciplines and from different organisations such as universities and NGOs (Modak & Biswas, 1999: 60). In general, there is no time limit in carrying out the EIA process, though the DOE estimates two months as a normal period for reviewing a preliminary assessment while a detailed assessment varies depending upon project type (Department of Environment, 2001: 2).

In the DEIA process public participation is required and therefore Briffett (1999: 146, 154) claims that public participation is practiced in the Malaysian EIA system. However, most EIA submissions are the preliminary ones where public participation

Figure 3.7 The Malaysian EIA Procedure



Source: Department of Environment, Kuala Lumpur, Malaysia, 1992 (Gilpin, 1995)
Note: Shaded boxes are the opportunities for public involvement

opportunities are somewhat limited (Briffett, 1999: 154). In common with Briffett, Leu et al. (1997) conclude that opportunities for the public and interested groups are limited at the preliminary assessment stage. The public and interested parties can only participate during the preparation of the preliminary reports. There are more opportunities in the DEIA process through accessing and commenting on EIA reports and involvement in the review process. However, they claim that public control is not effective (Leu et al., 1997) and explicit and formal public involvement guidelines cannot be found in the Malaysian EIA system (for example in Department of Environment, 2001). Modak & Biswas (1999: 62-63) describe some opportunities for public involvement where DEIA reports are displayed at all DOE offices, and at public and university libraries for public comment. They also ascertain that the public is widely notified through the mass media when and where the detailed EIA reports are available for review and comment.

Apparently the Malaysian EIA system incorporates some forms of public involvement. This has been supported by displaying DEIA reports in the public domain both in libraries and through the mass media. Public participation in the decision-making process has been initiated through the involvement of the public in the DEIA review process. Furthermore, a critical aspect made by DOE is the effort to actively monitor the project before they reach the formal EIA stage. Similarly, after the EIA approval when projects are implemented, environmental monitoring and auditing are made to control the project implementation. At this stage, either conditions could be amended to continue the project or in case the project is not feasible, it will proceed to the implementation of an abandonment plan which will be continued by another monitoring and auditing scheme (Gilpin, 1995; Briffett, 1999).

3.7 Lessons from Public Involvement Practices

Different kinds of public involvement are apparent in these EIA systems. First of all, terminologies utilised in describing public involvement are vary but have similarities. Using the definition of public participation from Asian Development Bank and US DOE, it is essentially a communication process among EIA stakeholders in the overall EIA stages and not only between an EIA authority and its stakeholders. The term 'the public' cannot be interpreted as homogeneous and not all members of community can be treated in the same way since they might not share same values and concerns. The term 'stakeholder' is also often criticised for not fully embracing all interested parties, especially the affected people who have certain limitations in the involvement process. Yet the participation process has to be managed and cannot be unlimited. Therefore, the term 'stakeholder' is

used by many EIA systems and the term is also open for any interested groups to get involved.

It appears that public involvement has many benefits in the EIA process, though there also exist some potential disadvantages, especially if the involvement is not well managed. With potential benefits and disadvantages, techniques of involvement should be chosen carefully. It depends on the purpose, situation and context, limitation and objective of the involvement process. As can be seen from the EIA systems, public involvement usually utilises common methods such as providing information, making available EIS documents, inviting comments or submissions, public meetings, and public hearings. Though achieving an appropriate level of involvement is not always effortless, the 'sliding scale' approach suggested by US DOE to find out the appropriate level of involvement or participation is worthwhile. A sliding scale approach attempts to create adequate public involvement according to the actual situation such as community awareness, stakeholders' levels of education and the nature of proposed activity itself. Satisfying the community and all stakeholders is challenging, therefore the principle of a win-win solution is necessary for successful public involvement.

Examples of public involvement implementation in developed countries' EIA systems show that making available EIA documentation is critical. In the US system, public involvement requirements are set in a government regulation (Regulation for Implementing NEPA) and specific procedures. Almost each stage of the EIA process contains an element of public involvement, from screening, scoping, publication of EIS documents, through to the writing style of the EIS to making the document publicly readable, until the implementation stage. The court system is also used as an alternative to the EIA process to facilitate public involvement.

In British Columbia, public involvement starts with the proponent notifying the public during the application stage. At this stage, the public has opportunities to review the application and make suggestions before the Minister's decision. Three continuous review stages of EIA in British Columbia involve three different levels of assessment with different decision-makers to approve the EIA. All three assessment levels adopt a similar process: 'public notification – review – recommendation' before a decision is made. The system also provides a financial program for public participation.

The Australian Commonwealth EIA system has different levels of assessment where each level is independent and is decided by the Minister during the screening stage. The

degree of public involvement differs to some extent at each level and can be indicated by the period for publication of an EIA document and the public comment process. Requirements for public participation rest with the Minister, though the Act sets a minimum period for the participation. An interesting provision in the Australian system is the use of the Internet as a medium for publication. In a developed country, an invitation for public involvement via the Internet is possible but not every member of the public can get access to the Internet especially the affected communities in remote areas. Except for the public inquiry, three other assessment approaches utilise 'publication and public comment' means in its public involvement process. It appears that if the public has adequate environmental awareness, the method of public comment would be sufficient to handle the involvement process. The Commonwealth system also recognises and provides for different assessment styles from States or Territories through an 'Accredited Assessment' and a bilateral agreement (although not all jurisdictions have agreed to this).

In developing countries, the approach to public involvement and participation is quite diverse. The Philippines adopt a so-called Environmental Compliance Certificate. While almost all critical stages of EIA have the opportunity for the public to get involved, EIA stakeholders have an essential role in obtaining the certificate by endorsing any stage within the EIA process. The Philippines system relies on the EIA process for the social acceptability of a proposed project where any dispute should be resolved in the decision-making process and any issue is mutually agreed on by EIA stakeholders. A good lesson from the Philippines system is the existence of guidelines to which every stakeholder can refer to. However, although many EIA stakeholders are identified by the government order, this is still considered inadequate. For example, the order does not recognise the directly affected community or individual participant. This is perhaps the limitation of the 'stakeholder' approach.

The Thailand EIA system has no clear arrangements yet for the public involvement process. Although a national plan recognises the need to involve local communities as well as the new act of 1992, public involvement is still limited. Detailed guidelines are not yet introduced to encourage the public to get involved in the EIA process. Opportunity for the public to become involved in the process relies on the NGOs' membership in NEB which reviews a part of EIA, while NGOs do not always speak on behalf of the public. This is even worse since NGOs have to compete with the private sector to hold a membership in four public committees within NEB. Other memberships are not for the public (NGOs or directly affected communities) but for experts that are usually appointed from academic

scholars. There is no specific reference to the affected public in the public involvement procedure within Thailand's EIA process.

In Malaysia's EIA system, public involvement focuses only on complex proposals that are determined by the screening process and therefore have to carry out a Detailed Environmental Impact Assessment (DEIA). The involvement of the public is limited to the membership of NGOs and independent experts on the ad hoc review panel. There is no provision for public involvement within another assessment category, which is the Preliminary Assessment. Although the provision of public involvement exists in the overall EIA system, the implementation is limited to the DEIA and most submitted documents are preliminary in nature. Other opportunities for public involvement can be accommodated through public comment after DEIA reports were displayed in certain places. However, formal and specific guidelines for public involvement procedures cannot be found.

This chapter discussed how public involvement could take various forms from information distribution, consultation, to participation in the decision-making process. The idea of a "sliding scale" approach is a means to implementing public involvement and participation according to the need and condition of particular communities and the nature of a proposal. Discussion of the term "the public" also showed the existence of various groups or individuals in the context of "the public" and this promotes the term "stakeholder". While the use of "stakeholder" is not considered to embrace an entire population, the term is flexible enough to include any interested parties in the EIA process. Moreover, the discussion also put forward the benefits of public involvement along with potential disadvantages. Table 3.6 below summarises the reviewed EIA systems.

There are two main differences in public involvement in the developed and developing countries' EIA systems. Developed countries provide a wide publication of the EIA related documents and focus on the process of public comments, meetings, and hearings. In contrast, the level of publication of EIA document varies between the three reviewed developing countries. Developing countries recognise the role of NGOs and consider NGOs as the representative of the public. Developing countries tend to place the public representatives in the EIA review committee while the public has a minor role in comparison to other groups from the government. There is also lack of specific guidelines for public involvement.

Table 3.6 Public Involvement in some Developed and Developing Countries

Country	Practice and Requirement for Public Involvement
USA	NEPA as the origin of EIA clearly focus public involvement on public notices, hearings, meetings, and the provision of related EIA reports. NEPA requires the government agencies to hold and sponsor public meeting. Responses from proponent and lead agency are required.
Canadian British Columbia	Public involvement is focused on the provision of specific period for the public to review the EIA reports before the assessment stage. During the period, public comments are collected, responded, and considered in the decision-making process. There is a specific agency to monitor and approve the public consultation program. Participation and consultation are mandatory and the Project Committee may require supplementary public participation and initiate a Public Advisory Committee.
Commonwealth Australia	Public involvement is focused on the provision of specific period for the public to make comment before and after the preparation of PER and EIS. Wide publication of EIA document is the key characteristic of the system. During the period, public comments are collected, responded, and considered in the decision-making process. Public hearing is another feature in the category of Public Inquiry.
Philippines	Utilising social acceptability criteria (DAO 21 of 1992) and indicators (DAO 37 of 1996) and having provisions on public consultation meetings, public hearing, and endorsement of local community acceptance. Recognising NGOs and People's Organisation (POs) as the main EIA stakeholders. EIA reports are circulated to and reviewed by the EIA stakeholders and the EIA reports should be endorsed by the stakeholders. The need for public hearing is decided by the National Environmental Protection Council (NEPC). Public participation occurs at the scoping, EIS preparation, EIS evaluation, EMP implementation, and monitoring stages.
Thailand	The needs for local communities involvement are recognised in the environmental act and the national development plan. The access right of EIA information for the public and NGOs are encouraged. The National Environmental Board (NEB) as the peak agency has four public committee where the public and NGOs representatives are regarded as environmental experts. The public in the NEB only gets involved in the EIA process of government's project category while other category does not involve the public. Lack of further EIA guidelines on public participation.
Malaysia	Public involvement occurs in the preparation of Preliminary Report where the EIA stakeholders could give their opinions before the assessment stage by the EIA technical committee. The public has another opportunity in the assessment of Detailed EIA (DEIA) where the review is carried out by an ad hoc panel consisting NGOs as a member. The DEIA reports are displayed in public domain and announced through the mass media. Public involvement is limited since most of the EIA processes are categorised as Preliminary Assessment where the public is significantly involved. There are no specific EIA guidelines for public involvement.

CHAPTER 4 – EVOLUTION OF EIA IN INDONESIA SINCE 1982

4.1 Introduction

Chapter Three discussed several EIA systems and the procedure of public involvement in developed and developing countries. Before discussing public involvement in Indonesia, it is necessary to outline the EIA system. The following discussion will show the extent of public involvement in the Indonesian EIA. This will address the research objective relating to the current EIA legislation and bureaucratic system related to public involvement. At the same time, this chapter will address the second research framework where the current Indonesian EIA institution and practices are investigated. This chapter will show the development of EIA in Indonesia since its first introduction.

A substantial part of this chapter has been published in the international *Environmental Impact Assessment Review* Journal (Purnama, 2003, see Appendix 3). Therefore, further cross-referencing will not be made in the text. This chapter describes the development of EIA in Indonesia from the mid-1980s until late 2002. Since EIA has operated in Indonesia for the last 20 years, there is considerable EIA stakeholders' experience with the process. Improvements were carried out to make EIA implementation easier and more effective in Indonesia. Recent improvements included the introduction of public involvement in EIA implementation. Following the enactment and dissemination of guidelines for public involvement procedures, these procedures were incorporated into the decision-making process for project proposals.

The development of EIA in Indonesia is first described, including an historical overview and information on the present legal framework. A review of public involvement procedures within the EIA is then provided as a specific feature in the recent EIA improvement, followed by a review of the achievements to date. A summary will then be provided to compare each distinct characteristic of the EIA process under different regulations. The chapter concludes with the results of a recent study regarding public involvement within the Indonesian EIA system related to its general implementation, achievements, and criticisms to date.

4.2 EIA Evolution in Indonesia

EIA has been implemented in Indonesia since 1982 through Act No. 4 of 1982 (Act 4/1982), which refers to Basic Provisions for Environmental Management. However, the establishment of its supporting regulation had to wait until 1986 when Government Regulation No. 29/1986 regarding *Analisis Mengenai Dampak Lingkungan* (*AMDAL* or EIA, Environmental Impact Analysis) was enacted. This regulation was followed by EIA guidelines a year later as supporting instruments.

It is important to note, however, that EIA had been practiced in Indonesia before it was established in Indonesia's legislation. It is recorded that more than ten EIAs had been carried out before 1980 (Soeratmo, 1988: v). Dick & Bailey (1992: 1) claim that the first EIA was produced in 1974 for a cement factory. Soemarwoto (1991: 66-67) also claims that in the early 1970s the Indonesian State Electricity Company (PLN) was required by the World Bank to conduct an EIA study when it proposed the Saguling Dam construction in West Java. The government did not require an EIA at that time, but many major development projects have conducted EIA studies and most of them were controlled by state-owned companies, for example the oil industry.

However, it is assumed that requirements of EIA at that time owed more to external factors such as the requirement from financial donor agencies or multinational companies which operated in Indonesia. The initial stage of EIA implementation in Indonesia, as well as in other developing countries, according to George (2000: 49), was led by Western influence. In developing countries, EIA tends to be required by the funding agency such as the World Bank or the Asian Development Bank. Briffett (1999: 144) also comments that environmental studies in East Asia have probably been more influenced by outside agencies than any government in the region would wish to admit. Perhaps for these reasons, it is not simple to implement an EIA system in Indonesia.

It seems that the introduction of EIA in the 1980s in Indonesia resulted from the globalisation processes of environmental awareness. The Stockholm Conference in 1972 inspired the government of Indonesia to put a greater emphasis on the environment and resulted in the institutionalisation of the Office of State Ministerial for Development Supervision and Environment in 1978 (BAPEDAL, 2001c). Meanwhile, EIA had been introduced in the US in 1970 through the NEPA (Canter, 1977: 1). In Indonesia, furthermore, the Canadian aid agency CIDA (Canadian International Development Agency) has provided grants to Indonesia's government since 1983 (BAPEDAL & EMDI,

1994: 29) through the EMDI (Environmental Management Development in Indonesia) project to establish an EIA system and other environment management tools.

The development of EIA implementation in Indonesia can be divided into four phases:

Pre-1987: limited implementation of EIA;
1987 – 1993: enactment of Government Regulation No. 29/1986;
1993 – 2000: enactment of Government Regulation No. 51/1993;
Post-2000: enactment of Government Regulation No. 27/1999.

4.2.1 Pre-1987: Limited EIA Implementation

Act 4/1982 was the umbrella for environmental management in Indonesia. Article 16 of the act states that: "Every proposed plan, which is predicted to have significant impact to the living environment, has to be accompanied by EIA that its implementation is regulated by government regulation" (The Government of Indonesia, 1982). The Act did not provide directions in detail for EIA implementation and regulations were not yet created. Therefore, in practice the direction of Article 16 could not be put into operation and there are not much data that can be analysed from EIA implementation in this period. Similarly, for the particular public involvement stage, there is no record during this period.

Supported guidelines were prepared by several sectoral departments to anticipate this Act by creating and issuing sectoral EIA guidelines. Yet, it was attained with a minimum coordination between departments and other related agencies especially with the State Ministerial for Population and Environment that should be a leading agency in directing environmental policy. This confused stakeholders in the implementation of EIA, for example the Minister of Industry issued a decree No. 255/1985 that requires almost all industrial activities to prepare an EIA. This was not in accordance with EIA principles that focus the application only on proposed activities having potential significant impacts.

EIA was not adequately implemented in this introduction period. EIA institutions such as the EIA review panel or the EIA administration body were not as well developed as the regulations, guidelines and administration process. This resulted in a limited coordination of the EIA process and a lack of consistency or quality (Heroepoetri, 1993). The State Ministry for Population and Environment (*Menteri Negara Kependudukan dan Lingkungan Hidup, MNKLH*) as a leading agency was relatively new in comparison to other well-established sectoral departments that have their institutional administration up to the level

of provincial government and district administration. This in turn influenced the overall EIA administration. The implementation of EIA can be clearly observed in the next period when its supporting regulations were adequately provided.

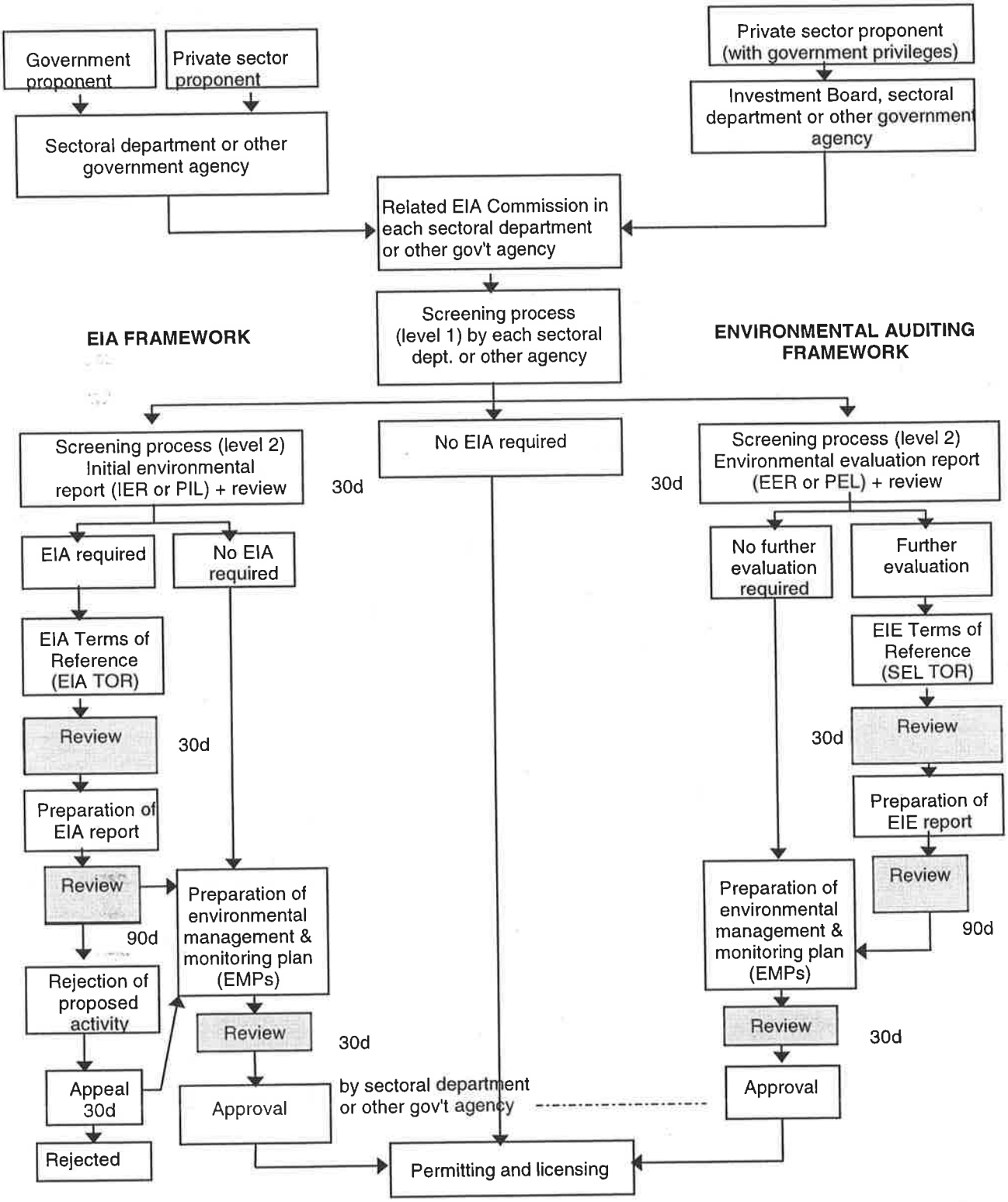
4.2.2 1987 – 1993: the Enactment of Government Regulation No. 29/1986

With Government Regulation No. 29/1986 regarding Environmental Impact Analysis now in operation, this period represented an important stage in formal EIA implementation. In general, the implementation of EIA in this period was very complex. It was suggested that due to its new regulations and the limited experience of EIA stakeholders, the EIA implementation was not well prepared. For example the Environmental Impact Management Agency, EIMA (BAPEDAL) as the operational agency in environmental management was not established until 1990 and in fact it only started to operate effectively in 1991.

Besides the framework of EIA, the regulations also set mandatory existing activities to carry out the Environmental Impact Evaluation (EIE or *SEMDAL, Studi Evaluasi Mengenai Dampak Lingkungan*). This confused many EIA stakeholders. Instead of obtaining full benefits from EIE implementation, inadequate guideline preparation and poor enforcement have created additional workloads on the EIA administration. EIE in essence is an environmental auditing process, hence several literature sources state that Indonesia is the only country to set up a mandatory environmental audit (Lee & George, 2000; Gilpin, 1995). The EIA process is outlined in Figure 4.1 below. This process covers two sectors – the government and private. This created criticisms (Heroepoetri, 1993) due to indications of vested interests when proposed activities, with government departments as proponents, are reviewed by their own EIA Commissions. It is assumed that government and private enterprise interests handle proposals differently.

There are two screening levels: through a prescribed list and by the preparation of an Initial Environmental Report (IER, known as *PIL, Penyajian Informasi Lingkungan*). For existing activities, the second level screening commences through an Environmental Evaluation Report (EER or *PEL, Penyajian Evaluasi Lingkungan*). The tiered screening process raises particular problems in its application. For example, when a proponent estimated that its proposed activity would create significant impacts, instead of directly carrying out an EIA this proponent must proceed with the initial environmental report. Hence, the proponent spends unnecessary time and money fulfilling the second type of screening process while its conclusion was clear that an EIA must be carried out.

Figure 4.1 The EIA Process in Indonesia under Government Regulation 29/1986



Source: Interpreted from Indonesian Government Regulation No. 29/1986 (The Government of Indonesia, 1986)

Note: Shaded boxes show opportunities for public involvement in the EIA process

Within a maximum of 30 days, the review process of IER or EER decides whether the EIA process should be continued for a more intensive study or if the initial study is sufficient. In the case of further study being required (EIA or evaluation in EIE), the proponent then prepares the Terms of Reference (TOR or *KA, Kerangka Acuan*) for the study. For the IER or EER requiring no further study, the proponent must prepare an environmental management plan (EMP or *RKL, Rencana Pengelolaan Lingkungan*) document containing mitigation measures. The document for the environmental monitoring plan (EMP or *RPL, Rencana Pemantauan Lingkungan*) will report on the implementation of those mitigation actions.

The regulation stated that every proposed project which requires EIA must be announced, yet publications were limited. Public involvement procedures under the regulation only gave NGOs the right to participate during the EIA review stage as a non-permanent member of the EIA Review Commission. There was no opportunity for the public at large to participate before an EIA decision had been made.

Further studies are conducted based on the TOR. The draft EIA or EIE document is then reviewed before the proponent continues to prepare the document of EMPs for another review. There are at least four reviews in the overall EIA process before a proposal is approved. Both EIA and auditing frameworks follow a similar pattern except that the EIA framework has a rejection-appeal procedure.

This period was marked by a plethora of EIA documents as a result of a tight screening process. Each sectoral minister has issued an EIA prescribed list through its decree (Heroepoetri, 1993). The tendency to establish a long prescribed list encouraged criticisms that EIA implementation was enforced too rapidly. It is recorded that at the end of 1992 (after six years implementation) EIA approvals had been processed for 1,591 documents from nine sectoral departments in the central administration (BAPEDAL, 1992: 23) and 2,468 documents in the provincial levels (BAPEDAL, 1994b: 27).

Reviews of environmental evaluation for the existing activities created additional workloads on the EIA Commissions. This in turn reduced the quality of the review process and encouraged corruption and collusion between stakeholders (Heroepoetri, 1993). The target of implementation was not achieved. It is recorded that 4,147 existing activities from 12 sectors required to conduct the environmental evaluation had not fulfilled their obligation until May 1992; they only had one month left to conclude their obligation (BAPEDAL, 1992: 25).

However, the institution of EIA administration developed well during the period. This was marked by the establishment of 14 EIA Commissions in many sectoral departments and other agencies. EIA implementation also required the Indonesian government to respond by establishing an environmental agency in 1990, which effectively operated from June 1991. The improvement of EIA implementation continued with the commencement of a new direction in EIA - Government Regulation No. 51/1993.

4.2.3 1993 – 2000: the Enactment of Government Regulation No. 51/1993

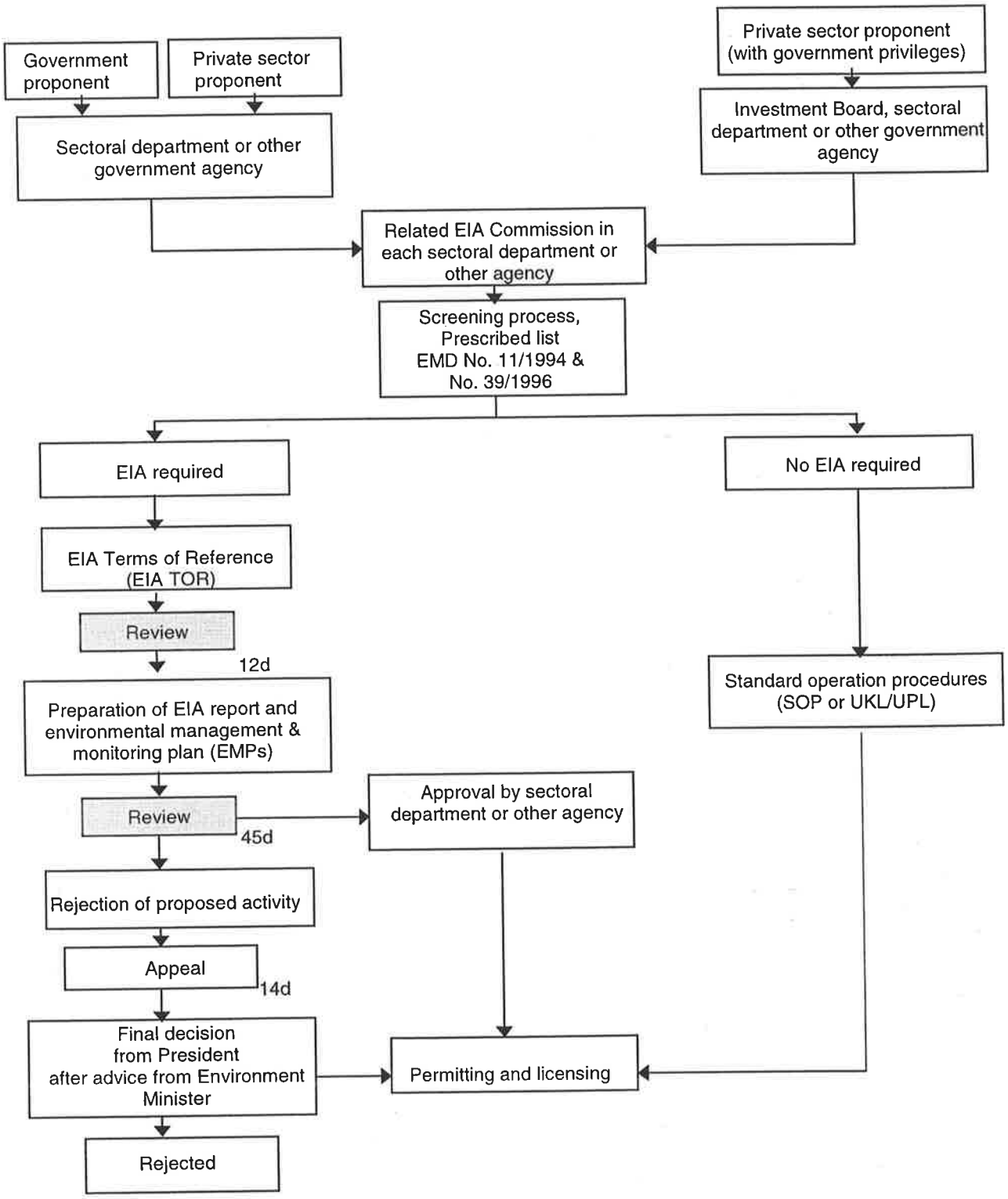
This period was marked by the cessation of EIE implementation. That is, the working loads of the EIA process were reduced. The prescribed list of EIA was made simpler, shorter and only focused on proposed activities with potential significant impacts. The list was determined by the State Minister of Environment (EMD No. 11/1994). Therefore, it reduced the confusion of EIA procedures and increased its certainty. The State Minister for the Environment also had a call-in power to require an activity to conduct EIA, which was not listed in the screening list to proceed with EIA if it was considered necessary to. This power, however, was rarely used.

Although the screening list became simpler, a large number of EIA documents were still reviewed in this period. 6,098 EIA documents in total were reviewed by sectoral EIA Commissions at the central government level until the end of 1997 (BAPEDAL, 1998) or about 4,507 reviews were undertaken during 1993-1997. The BAPEDAL annual report of 2000 states that there were more than 7,000 reviewed EIA documents until early 2000 (BAPEDAL, 2000b).

BAPEDAL was expected to have more power to enforce the EIA process. As a part of the power shift in the institution of environmental management, BAPEDAL started to establish an EIA Commission to review more complex activities such as 'regional' EIA and 'multi-sector' EIA. The Commission has since reviewed 46 EIAs (BAPEDAL, 2001b). Furthermore, BAPEDAL functioned as a coordinating agency for the overall EIA implementation at the national or provincial levels.

Regulation No. 51/1993 was in part a response to investors' criticisms, which considered EIA as an obstacle to investment opportunities and processes. The regulation set a shorter timeframe for the EIA review process to facilitate proponents in implementing their activities. In the regulation, the preparation and review for EIS (*ANDAL, Analisis Dampak Lingkungan*) and EMPs were set at the same stage (see Figure 4.2).

Figure 4.2 The EIA Process in Indonesia under Government Regulation 51/1993



Source: Interpreted from Indonesian Government Regulation No. 51/1993 (The Government of Indonesia, 1993)

Note: Shaded boxes show opportunities for public involvement in the EIA process

The screening is performed through a prescribed list, which is set by the Decree of the Environment Minister (EMD) No. 11 of 1994 (further revised by EMD No. 39 of 1996). Other activities, which are not subject to the EIA process, should implement a Standard Operating Procedures or SOP (known as *UKL* and *UPL*) specified by a related department. The SOP was not considered to be part of the EIA process.

Proposed activities requiring an EIA must then prepare a Terms of Reference or TOR, which in essence is a self-scoping process. Further scoping occurs when the TOR is reviewed by the EIA Commission within 12 days for further agreement on the scope of EIA investigation. There were three levels of EIA Commission in this period: 14 Central EIA Commissions at the Departmental and Agency level; 27 provincial EIA Commissions at the provincial level; and one EIA Commission for EIA Regional and Integrated EIA in BAPEDAL. Following the agreement on the EIS TOR content, the proponent prepares EIA documents which are the EIS, management plan and monitoring plan (EMPs). The review for EIA documents is provided for a maximum of 45 days before an approval is granted by the responsible minister or agency head. In case the EIS is rejected the proponent has a right to appeal, which has to be made within 14 days after the decision.

Public involvement under newer regulations was not different from previous regulations. It asserts the openness of EIA documents and invites the public to comment on any development proposal, but public notices were limited. There were no specific guidelines relating to public involvement procedures. NGOs were still viewed as the public representatives even if they did not always represent the public. NGOs were involved during the EIA review stage as a non-permanent member of the EIA Review Commission. Similar to the previous regulations, there was no opportunity for the public to directly participate before an EIA decision had been made. The public only had the chance to convey their concerns through the EIA Commission which hardly had direct responsibility to represent the public interest.

Besides the EIA process for a single proposed project, the new regulations introduced three other EIA applications. These are EIA for 'regional' and 'multi-sector' which could fall under many departmental sectors' responsibility, and 'multi-project' which fall under one departmental sector's responsibility. The three different EIA approaches were expected to accommodate a broader review and a cumulative impact assessment from multi-activities in a larger area. Those approaches were also hoped to address more strategic impacts as suggested by George (2000). Although EIA regulations have been improved by the

enactment of Government Regulation No. 51/1993, it was assumed insufficient. Therefore, in May 1999 Government Regulation No. 27/1999 was released.

4.2.4 Post-2000: the Enactment of Government Regulation No. 27/1999

The revision of EIA regulations was triggered by the promulgation of Act No. 23 in 1997 (Act 23/1997). The revision process of EIA regulations was carried out before a critical social movement in Indonesia called *'reformasi'* (political reform) in 1998, but Regulation No. 27/1999 had been established during this political transition period. Therefore, new legislation brought different characteristics, new ideas and a new spirit to environment management. The Regulation was signed by President Habibie in his relatively short period of administration. The new regulation is expected to improve and provide more democratic processes. Additionally, ten guidelines established by the State Minister for the Environment and the Head of EIMA or BAPEDAL were decreed on 8 November 2000. At the same time, the government introduced the Decentralisation Act No. 22/1999 (Act 22/1999).

This period is marked by the cancellation of EIA Commissions in sectoral departments at central government level while all tasks for EIA review were put on the EIA Commission at BAPEDAL. EIA administrations were also established in the provincial and district government of BAPEDAL. Responsibilities to implement and supervise EIA are distributed to all provinces and districts and are performed by BAPEDAL at the national, province or district levels as a part of decentralisation policies. This arrangement is expected to promote a clearer and more integrated coordination under one competent leading agency.

With the cancellation of sectoral EIA Commissions, consequently the review of EIA documents is performed by the EIA Commission in BAPEDAL. In accordance to the decentralisation principle, the execution and supervising of EIA must be assisted by the EIA Commissions at the provincial and district levels (located in provincial or district environmental agency). The transition period has also been utilised to build and improve EIA administrations at the provincial and district government. In specific circumstances if the district governments cannot or have not yet been capable to handle the EIA process, they may shift their power to the provincial level and the provincial EIA Commissions can also seek assistances from the central EIA Commission in the environmental agency at the national level.

Distribution of EIA responsibilities in three government levels is arranged as follows (BAPEDAL, 2000c: 2-3):

- The central EIA Commission is responsible for reviewing EIA from proposed projects which fulfil the criteria of: potentially impacting on the wider community and/or connected with defence and security affairs; activities located in more than one province; activities located in a dispute area with other countries; activities above 12 miles off shore; and activities located in a transboundary area with another country.

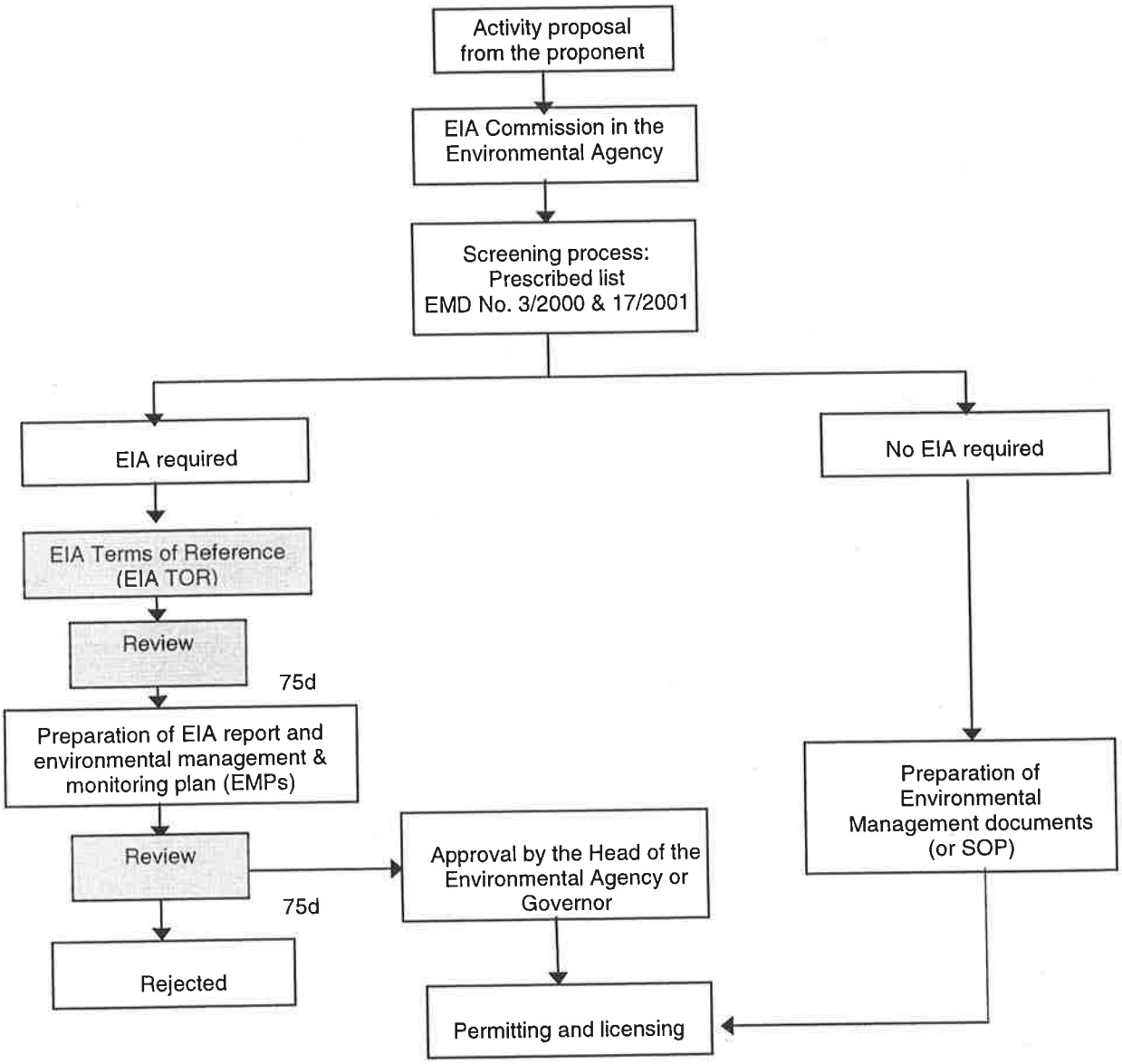
- The provincial EIA Commissions are responsible for reviewing EIA from proposed projects which fulfil the criteria of: potentially impacting on wider community; activities located in more than one district; activities within 12 miles off shore.

- The district EIA Commissions are responsible for reviewing EIA from proposed projects other than the responsibility of the central and provincial EIA Commissions and arranged by EMD No. 3 of 2000 regarding the EIA screening or prescribed list.

Responsibilities to implement and supervise EIA are distributed to all provinces and districts and are performed by the environmental agency (at the national, provincial, and district levels). With that arrangement, it is expected to obtain a clearer and more integrated coordination under one competent leading agency. Therefore, it is hoped that EIA implementation will be more consistent.

The EIA process is carried out according to the following scheme as shown in Figure 4.3. A distinction can be seen from the beginning of the EIA process where a proponent (whether in the government or private sector) must contact the EIA Commission in BAPEDAL. The screening is performed through a prescribed list, which is set by the Decree of the Environment Minister (EMD) No. 3 of 2000 (further revised by EMD No. 17 of 2001). The EIA process is relatively simple in comparison to the previous two EIA schemes. Following screening, a proponent is directed to prepare a TOR for the EIA study. Other activities which are not required to conduct an EIA study are obliged to implement it in a fashion which minimises negative environmental impact. They have to fulfil a specific Standard Operating Procedure (SOP) set by the sectoral departments or other government agencies. EIS and EMPs are prepared and reviewed at the same time. Both review processes are conducted within a maximum of 75 days. The regulation only specifies a rejection procedure without the proponent's right of appeal, and the approval of EIA documents is made by the Head of BAPEDAL or Governor.

Figure 4.3 The EIA Process in Indonesia under Government Regulation 27/1999



Source: Interpreted from Indonesian Government Regulation No. 27/1999 (The Government of Indonesia, 1999)
Note: Shaded boxes show opportunities for public involvement in the EIA process

This newest EIA regulation enhances the transparency of the EIA process through public notices and the provision of direct public involvement (BAPEDAL, 2000c: 8).This is initiated by the introduction of public involvement guidelines as a new approach in the EIA legislation.

4.3 Public Involvement and Transparency of Information in the EIA Process

The EIA system in Indonesia is widening to include an intensive public involvement stage (see Figure 4.4). It is a critical factor that was considered weak in the previous EIA implementation. Briffett (1999: 146) asserts that public participation in Indonesia is not regularly applied. EIA in the previous regulations (Regulation No. 29/1986 and No. 51/1993) did not have provisions for direct public involvement. They only permitted representation by NGOs. Regulation No. 27/1999 has accommodated this matter and now the challenge for all EIA stakeholders is how to consistently implement all these regulations.

Public involvement in the EIA process is defined in a decree of the Head of BAPEDAL. This decree, No. *KepDal* 08/2000, explains the transparency of information in the EIA process. The guidelines provide for governors to be flexible in arranging further implementation at the provincial level since each province has different community characteristics. This applies, for example, in determining the community representative on the EIA Commission.

Briefly, the guidelines for public involvement have four objectives: (1) protecting the interests of the community, (2) empowering the community, (3) ensuring transparency of the EIA process, and (4) building a partnership of EIA stakeholders (BAPEDAL, 2000a: 2). Moreover, the guidelines also have four main principles: (1) the equal position of EIA stakeholders, (2) the transparency of decision-making, (3) equality in problem solving, and (4) coordination – communication – cooperation among EIA stakeholders. The guidelines distinguish terms such as interested community, affected community, and concerned community (or observer).

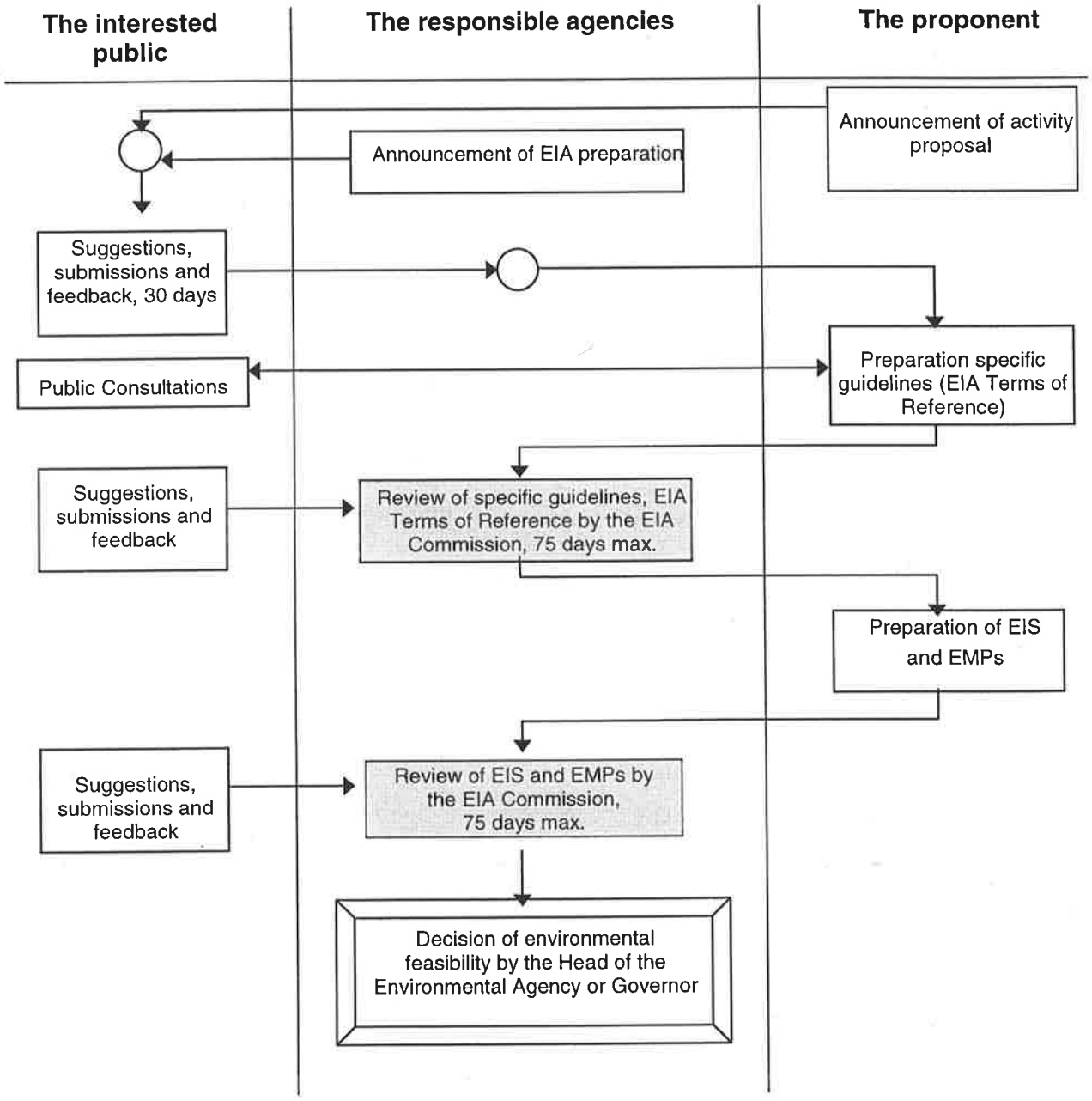
It is explained that the term 'public involvement' in the EIA process is:

> the participation of the public in the decision-making process regarding EIA. In this process, the public communicates its aspirations, needs, and retained values, as well as suggestions for problem solving from the interested public with the intention of obtaining best decision (translated by author, BAPEDAL, 2000a: 3).

During the pre-arrangement stage, which is before EIA documents are prepared, the proponent is required to notify its proposal to BAPEDAL, then along with the agency to announce the proposed activity. Minimum requirements for the announcement are set by the guidelines as well as mass media specifications and announcement techniques.

Furthermore, the public has the right to voice its opinions or responses within 30 days of the announcement date and submit them to the agency with a copy to the proponent.

Figure 4.4 Public Involvement Procedures in the EIA Process in Indonesia



Source: BAPEDAL (2000a: 8)

After obtaining responses from the public, the proponent is required to prepare a Terms of Reference (TOR) for the EIA study. During the TOR preparation, the proponent is also required to conduct public consultation processes and to document all issues resulting from the consultation and then attach them to the TOR document. The TOR is presented

to the EIA Commission for review. The public gains another opportunity to provide input through its public representative who sits on the EIA Commission or makes written submissions to the Commission. The submission for the TOR has to be made at least three days before the Commission proceeds to review the document.

Based on the recommendations resulting from the TOR review and input from the public, the proponent then prepares the EIS and EMPs. Again, after all EIA documents have been prepared the proponent presents those documents to the EIA Commission for further review. Ahead of the review process, members of the public have one more opportunity to express their responses and suggestions.

4.4 What is being Implemented and has been Achieved in the Indonesian EIA

The overall changes of EIA implementation are summarised in Table 4.1. It is obvious that the newest EIA regulation enhances the transparency of the EIA process through EIA publications and the provision of direct public involvement in the process. This is initiated by the implementation of public involvement guidelines as a new approach in the EIA legislation (BAPEDAL, 2000c: 8).

The new guidelines for public involvement in Indonesia's EIA have been in use for about three years. There were 18 proposed projects in 2002 (pers. comm. with Indonesian National EIA Centre, 2002) that have adopted these guidelines and more proposed projects at the provincial and local level. Experience shows that by promoting public involvement, communication among EIA stakeholders can be enhanced, with opportunities for interaction and mutual clarification. Conditions that make people anxious and suspicious, especially from directly affected communities, can be minimised or at least suitably managed. At the same time, communities may obtain useful information to help them prepare necessary plans needed to overcome the impact of proposed activities.

Communities' awareness levels also increase through the public notice procedure. This has been indicated by the many submissions received from the general public and communities in response to such announcements. The State Ministry for the Environment received submissions in response to EIA announcements (pers. comm. with Indonesian National EIA Centre, 2002). In several cases, responses from hostile groups can be reconciled or negotiated after those groups obtain further and more detailed information from other stakeholders. Accordingly, involvement in EIS may also reduce possible

objections or opposition in the future, as public confidence increases and decision-makers' accountability is reinforced.

Table 4.1 Comparison of Three Periods of EIA Implementation in Indonesia

EIA Framework	Under Regulation No. 29 of 1986	Under Regulation No. 51 of 1993	Under Regulation No. 27 of 1999
1. Triggering mechanism and screening process	Prescribed list from sectoral ministers. Two level screening processes.	Prescribed list from Environment Minister and the Environment Minister's discretion if necessary.	Prescribed list from the Environment Minister Ministerial Decree No. 3 of 2000.
2. Level and type of EIA	Single approach EIA.	Four types of EIA: 1. Single project EIA, 2. Multi-projects EIA, 3. Multi-sectors EIA, 4. Regional EIA.	Three types of EIA: 1. Single project EIA, 2. Multi-projects EIA, 3. Multi-sectors EIA,
3. Guidelines	EIA guidelines are set out by the Decree of the Minister for the Environment and sectoral Ministers.	EIA guidelines are set out by the Decree of the Minister for the Environment, and sectoral Ministers, and the Head of EIMA.	EIA guidelines are set out by the Decree of the Minister for the Environment and the Head of EIMA. Specific guidelines for public involvement
4. Times required for EIA process	The EIA evaluation should be undertaken within 180 days: 2nd level screening should take 30 days, 30 days for EIS TOR, 90 days for EIS review and 30 days for EMPs review.	Time limitation: the EIA evaluation should be undertaken within 57 working days: 12 days for EIS TOR, 45 days for EIS and EMPs review.	Time limitation: the EIA evaluation should be undertaken within 150 working days: 75 days for EIS TOR, 75 days for EIS and EMPs review.
5. EIS assessment authority	Two different EIA Commissions: 9 Central EIA Commissions 27 Provincial Commissions.	Three different EIA Commissions: 1 Integrated and Regional EIA Commission, 14 Central EIA Commissions, 27 Provincial Commissions.	Three different EIA Commissions: 1 Central EIA Commission, 30 Provincial EIA Commissions, District EIA Commissions.
6. Public involvement methods	1. Represented mostly by NGOs 2. Public Submissions 3. Media publication 4. Public meetings	1. Represented mostly by NGOs 2. Public Submissions 3. Media publication 4. Public meetings	1. Represented by NGOs 2. Involvement of directly affected public in the EIA Commission. 3. Public consultations 4. Submissions 5. Media publication 6. Public meetings
7. Timeframe for public involvement	No time limitation, community could voluntarily participate during all stages of EIA process. The public rarely involves in practice.	No time limitation, community could voluntarily participate during all stages of EIA process. The public rarely involves in practice.	Time limitation: 30 days response after the public announcement of proposed project. Submissions at the latest 3 days before the review of EIS TOR. Submissions at the latest 45 days before the review of EIS and EMPs.

The various objectives of public involvement are concerned with gaining benefits from this process. However, it is necessary to recognise that besides benefits, there are also risks if the public involvement process is not well prepared and adequately sustained. There are

criticisms and resistance from several stakeholders, especially from interested parties that finance the process. They see that the process only incurs additional time and costs.

It has not been simple to implement the new guidelines. Stakeholders are still clumsy, inexperienced, and reluctant to undertake public involvement procedures. Misunderstanding and suspicion still plague some EIA stakeholders. The research showed ineffectiveness in the process (this will be discussed in Chapter Seven). For example, submissions were still largely dominated by educated people. In some instances, submissions were made by individuals from other cities far from the proposed site. Additionally, public notices were made in newspapers with a limited distribution and relevance to stakeholders. Socio-cultural norms were not conducive and local people were still unable to reject the proposal or even voice their objections. Therefore, it is important that both the government and proponents are proactive and initiate greater public involvement.

It appears in general that people respond easily when sufficient information is provided and the proponent actively approaches the public when feedback is needed. In general, the ability of the proponent and its consultants to hear whatever responses from the public is necessary to encourage public voices. Certainly, not all proponents immediately changed their attitudes in dealing with the public. Some of them do business as usual and conduct the procedure of public involvement just for formality in order to obtain a permit, but some of them also try to obtain benefits from the procedure, for example for their company image and to gain real feedback from the public.

While there is some progress in public involvement to date, there are two significant events influencing its implementation. First, the implementation plan for public involvement in EIA was introduced at the same time as other over-riding legislation. The Indonesian decentralisation process resulted in the transfer of the EIA administration authority to the local government. Second, the move toward better public involvement in EIA came at the same time as EIA institutional changes resulted in the abolishment of the previous institution administering EIA, BAPEDAL. These made the implementation more complex. For these reasons, a discussion on the decentralisation process in Indonesia related to the distribution of EIA authority and changes in the EIA institutional framework is provided in Appendix 4. It also outlines policy analysis related to the background and political process during the preparation of the public involvement policy. Below are key points emerging from the decentralisation process related to the EIA system.

- The EIA administration was handed over from the State Ministry for Population and the Environment (MNKLH) to the newly established BAPEDAL in the early 1990s following the enactment of Regulation 29/1986. The EIA authority was then distributed to 14 sectoral departments and 27 provincial governments during the implementation of Regulation 29/1986 and Regulation 51/1993.

- By the enactment of Act 23/1997, BAPEDAL was expected to handle the overall EIA authority after the cancellation of 14 EIA Commissions in sectoral departments. By the enactment of Regulation 27/1999, BAPEDAL held full authority for the EIA process from 1999 both at national level and at 27 provinces, which centralises the process under one institution. However, in the same year, the government of Indonesia introduced its government decentralisation policy through Act 22/1999.

- There are three government tiers in Indonesia: central or national, provincial, and district or local level and the decentralisation process (Act 22/1999) demands an immediate and direct distribution of broad roles and responsibilities to the district level. Regulation 27/1999 (and Act 23/1997), meanwhile, devolves the EIA process step by step through the provincial and then to the district level. It appears that there was a conflicting arrangement in those Acts and Regulation.

- However, Act 22/1999 prevails over Act 23/1997. Therefore, the EIA legislation should give a higher authority in the EIA process to the district level rather than provincial level. This means that the EIA process has to be immediately handled by more than 350 districts (The Asian Resource Center for Decentralization (ARCD), 2003; United Nations Development Programme, 2003) and by only one Commission at the central or national level.

- Due to the complex nature of the EIA institutional framework, now much influenced by the apparent hasty nature of the decentralisation process, there are key issues such as unprepared human resources and institutional arrangements as well as misinterpretation of the devolvement process and its supporting legal basis. A study by the Asian Development Bank confirms that the institutional capacity at the district level has not been developed sufficiently (Research Triangle Institute & PT Intersys Kelola Maju, 2001).

- The decentralisation policy has affected at the local government level, especially at the district level, so that the EIA process differs one district to another. This is reflected by the institutional arrangement at the district level, which took a various form of

environmental institutions, while to certain degree the EIA process needs to have a certain standard for certainty.

- Amid the environmental institutional changes due to decentralisation, a critical event occurred and made the EIA institution even more complex. Presidential Decree No. 2/2002 is enacted changing the framework of national environmental institution. Although it is a lower level of legal basis compared to Act 23/1997 and Regulation 27/1999, this significantly influences the EIA institution. BAPEDAL, as the main agency administering EIA, was no longer responsible for coordinating EIA and was dissolved into the Ministry for the Environment in mid-2002. However, there is confusion over the EIA legislation since the Regulation 27/1999 still appoints BAPEDAL to carry out the operative mandate.

The road to meaningful public involvement in the Indonesian EIA will take time until all EIA stakeholders are accustomed with the procedure and developing a culture of public interest. The EIA institutional framework and supporting legislation need consolidation. Meanwhile, there are some practical issues of public involvement such as a misinterpreting procedures resulting in negligence or overdoing the procedures. Regarding the latter, some problems could occur such as additional costs for proponents in conducting an EIA study or complaints about the cost of public notices in the media. Those all will depend on the willingness of EIA stakeholders to respond to the requirements for public involvement. Therefore, the next chapter will outline some characteristics of stakeholders in the Indonesian EIA system such as their attitudes toward and perceptions of public involvement.

CHAPTER 5 – STAKEHOLDERS IN THE INDONESIAN EIA SYSTEM

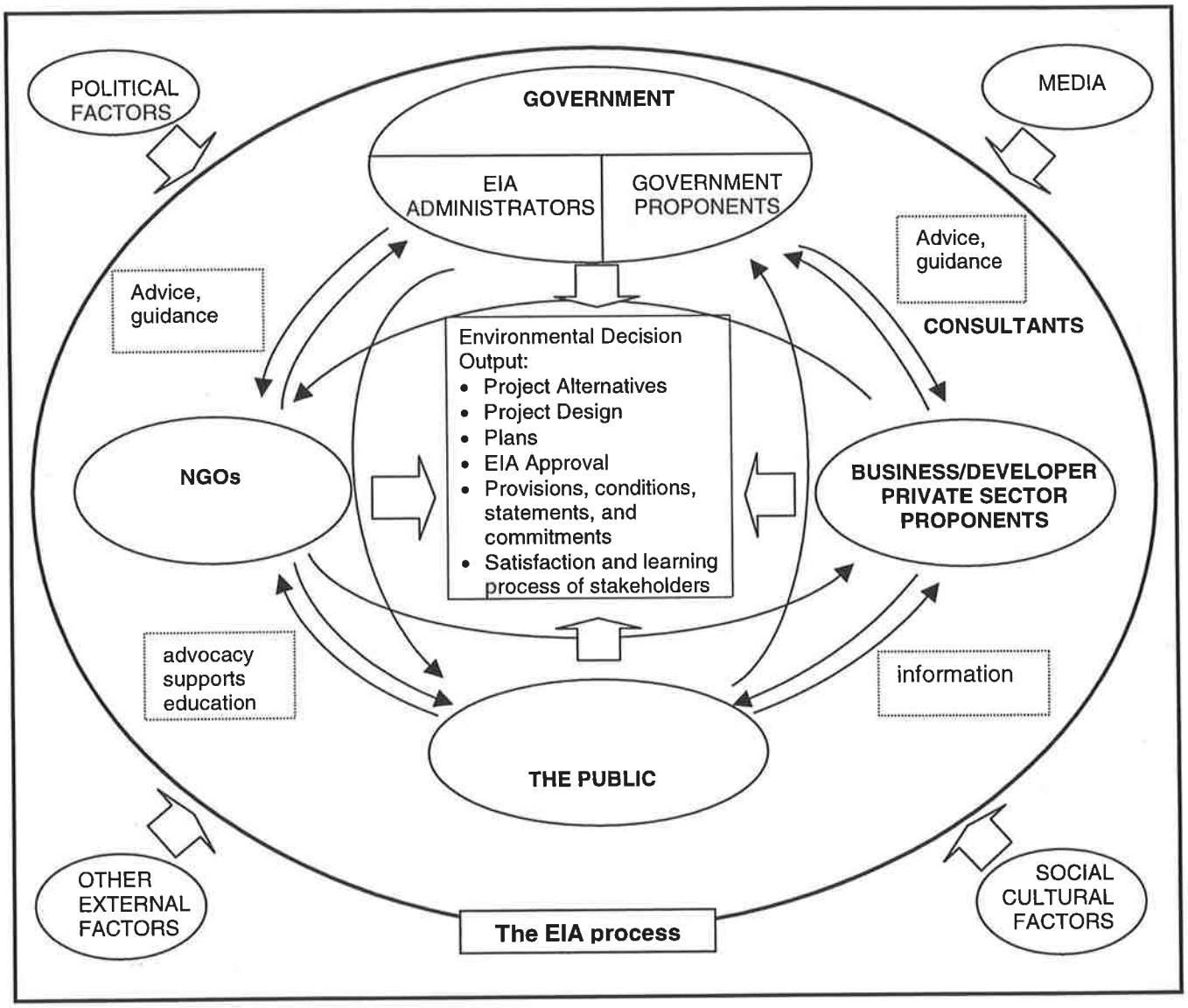
5.1 Introduction

The proponent, the government and the public are the most prominent actors in the EIA process. Other players such as NGOs and consultants usually act on behalf of others. In the implementation of a project development, the government through its planning agency has specific interests such as securing the nation's development and raising government revenue. The public wants security and needs to know whether a planned development will affect their lives. If it has doubts or fears about a proposed project, it is most likely that it would oppose it. On the other hand, the proponent is usually perceived as someone who wants to carry out their proposal to achieve business goals. Therefore, the EIA process will involve a conflict of interest among various parties.

As previously mentioned, NGOs often act on behalf of the public because the latter has limited knowledge of EIA. NGOs have distinctive characteristics and are generally considered to have more capacity than the general public. They even provide the impetus for improving environmental policies and being critical of development proposals. Moreover, as shown in Chapter Three, NGOs receive significant attention in developing countries' EIA systems. Therefore, NGOs are relevant in the context of a discussion on EIA stakeholders, especially in Indonesia. Based on a literature review, analysis, and experience of the Indonesian EIA system, a conceptual model has been developed to illustrate the relationship between stakeholders in EIA (see Figure 5.1).

While the model represents the main stakeholders involved in the Indonesian system, it could apply to other EIA systems in developing countries. The EIA process may be viewed as an environmental decision-making tool in the broader development decision-making framework since the EIA process produces a decision in the form of EIA approval. The process involves interaction and information exchange between many different stakeholders, which in reality will involve many parties. For the reason of practicality, this chapter will discuss five main stakeholders: the government, business, the public, consultants, and NGOs. Broader categorisation will be made further in the chapter according to proponents, consultants, and NGOs.

Figure 5.1 Model for the Relationship between Stakeholders in the Indonesian EIA System



Information on the existing environment, project plans, and prediction results are collected for presentation in an assessment process. The EIA process from information collection to assessment and approval involves many actors where those main stakeholders interact with each other. There are four territories representing government, business, the public, and NGOs while consultants play a third party role either assisting government and business proponents in preparing the EIA documentation or the formulation of environmental policies such as for the EIA administration. Each territory has two-way interaction with other territories. When the government implements EIA regulations, information regarding the regulations is transferred to all stakeholders such as

proponents, NGOs, and the public. Due to some limitations, the public often obtains the information from a secondary source such as NGOs or proponents. The public also gets support for environmental advocacy from NGOs when environmental cases occur. In the EIA context, NGOs often educate the public through simple EIA training or environmental awareness campaigns.

Once the EIA process is initiated by the proponent, information is collected from the territory of the local public. This is a critical time for the proponent to provide sufficient information to the public. Analysis results presented in the EIA documents will attract other stakeholders for further involvement. Toward the last part of the EIA process, the review process is carried out to produce a decision accepted by all stakeholders. The output from the process is represented in the inner box of the model where project alternatives, designs, and environmental plans are brought together in an EIA approval. The output is expected to bring some degree of satisfaction for the actors in the process as well as providing a learning process.

The outer part of the model represents factors affecting the EIA process such as the role of the media, social and cultural factors, and politics. The media is a powerful factor in the publication of information. In terms of the political factor, a useful illustration is ascertained by Beattie (1995: 112) that "EIAs Will Always Be 'Political'". Similarly, social and cultural factors will differ from place to place influencing the relationship of all stakeholders in the EIA process. The model shows a simplified relationship between the EIA stakeholders.

This chapter will focus on the discussion of EIA stakeholders and their perspective on EIA and public involvement. Discussion of the public was included in the introductory chapter and Chapter Three while the role of the government, as the regulator of the EIA system, has also been discussed in Chapters Three and Four. The discussion of the stakeholders in this chapter will include proponents, the EIA consultants and NGOs. This chapter discusses the position of each EIA stakeholder in the EIA process as well as their expectations and perceptions of the process itself.

The chapter starts with a discussion of business as a distinct entity and its values. The business, which is to make profits, will be discussed in relation to environmental issues. The emergence of the globalisation phenomenon along with the strong role of Multinational Corporations (MNCs) have influenced the outlook of business operation. Since MNCs widely operate in developing countries such as in Indonesia, some characteristic of MNCs will be discussed in the next section followed by a review of the

proponent's role in the EIA context. Unlike businesses, the government can play the role of proponent and regulator, and this often causes inconsistency and inefficiency in the overall EIA process. Subsequently, the role of consultants as the partner of the proponent will be discussed since their role is also critical in accomplishing EIA investigations. An overview of EIA experience in Indonesia will be put forward to understand particular attitudes of proponents and consultants.

The final section of this chapter will discuss NGOs. NGOs have a wide range of activities including community empowerment, politics, and particularly environmental advocacy. It will be shown that NGOs have differing ideologies. Another section of the chapter will focus on a discussion of NGOs that work in Indonesia. A brief history of NGO development in Indonesia will be presented followed by an overview of specifically environmental NGOs there. An overview of NGOs that directly participate in the case studies will be presented.

5.2 Proponents

There are many actors in the EIA process but the responsibility for EIA study and the preparation of the EIA documents rests with the proponent. Most of the EIA literature tends to point out that the proponent is responsible for preparing EIA documentation (for example in ANZECC, 1991; Gilpin, 1995; Glasson et al., 1999; Harvey, 1998; Modak & Biswas, 1999; Soeratmo, 1988; Thomas, 1998). In EIA, the proponent is often referred to as a developer or proposer which has to prepare the EIA documentation. The term 'proponent' can mean a business developer, yet the term in EIA also applies to the government for some development activities such as providing infrastructure for public services. While Modak & Biswas (1999: 14) claim that "EIA is generally the responsibility of a project proponent", Harvey (1998: 59) states that the preparation of EIA documents "varies from jurisdiction to jurisdiction", therefore depending on specific regulations; and in Australia the preparation is mostly carried out by the proponent with consultants' assistance. Furthermore, Glasson et al. (1999: 55-57) in referring to the UK EIA legislation use the term developers for proponents and ascertain that developers may come from the public as well as private sector. In addition to these types of proponent, it is possible to ascertain the possibility of NGOs acting as proponents though this rarely occurs. This section is aimed at understanding the position of business and government in the EIA process. This is critical because each EIA stakeholder has different values, interests, and interpreting the process.

5.2.1 Business as Proponent

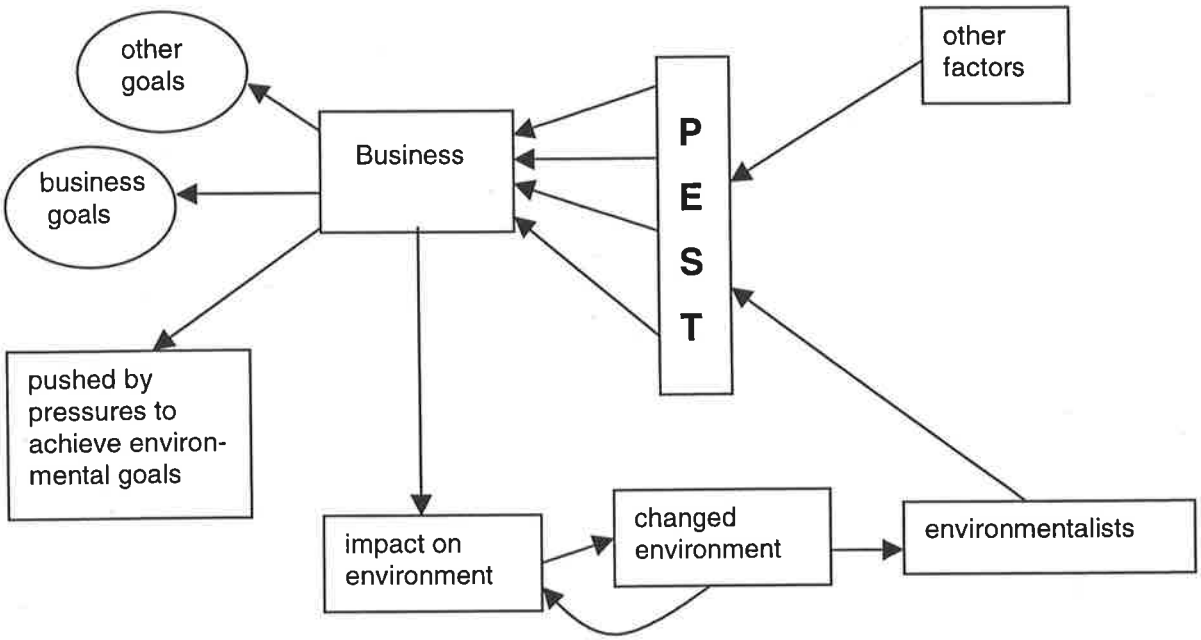
> A business consists of an organization of people with varied skills which uses property or talents to produce something which can be sold to somebody for more than it costs. The profit of this operation, after paying taxes, belongs to private individuals, who, in one way or another, have a legal claim on it. A business may or may not be a corporation, although most business today is carried on in the form of a business corporation whether in fact it is one or not (Rumi, 1945: 8).

Business is perceived as commercial or economic activities that produce profits. Obtaining profit is the core of business as ascertained by Keezer (1937: 48), who states that the term business is "commonly associated with a system by which the process of profit making organizes and directs economic activity". Businesses can take several forms ranging from a person as a sole trader, a partnership or a complex body of Multinational Corporation (MNC). According to Doyle & McEachern (1998: 131): "business is organised into firms or corporations that have a given legal form", from which it receives legal recognition to protect its activities. A business has to make profits to fulfil its operation costs or it will eventually cease (Blair & Hitchcock, 2001: 61). Therefore, the core principle of the business is profit and growth orientated. Business "is built into the culture of capitalism to make profits and to seek growth" (Blair & Hitchcock, 2001: 61-62) and according to Keezer (1937: 49): "business is dependent upon something akin to capitalism in its requirement of an accumulated store of products" to acquire profit.

Consideration of costs and profit clearly is the main concern for businesses. Blair & Hitchcock (2001: 60) categorise costs into three main groups: unavoidable intrinsic costs; costs imposed by society; and costs that are capable of transformation. The latter includes the concept of externalities where a series of costs relating to the environment is conceived as an external cost. Externalities arise when business activities cause costs or losses, such as environmental pollution for which a business does not pay but rather imposes on another group such as the public.

In discussing business and its behaviour toward the environment, Blair & Hitchcock (2001) make a useful illustration below. The business literature recognises PEST analysis, which is an assessment of external influences categorised as political, economic, socio-cultural and technological (Blair & Hitchcock, 2001: 99). Obviously, pressures from environmentalists and environmental regulations such as EIA are considered to be part of socio-cultural and political conditions. Based on this assessment, legislative pressure must be accommodated and overcome in strategic business planning. This includes administrative matters, permits and planning processes as well as EIA.

Figure 5.2 Pressures on Business



Source: After Blair & Hitchcock (2001: 99)
Note: PEST stands for Political, Economic, Socio-cultural and Technology

Following Welford (1997), Blair and Hitchcock (2001), however, claim that business groups may adopt several attitudes such as eco-liberalism, eco-modernism, and eco-efficiency. They ascertain that eco-liberalism seeks incremental improvement while eco-modernism incorporates environmental issues into the business agenda. The latter is similar to eco-modernism but emphasises technology to solve environmental problems (Blair and Hitchcock, 2001). Similarly, McEachern (1991) identifies three attitudes that might be adopted by businesses toward the environment: rejectionists, accommodationists and environmental business. The rejectionists represent some sections of business that comprehensively reject the case for environmental concern, the accommodationists are largely sceptical but have sought accommodation by making limited changes, and environmental business embraces the themes raised in environmental critiques and have redesigned their processes to minimise damage to the environment (McEachern, 1991).

Due to the cost of compliance with environmental regulations such as EIA and pollution emissions limits imposed by legislation, sometimes business relocates its activities to avoid these costs. This can be seen from some MNCs that move their plants to developing countries, which have less developed environmental regulations and enforcement. This is further supported by the fact that labour costs are cheaper in

developing countries hence their aim to reduce production costs can be maximised even when the finished products are exported back to their home country.

According to Keezer (1937: 51) there are three significant developments which shape modern business: a commercial revolution during the fifteenth and sixteenth centuries when the Americas was discovered, the industrial revolution by a series of mechanical inventions in England in the eighteenth century, and the elevation of the doctrine of *laissez-faire* during the eighteenth and nineteenth centuries. A recent critical trend of globalisation can be added to those milestones since it has become more pervasive in the current socio-political and economic affairs. Blair & Hitchcock (2001: 56-57) compare a historical development and categorisation of business along with the state of the environment and the ideology of environmentalism. This comparison shows paradigm changes during the time between pre-1800 to 2000 as follows:

Table 5.1 Changes in Environment, Business and Environmentalism over Time

	pre-1800	1800-1900	1900-1960	1960-2000
Environment	much natural habitat in existence; little pollution, few cities; landscape in transition	urbanization on bigger scale; loss of habitat; increased waste and pollution; national integration of space and time	urban sprawl; suburbanization; decline of natural habitats; decline of species; local pollution problems, e.g. urban air pollution	counter-urbanization; resource depletion; increasing waste and pollution; global environmental issues, e.g. changing climate, biodiversity
Business	early capitalism innovators and entrepreneurs; Protestant work ethic; small local business; Adam Smith	laissez-faire capitalism; mostly small-scale but large firms developing; limited liability; modern business ideas developing; Karl Marx	diversification of activities; increasing regulation; growth of corporations; government intervention J.M. Keynes	deindustrialization; service sector growth; multi- national firms; deregulation, trade liberalization; globalization; Milton Friedmann
Environmentalism	subdue the Earth; mastery over Nature; improve natural world; landscape parks Gilbert White	Romantics; Natural History; first environmental groups, e.g. RSPB, NT; Charles Darwin	recreation and amenity groups, e.g. CPRE; Ramblers Association; Ecology; scientific approach grows; government legislation on wildlife	environment crisis; mass media interest; radical pressure group growth, increasing legislation; more Agencies; public concern grows; environment becomes a political issue

Source: Adapted from the table of comparative developments in environment, business, agriculture, industry and environmentalism over time (Blair & Hitchcock, 2001: 56-57)

It is clear that there are shifts of business paradigm from early and conservative capitalism to *laissez-faire* capitalism to free-market liberalisation or globalisation. The globalisation started from 1960s and in particular, Little (1995) claims that there has been the continued

globalisation of a neo-liberal economic style and capitalism after the era of post-Cold War. The term globalisation is viewed as an economic and political struggle involving forces from business against regulation from governments. However, it is more about free-market.

The issue of globalisation has always been connected with the emergence of MNCs. They are claimed as the key player in globalisation (Blair & Hitchcock, 2001) and "powerful international actors" (Elliott, 1998: 123). Elliott (1998) shows that 500 MNCs control 70% of world trade, 80% of foreign investment and 30% of world Gross Domestic Product. There is even one particular MNC which has a gross income of more than nine African and South Asian countries combined (Elliott, 1998). Some of these MNCs are so powerful that they can influence environmental policy-making by lobbying and using their power. Some MNCs often avoid public scrutiny by hiding behind self-regulations, which at the same time are created to increase their environmental credentials and image by arguing that self-regulation is more effective than command-and-control regulation.

However, it is difficult to generalise about MNCs and their attitudes toward the environment. Since they run their operations in many places, companies will react toward environmental issues differently. Although they usually have corporate policies regarding the environment, when the operation is far from the home-base country, local standards or regulations can be bypassed. This is due to lower law enforcement, lack of resistance from local people, and the lack of environmental awareness in the local community.

Some MNCs do recognise the long-term effect of environmental standards to their business and support local regulations. Blair & Hitchcock (2001: 85) state that "Large multinational firms tend to have explicit environmental policies" as the result of their experience with very strict policies. Due to global communication technologies, their activities are easily tracked. Negative attitudes and destructive practices would attract adverse publicity affecting the image of their activities in other places and their overall business and this means higher costs later to rehabilitate their image. MNCs can be persuaded or changed by certain pressures, for example by their shareholders and NGOs or an environmentally aware community.

MNCs are also bound by planning processes such as EIA regulations and their attitude is reflected when they act as proponents in the EIA process. Again, the choice is in their hands whether to cooperate with government and other EIA stakeholders or to resist government regulation and take cosmetic actions to hide their actual attitudes. Business

including MNCs as EIA proponents could have various views. Proponents generally consider that the responsibility to prepare EIA is a cost component and some try to avoid the EIA requirement. Doyle and McEachern (1998: 28) suggest that EIA is often considered as a form of government regulation imposed on business and is thus resisted. Arguments range from being unfamiliar with the EIA process, consider it an unnecessary cost, take advantage of government weaknesses in supervision, and reject the requirement through business associations.

Opposition to EIA requirements in developed countries can be due to political reasons. Different EIA requirements toward two proposals with a similar scale can occur due to the discretionary nature of the screening process, for example in Australia. According to Harding (1998: 141), that EIA "only applies to *certain* 'significant' projects", while others may be just as harmful to the environment but are not required by regulation. Some regard EIA as slowing down the process of development (Harding, 1998). In developing countries, rejections of EIA generally emerge due to some traditional businesses (small scale), which cannot afford the expertise and cost to carry it out. In Indonesia, for example, Soeratmo (1988) suggests that these small-scale businesses should be assisted by the government.

On the other hand, there are many business proponents that regard EIA as a useful planning tool and therefore voluntarily adopt it. Using EIA, business can always evaluate its activities and impacts on the environment for further adjustment in its production process. This has been widely discussed in the EIA literature (for example in Glasson et al., 1999; Harding, 1998; Modak and Biswas, 1999; Petts, 1999; Wood, 1995, 2003), which shows the benefit of EIA. Business proponents that recognise this will not have difficulty in accepting the responsibility of conducting EIA. Some of them even take advantage of EIA as a means of resolving any opposition from other stakeholders. Multinational companies are often keen to show their commitment to environmental initiatives by publishing environment-related policies, conducting EIA and doing a regular environmental audit.

In terms of cost for EIA, the literature shows that it is not significant. For example, Gilpin (1995) notes that the cost in Australia is less than 1 percent and in Taiwan ranges from about 0.1 to 1.5 percent of a project's total cost. Glasson et al. (1999) provides an example from the work of Coles, Fuller, & Slater (1992) that the cost of EIA is between 0.000025 to 5 percent of project cost. Similarly, the World Bank (1999: 8) claims that the budget size for the public involvement process varies but they range from US$ 25,000 to

1.5 million or approximately 0.0025 percent of total project costs. Weston (1995) points out the average cost of preparing a whole EIA is £ 34,000. Some businesses also view EIA as an administration obstacle that must be overcome. Blair & Hitchcock (2001: 126) claim that some businesses see EIA as an "administrative interference on their activities", in spite of the fact that EIA has advantages to business if sufficiently implemented.

There are good reasons why the burden of EIA preparation rests with the proponent. For example, the responsibility is based on a justification known as the "polluter pays" principle where the proponent is liable for environmental damage. Other arguments are based on the planning process that indeed is in the interest of the proponent to protect and ensure the realisation of the project. Thomas (1998) identifies several mechanistic reasons for that: information of impacts should be prepared in the same manner as preparing technical information of planned activities; as the initiator, proponents certainly have sufficient basic information; and they have opportunities to modify the proposal during the preparation of EIA and adjust their plan to reduce environmental impacts. However, the most fundamental reason depends on the EIA legislation that regulates related processes in a particular jurisdiction.

5.2.2 Government and NGOs as Proponents

As well as private sector proponents, there are government proponents. This kind of proponent is usually involved in the provision of public facilities or in state business corporations. Glasson et al. (1999: 56) ascertain that public-sector developers in the UK context usually consist of government departments, local authorities and statutory bodies. They further illustrate that the government may take on three different roles: as regulator, developer or proponent, and affected party. This is a critical issue because the government's position, unless carefully implemented and sufficiently supervised, might be negative due to overlapping and conflict of interest. In advanced countries that have clear standards of public accountability, the responsibility of government to carry out EIA must be consistent by applying the same level of EIA process. In developing countries lacking such standards, proposals from government proponents often receive special treatment to obtain an approval. In some cases, the argument is usually that a proposed project of physical development is in the public interest, it provides much needed-services to the public, and hence the EIA process for such proposals should be fast-tracked.

It is necessary to avoid such conflicts of interest to ensure the objective process of EIA. A useful example is made by the Australia and New Zealand Environment and Conservation

Council (ANZECC) (1991) in encouraging EIA stakeholders in Australia to comply with a standard called the National Principles for EIA in Australia. Specific principles for proponents are as follows:

- Take responsibility for preparing the case for assessment of the proposal.
- Consult the assessing authority and the community as early as possible.
- Incorporate environmental factors fully into proposal planning, including a proper examination of reasonable alternatives.
- Agree on a proposal-specific evaluation timetable and commit to using best endeavours to meet it.
- Take the opportunity, offered by the EIA process, to improve the proposal environmentally.
- Make commitments to avoid (where possible) and otherwise minimise, ameliorate, monitor, and manage environmental impacts–and implement these commitments.
- Amend environmental management practices responsibility, following provision and dissemination of environmental monitoring results.
- Identify and implement responsible corporate environmental policies, strategies, and management practices, with periodic review (ANZECC, 1991).

In addition to the principles for proponents above, the National Principles for EIA also outline the role of EIA stakeholders, i.e. assessing authorities, the public, and government. They do not distinguish the origin of proponents, which may have different operating styles or interests in the EIA process. However, under the principles for government, it is clearly stated that the government must "apply the EIA process equally to proposals from both the public and private sectors" (ANZECC, 1991). This means that the risk of different outcomes for different proponents is exist, therefore the principles guards this issue.

There is little evidence of EIA cases where NGOs act as proponents although it is possible for them to initiate EIA. These proponents usually carry out EIA in order to obtain scientific evidence in relation to public concerns or opposition to certain projects. In this regard, Glasson et al. (1999) comment that environmental groups or local groups can employ consultants to help mount opposition to a proposal. It could also be a cross check to the EIA study carried out by other types of proponent due to their concern about the validity of EIA investigations. Some NGOs are generally sceptical of the EIA system and some, although enthusiastic, have insufficient expertise and budgets to carry out EIA, especially in developing countries. NGOs tend to spend their energy and resources on more direct action, hence they attract more attention for such things as public campaigns and court processes.

Proponents from NGOs in carrying out EIA will find difficulties in the process of data collecting, especially for a particular detailed production process. Since the nature of EIA preparation by NGOs is to oppose a private sector or government proposals, it will not be easy to request sufficient data from a proposed project i.e. from a company. The secrecy principle of private companies to protect their interests from competitors is a common excuse for not providing sufficient technical information. Obviously, each type of proponent has a different approach to carry out EIA depending on their position and interests.

5.2.3 Proponents in the Indonesian EIA System

> Project proponents, whether from a government department, a state-owned company, or the private sector, are responsible for preparing and submitting AMDAL documents that meet the legislative requirements, and for implementing the RKL and RPL documents.
>
> Consultants are hired by project proponents to prepare AMDAL documents. It is expected that the consulting industry will develop and maintain an acceptable level of competence in AMDAL preparation (Dick & Bailey, 1992: 22).

The EIA literature in Indonesia suggests that the responsibility for preparing EIA documents is on proponents (Dick and Bailey, 1992; Soeratmo, 1988; Heroepoetri, 1993; BAPEDAL, 2001a). Similarly, consultants are often hired to assist in the EIA preparation. The EIA regulations in Indonesia ensure this responsibility. There are issues relating to the proponent and the consultant operating in the Indonesian EIA process, such as less informed proponents and consultants about the process; the perception of a costly and long process; overlapping roles of government; long screening list; and misconduct of officers and consultants. Moreover, changes to EIA regulations have also influenced the perception of proponents, which in turn, have affected EIA implementation.

During previous EIA implementation in Indonesia, many EIAs for public works or government development projects were prepared by a particular division of the government sector and then reviewed by another division from the sector itself. This attracted suspicion from other EIA stakeholders regarding the objectivity of the EIA process. There is no record that any NGOs acted as an EIA proponent in Indonesia, except for the case of an individual NGO activist who joined a business. This perhaps relates to the very definition of proponent in the Indonesian EIA legislation, which does not define NGOs as proponents: "Proponents are an individual or legal body that is responsible for a proposed business or activity" (translated, Article 1 of Regulation No. 27 of 1999, The Government of Indonesia, 1999). Another factor is that NGOs have few

resources to carry out the EIA process. Heroepoetri (1993) claims that NGOs and the public are groups that have no resources or expertise to carry out a study and investigation.

There was, and perhaps still is, a general perception amongst EIA proponents in Indonesia that EIA is an administrative obstacle. The nature of initial EIA implementation between the late 1980s and early 1990s supported this perception, when the government through its departments and agencies introduced stringent EIA screening lists resulting in the fact that almost all project proposals are required to carry out EIA. This is affirmed by Eldridge (1995: 140) that at the time "the sweeping EIA nature of legislation which applies EIA processes to virtually every project" frustrates the EIA effectiveness. The situation was worsened by the requirement for all businesses to conduct environmental evaluation or auditing (see Chapter Four), despite the fact that the government could not handle all processes. Insufficient EIA quality resulted in delays in many processes, which in turn justified the negative perception of proponents. This was made worse by the lack of legal action against proponents who did not carry out the EIA requirement (see Heroepoetri, 1993).

A lack of understanding of the EIA process was also a factor during the early phase of implementation. This was noted from evaluations carried out by BAPEDAL through the EIA Directorate. A common complaint was that proponents, especially in local areas, were not familiar with the EIA process (BAPEDAL, 1993b, 1994a, 1994b, 1995a, 1995b, 1996, 1997). The term AMDAL is widely known, yet poorly understood by the public and local governments, thus people are likely to relate every environmental problem with the availability of AMDAL documents and their approval. While not all activities are subject to EIA, people and local government would suspect that the proponent had breached environmental legislation if an AMDAL document could not be found for an activity.

EIA experiences with MNCs were not always easy for the Indonesian government in the early stages of EIA implementation. Weak regulations and lack of enforcement were used by the MNCs to escape from the intended EIA objective. On some occasions, large companies had more expertise than the government during the EIA review process, thus creating little confidence amongst the reviewers and NGOs. The proponent and consultant often did not comply with suggestions from the EIA Review Commission and insisted on their own analyses and hypotheses, even when the project was proved later to have major negative impacts. They often pointed out similar actions conducted elsewhere to convince the reviewer that their actions were adequate.

Some MNCs have been able to avoid other stakeholders' scrutiny of their action plans from the very beginning of the EIA process. They point to their environmental policies and self-made regulations to demonstrate their commitment. Yet, when environmental problems occur, they are often able to lobby the government at a top-level position and even request senior diplomats from their home country to assist in lobbying. Unfortunately, it is difficult to prove that these actions occurred. However, with an increasing environmental awareness amongst bureaucrats and the public, not to mention NGOs, MNCs are gradually changing their attitudes by admitting to past failures and promising to improve their immediate environment. MNCs now act cautiously in environmental matters and often seek advice and cooperation from other EIA stakeholders.

Negative perceptions of less informed proponents influence the general attitude of proponents. Issues of inefficiencies, delays, administrative burdens, and misconduct make proponents distrustful of the EIA system and the government, which finally results in a general preconception that the EIA process is costly. This corresponds with the general attitude of business that considers the EIA process as an additional cost and externality. Proponents seem shocked by additional regulations and newly enacted planning methods. They did not anticipate the costs resulting from any new EIA legislation. They therefore tried to resist by claiming that the process is costly. This is a relevant issue especially when EIA is required for small scale and traditional project proposals such as traditional *batik* (textile) and leather tanning businesses. Still, there are many traditional businesses with a heavy pollution load, which actually can be solved by a technical approach or standard operating procedure, such as the provision of a wastewater treatment plan rather than by EIA.

On occasions, the overlapping role of government in the EIA process also became an issue. Heroepoetri (1993) identifies conflict of interest in government departments involved in the EIA process. In a similar vein, Dick & Bailey (1992) also question this conflict of interest due to the self-assessment nature of government EIA projects. Previously, authority to supervise the EIA process including the review process was distributed to sectoral government departments. This would, however, become problematic when a sector was required to review its own project proposal or a proposal from a state-owned company under public sector control. There were complaints from other proponents and NGOs that the sector gave special consideration in such situations (as can be seen from EIA evaluation by BAPEDAL, 1993a; 1994a; 1995a). The sector could possibly hire a consultant to prepare the EIA documentation but there were

suspicions that the hiring was only a formality. Since officers in the sector were usually technically familiar with the proposal, some officers even prepared the EIA under the name of a consultant firm. Finally, the resulting EIA documentation was reviewed by another division within the sector, which led to questionable EIA quality and manipulation.

Many government project proposals due to the tight EIA screening process requires more government finance for the EIA preparation (considered as ad hoc to the construction budget). This puts strain on the government's limited budget. Inflexible budgeting, long term planning and approval from the Department of Finance are factors causing delays for the government proponent to obtain the budget. This leads to a non-synchronous timeframe between the expected physical construction and the cash flow for the EIA budget. It often occurs once physical construction is ready to commence. Hence the EIA study is pushed to the degree of tokenism in order to fulfil the regulations and reach the sector's target, while in reality, without the study (and the approval), the construction would begin anyway.

Efforts to overcome the above issues are continuously carried out. The EIA process at the national level now is centrally handled by the Ministry for the Environment (previously extensively controlled by BAPEDAL), hence the issue of overlapping roles of sectoral departments is no longer present. NGOs also hope that the conflict of interest in the government departments can be overcome by appointing an agency specifically responsible for EIA (Heroepoetri, 1993). At the provincial and local levels EIA is handled by various agencies, yet principally taking the previous BAPEDAL role. Since previously BAPEDAL and the Ministry for the Environment have not had any physical development projects and no state-owned company is under their control, any conflict of interest can be minimised.

5.3 Environmental Consultants and EIA

Environmental consultants are another actor in the EIA process and have a specific role in the preparation of EIS although they usually act on behalf of the proponent. While some EIA literature suggests that a consultant be hired for preparing EIA documents, for example in Wood (1995) and Modak & Biswas (1999), other literature also recognises the role of consultants in the EIA process (Gilpin, 1995; Harvey, 1998; Harding, 1998; Glasson et al., 1999). Harding (1998) suggests that the preparation of EIA documentation could be done by a specific government agency or by a government-selected consultant.

Similarly, Wood (1995) outlines the choice of EIA document preparation as follows:

- By the 'in-house' expertise of the staff of the agency taking responsibility for the project;
- By consultants hired by the agency;
- By the proponent or the proponent's consultant; or
- By a consultant paid by the proponent, under direction of the agency (Wood, 1995).

There are other suggestions for EIA preparation by the specific government agency (Wood, 1995; Harding, 1998; Thomas, 1998) or by independent bodies (Gilpin, 1995) in order to keep the objectivity. Yet such suggestions have attracted little support, except in a few jurisdictions, for example in California (Wood, 1995).

Environmental consultants are usually hired by businesses to conduct tasks that they cannot do because they have no expertise, knowledge or confidence of success (Blair & Hitchcock, 2001). Glasson et al. (1999) add that consultants may in fact be employed by local groups, environmental groups or a regulatory body to assist their interests. Indeed, the proponent might have several relevant areas of expertise for the EIA study, for example an expert in production processes who is very familiar with development stages. Other experts such as anthropologist, social scientist, and environmental scientist are too expensive to be hired in-house and might not be needed for long-term employment. Providing in-house expertise for a development project is not always possible. Hiring ready-to-use experts from consultancies could be a practical solution.

Environmental consultancy is a specific business providing expertise in environment-related activities. In relation to EIA, a consultant is required to assist the proponent in order to provide sufficient expertise. Multi disciplinary skills are critical in the formation of an EIA team (Modak & Biswas, 1999; Soemarwoto, 1988; Soeratmo, 1988). Another important reason for hiring consultants is that they are believed to be more impartial, credible, and objective, although this is not always possible considering the relationship of hiring or the clientship between proponents and consultants. According to Blair & Hitchcock, (2001: 254) the task of the consultant is "to provide an impartial and credible viewpoint".

Objectivity in EIA is crucial for both the proponent itself and other EIA stakeholders. It is possible for the proponent to carry out EIA in-house, but the EIA team is less likely to have the objectivity of external consultants. As the provider of expertise, the consultant

also has the advantage of more experience from previous EIA projects. While experience in EIA is a crucial issue (Gilpin, 1995), Soeratmo (1988) claims that experience in EIA studies could assist the on-going study. He even suggests that for the appointed consultant, it is preferable to have experience in a similar project field. An accreditation process for the EIA consultancy could assist this issue as occurs in the UK, for example (Glasson et al., 1999). Consultants must be consistent with the provision of the required experts. As identified by Modak & Biswas (1999), consultants may have the required expertise but it is often that the related experts are in demand for other EIA projects. Therefore, it is necessary to utilise a tight manpower schedule for consultants (Soeratmo, 1988), as well as regular supervision from the proponent.

While Modak & Biswas (1999) ascertain that consultants are hired to protect the project interests, this does not mean that the consultant must hide facts or unreservedly defend the proposal. Similarly, Beder (1990: 45) notes that experts hired in EIA projects are "directly or indirectly, employed by a party whose interests may differ in significant ways from the public interest". The objectivity issue often relies on the consultant, hence the EIA literature pays critical attention to this. It can be understood that consultants preparing EIA may receive pressure from the proponent. As Harding (1998: 144) highlights, the proponent may compel the consultant "to express issues in a particular light and this may even mean 'bending the truth'". Perhaps by imposing the code of ethics of professional associations or consultant associations, the above issue could be handled. Accreditation by a regulatory agency, called "duty of care" regulation (Glasson et al., 1999: 58), may also solve the problem. EIA guidelines introducing principles for EIA consultants are another option.

In the Indonesian context, the EIA consultancy is a critical issue. The supervision and quality control of consultants are still inadequate, especially in the previous implementation of EIA. During the early stage of EIA implementation, the situation was worsened by the large number of EIA projects resulting from tight screenings that proliferated the number of consultants. There were efforts for consultant accreditations, yet these were difficult to implement. Proponents continued to hire consultants who they considered adequate, without paying attention to the accreditation. According to Dick & Bailey (1992: 74-75), certification for EIA consultants will "do little to improve AMDAL quality" since EIA "is not yet a precise science" and the quality depends on the EIA review process.

Efforts to disseminate EIA and its training were also conducted. The previous Minister for the Environment, Prof. Emil Salim, promoted EIA training for all EIA stakeholders, especially consultants and government officers to strengthen the credibility of the EIA Review Commission. This appeared to be a positive development, although mistakes and excesses did occur. For example, the intended trained officers for the Commission were often incorrectly appointed, so that they finally could not participate in the review process. Some of them erroneously used their EIA capability to prepare EIAs either directly or by joining the EIA consultants.

Consultants often have a perception of the EIA process as costly and lengthy and attempt to fast track the process. Heroepoetri (1993) notes that the consultant and the EIA Technical Team often surreptitiously determine the EIA accomplishment. Others claim that the waiting period for the EIA approval is too long, which encourages the proponent to find a short cut by offering certain deals (Soemarwoto, 1988). In fact, the long finalisation of EIAs is due to revision processes in the consultants' hand and studies from BAPEDAL supports this (BAPEDAL, 2001a). This is also supported by the fact that EIA regulations prescribe the assessor, which is the EIA Review Commission, to accomplish the review process within a certain timeframe. Lengthy EIA processes due to revision perhaps make the consultant disillusioned with the process at times when very little budget left for the EIA revision and this may affect the credibility of consultants.

Some consultants were also found to be unprofessional in preparing an EIA. There were complaints from the EIA Review Commission that consultants sometimes used other environmental database from old EIA documents, which were not relevant to the on-going EIA case (see reports on regional meeting of EIA Commissions BAPEDAL, 1993b, 1994b, 1995b, 1996, 1997). Large numbers of EIA project proposals at that time uncovered this practice. Subjectivity was also found in some cases where consultants took the side of the proponent and persisted in advancing their assessment results. This is understandable since admitting the error in their analyses means losing their credibility in front of other stakeholders, especially before the proponent who hired them. In this case, the Review Commission must work hard to reveal inaccuracies in consultants' data. Therefore, a reliable EIA Commission is needed to address the issue of objectivity. Even if they could do so, some consultants consider the EIA Commissions are trying to complicate the process and they negatively persuaded the commissions and the EIA secretariat.

Bribery has been always a big issue since the early implementation of EIA in Indonesia (Heroepoetri, 1993; Soemarwoto, 1988). This is generally due to insufficient government

wages and especially due to a limited budget for EIA implementation. This includes the expenses related to the EIA meeting, which must be paid for by proponents via the EIA secretariat. When the EIA Review Commission has to invite specific experts to discuss the EIA documents, the proponent also pays their honorarium. Reimbursement methods need to be transparent otherwise this would attract criticism. Ideally, the expenditure of EIA implementation is arranged by EIA guidelines and supported by the government budget. However, it is not yet regulated and is subject to on going discussions.

Currently, the expenses related to EIA meetings must be managed transparently. Although some of the expenses are still paid by the proponent, the government also bears some of the costs. The EIA consultants are supervised through certification by BAPEDAL (Article 30 of the EIA regulations 27/1999) as well as controlled through the INKINDO (the National Association of Indonesian Consultants). Since the screening list is carefully prescribed, there are only a few proposals categorised as potentially significant to the environment and this limits the number of consultants working on EIA. In this way, the operating EIA consultants are expected to be more professional, objective and credible.

Some aspects of the discussion on EIA proponents and consultants relate to NGOs. Since NGOs are also stakeholders in the EIA process, comprehending their characteristics and role is critical and will be discussed in the following section. This discussion will also show that NGOs have distinct ideologies. A brief history of NGO development in Indonesia will be presented followed by an overview of specific environmental NGOs in Indonesia. An overview of NGOs that become directly involved in the EIA process in the case studies will be put forward including their characteristics and specific roles played during the process.

5.4 NGOs - Non Government Organisations

The introductory chapter stated that public involvement and participation are inseparable from democracy. This system becomes the determining factor for a successful participation process. By nature, a democratic system needs participation since it is built on the foundations of equality, transparency, fairness and the will of majority. Furthermore, NGOs are also recognised as critical players in environmental affairs who can promote the participation process, especially when the general public or affected community has a lack of knowledge in terms of the formal participation process.

In the Indonesian context, the term NGO is always linked with the democratisation process and civil society. The idea of civil society is in the constitution of Indonesian

NGOs and always mentioned as paramount in their actions. This was revealed for example in a seminar by the Asia Foundation at the Flinders University in 2002 and in literature published by the International Institute for Democracy and Electoral Assistance (International IDEA, 2000) and Setiawan (1996, 2000) and Sumarto (2003). Therefore, the links between democratisation, civil society and NGOs need to be discussed to comprehend the role of NGOs in the Indonesian EIA.

5.4.1 Democracy, Civil Society and NGOs

Theories of democracy and civil society can be traced back from the thoughts of many philosophers (such as Hegel, Habermas, Marx, Locke, Rousseau, Tocqueville, and Gramsci). The relationships between the two are presented in works of many recent democracy theorists such as Fullinwider (1999), Cohen (1999), Bryant (1995), Oxhorn (1995), and Fukuyama (1995). The notion of a civil society is derived from the principle of democracy. Civil society is needed by democracy as claimed by Tocqueville (1969, cited by Smith, 1999: 177). Similarly, Morales, Reyes, & Rich (1999: 7) ascertain that the formation of civil society including voluntary associations and NGO is part of the democratisation process. They point to Zakaria's idea (1995, in Morales et al., 1999) of "intermediate institutions" or private groups as the basis for the emergence of civil society. Likewise, Fukuyama (1995) supports this claim by stating that the intermediate institution sustains democracy. Civil society here means people's organisations, which are not specifically focusing their activities in formal politics (such as a political party) but more as social attachment or social engagement.

In the same way, the thoughts of civil society and democracy are shared among social scholars in developing countries such in Indonesia. Many believe that democracy can only develop in a civil society, and civil society possibly will only improve in a democratic climate (Usman, Widodo, Suyatno, & Arif, 2000: 109). This is in line with the discussion by Ratliff, Cintora, Robey, and Schedler in *The Annals of the American Academy of Political and Social Science* (Morales et al., 1999) that the basic requirement for democratisation is a healthy civil society. So critical is the position of civil society in democracy that it is important to discuss the constituents of civil society.

According to (Cohen, 1999: 57), civil society is a sphere of social interaction which is distinguished by the principle of plurality, publicity, privacy, and legality. Garcia-Aguilar (1999: 81) shares a similar perspective that "civil society is expressed as movements that are qualitatively different from the state..." Civil society is defined as "the framework

through which society in general and groups within it are represented, in both a socio-cultural sense (within networks which remain within society) and more specifically a political sense (in relation to the state)" (Shaw 1994: 649). In a developing country such as Indonesia, a similar ideology which distinguishes civil society from the state, is also adopted (Soetrisno, 1995: 44). Soetrisno suggests that in principle civil society is a condition where the state respects the basic rights of its people. He argues that opportunities to participate in the decision-making process are necessary for people and their organisations. This also includes voicing their critiques to the state or government to correct its mistakes or suggesting alternatives for development (Soetrisno, 1995: 45).

Here, civil society as a counter balance to the state is obvious. Sumarto (2003: 5) states that civil society is an anti state hegemony. Jacob (2000: 9-11) suggests that civil society plays the role of balancing the state's power and government in managing public policies. He adds that civil society can be recognised from its characteristics including independent power, participation, open process in decision-making, and equality. From those perspectives, civil society is seen as a critical prerequisite in the process of democratisation. In the context of Indonesia, IDEA (Institute for Democracy and Electoral Assistance, 2000: 107) ascertains that civil society "is one of the three important sectors of society, along with government and business".

More clearly, Bryant (1995) adopts Tocqueville's (1966) idea which distinguishes the state and civil life. He continues to ascertain that the "state or government includes assemblies, ministries, courts, police and armed forces. Civil life refers to the public life of citizens, that is, their life outside the household" (Bryant 1995: 143). Likewise, Oxhorn (1995: 253) elaborates further: "civil societies are characterized by varying levels of citizen participation". He concludes that when the level of direct public participation in the decision-making processes which affect the public's lives is at its greatest, this is indeed a condition of democratic civil society. From the above terms of 'people organisation', 'intermediate institution', 'voluntary association', 'groups' and 'non-state', the discussion of civil society leads on to the NGO phenomenon.

Gellner (1995: 32) offers a definition which directly relates civil society to NGOs phenomenon: "civil society is that set of diverse non-governmental institutions, which is strong enough to counterbalance the state, and... prevent the state from dominating and atomizing the rest of society". However, he realises the weaknesses of the definition where many irrelevant groups might be included. Debate over which groups are included in the context of civil society is continuing but it is becoming obvious that NGOs are parts

of civil society. It is claimed by Streeten (1997: 194) that NGOs are also part of the national and global civil society. However, it is clear that the paradigm of NGOs is rooted in the theory of civil society. Their activities generally differ from state affairs and often confront the state in many situations. NGOs endeavour to empower the general public.

The literature suggests that NGOs have existed before 1909 (Princen & Finger, 1994: 1). According to Fernando & Heston (1997: 10), however, the term 'NGO' was originally used in 1949 by the United Nations and became widely applied to many organisations. In general, NGOs are conceived as organisations beyond the state authority which have particular characteristics in their activities. For example, they adopt do empowerment activities based on voluntary principle for grassroots groups or the public especially in relief activities. Eldridge offers a simple definition that NGOs are "non-party and non-profit organizations" (Eldridge, 1995: 3). Similarly, Streeten (1997) identifies NGOs as non-profit seeking organisations.

It seems that non-partisan political practices and non-profit activities become characteristics of NGOs. Likewise, Doyle & McEachern (1998: 81) agree with Bebbington, Thiele, Davies, Prager, & Riveros (1993) that the commercial 'private' sector could be embraced in the term non-governmental but the attribute of NGO is rarely applied to business. Fernando & Heston (1997: 11) also ascertain this characteristic by stating that "NGOs are generally defined in opposition to the state and for-profit organizations", but they further elaborate that division between profit and non-profit is becoming indistinct since NGOs make money for their survival. Perhaps it is due to more complex relationships between NGOs and the private sector, which is similar to the relationship between NGOs and the state in terms of political practices, where NGOs have a strong political position in global affairs. Yet, NGOs should ideally maintain their independence from other sectors including the state and pro-profit business.

It is not simple to define the term NGO. For example, there are certain organisations which have the characteristics of NGOs but refuse to call themselves NGOs, such as the Gramaen Bank in Bangladesh and The Sarvodaya Movement in Sri Lanka (Fernando & Heston, 1997). In some places such as Indonesia, the term NGO was previously avoided to maintain an organisation's existence since the previous government often alleged that the term directly challenged the nature of the government. Yet, some organisations which can be termed non-government do not satisfy the definition of NGO, such as trade associations, separatist organisations or businesses. As pointed out by Potter (1996: 1), in the 1990s most political scientists regard NGOs as marginally politically significant.

However, many believe that the growing role of NGOs is tremendous, especially in the international political arena as is shown by the rapid growth in the size and number of NGOs (Princen and Finger, 1994). This can be identified from the literature that illustrates the development of NGOs between the 1970s and 1990s, particularly environmental NGOs which grew in the 1980s (Heston and Weiner, 1997; Eldridge, 1995; Princen and Finger, 1994; Doyle and McEachern, 1998).

NGOs are often seen as organisations that support the interests of the disadvantaged and pursue social improvement by empowerment of the public. They are a part of civil society but NGOs differ from the public because they are organised. Eldridge (1995: 7) ascertains that 'self-reliance' and 'participation' are central values of NGOs. There are also claims that NGOs have certain advantages in the implementation of development in comparison to the state or private sector. For example, although they are sometimes used to criticise NGOs, Streeten (1997) presents some points that are useful in recognising NGOs characteristics:

- They are good at reaching and mobilizing the poor and remote communities.
- They themselves participate in their organizations and use participatory, bottom-up, grassroots processes of project implementation; they help empower poor people to gain control of their lives; they work with and strengthen local institutions.
- They are more innovative, flexible, and experimental than governments.
- They carry out projects without government support, at lower costs and more efficiently.
- They promote sustainable development.
- They are representative bodies in civil societies (Streeten, 1997: 195-196).

Streeten (1997: 197) concludes that NGOs sometimes have management problems, a lack of sustainability, low replicability and reach few people. He also questions the purpose of empowerment and participation, the relationship between NGOs and the government, and the overlap of assistance by government and NGOs.

So far, some characteristics of NGOs have been discussed, yet there is still a wide range of NGO forms. Perhaps, due to their non-partisan political stance, NGOs are often recognised as a player in informal political affairs. In the Indonesian context, NGOs do not extend as far as the macro-political arena (Eldridge, 1995: 2). However, although NGOs are not involved in formal politics, NGOs now wield political influence. Fernando & Heston (1997) note that NGOs influence forums that are traditionally controlled by the state. Doyle & McEachern (1998: 81) accentuate this by stating: "NGOs are the most visible players in

environmental politics around the globe". They propose a typology of environmental NGOs that is determined by their geopolitical origins, political ideology, size, level of political focus, funding sources, what they provide, internal structure, and their relation to the state (Doyle and McEachern, 1998: 87).

Environmental NGOs from the North or advanced countries and from the South or developing countries have different agendas and tasks to accomplish. Northern NGOs may focus their activities on global issues such as international lobbying, climate change, the effects of economic liberalisation, or species extinction. In contrast, Southern NGOs usually work on people's awareness and education, advocating the control of pollution and illegal logging while at the same time considering poverty and human rights issues. However, both NGOs from the North and South share similar roles in influencing environment related policies through lobbying, advocacy or other means such as direct action. It is also recognised that NGOs from the two different worlds often come together in particular environmental conflicts. For example, Rumansara (1998) describes a joint campaign concerning a dam construction in Indonesia.

5.4.2 NGOs in Indonesia

The development of NGOs in Indonesia can be discussed from many points of view, for instance according to their paradigms, activities, or by reviewing their development. Eldridge (1995) categorises Indonesian NGOs into three groups: firstly, he identifies 'High-level Co-operation-Grass-roots Development' NGOs which co-operate with the state's development programs, foster public participation, and accommodate state structure; secondly, 'High-level Politics-Grass-roots Mobilization' NGOs that are more critical of the state and support advocacy at the policy-making level; thirdly, there is 'Empowerment from below' which is more localised and distanced from the state, which avoids involvement but directly empowers small groups within communities to build their confidence and skills (Eldridge, 1995: 35-38).

In addition, he adds another category, which is not a NGO and takes a radical stance to the state and NGOs by opposing the state and criticising established NGOs (Eldridge, 1995). Analysis put forward by Eldridge is useful, though in reality the categorisation is not always clear-cut for these groups. NGOs often play multiple roles in terms of their relationship to the state. For example, there are NGOs that cooperate with the state at one time but at another time may confront it.

Table 5.2 Matrix of Three Paradigms of Indonesian NGOs

Orientation	*Three NGO Models*			*New radicals*
	1	*2*	*3*	*4*
Stance v. official development programmes	Co-operate; foster community participation	Critical collaboration	Avoid involvement	Oppose
Attitude toward state structures	Accommodate	Reform	Maintain distance	Oppose
Concept of democracy	Participatory problem solving	Balance economic and political right	Grass-roots initiative	Direct decision-making
Popular mobilization	Small-group formation	Economic programmes; promote awareness	Empower small groups	Mass action and demonstrations

Source: Eldridge (1995: 36)

The most obvious variation is the NGOs' size and location which tends to polarise them. Big NGOs in large cities usually take the first and the second of Eldridge's model (Table 5.2). They often work alongside government departments which are considered pro-environment, but they also criticise those departments' policies followed and lobby to reform the policies. These big NGOs can be easily recognised since they usually dominate publications in the mass media. Their typical activities are environmental advocacy and lobbying. Prominent activists from this type of NGO usually seek a formal political or business career after finishing their service in a NGO.

In contrast to the big NGOs, small scale NGOs tend to work at the grass roots level which are similar to the third Eldridge's model. Their activities are usually aimed directly at empowering the poor or marginalised communities. They are not widely known and remain local in their activities, and often work in remote areas. However, most of these small NGOs are self-reliant in terms of financing their own activities. This type of NGO does not seek to avoid a relationship with government as suggested by Eldridge. The absence of government relationships is often due to their remote operating area. Some of these NGOs will not reject any support from government if available and they will often work closely with local government.

Figure 5.3 Polarisation of NGO in Indonesia

Small NGOs

Also known as developmentalist, small scale, direct empowerment, operating at local or remote area, transformative, not widely known, self-reliant
Example: Sanggaria Atiati, LMMA, Dian Desa

Big NGOs

Dominate media publications, advocative, elitism, lobbies and reforming policy activities. Their activists often seek business or political careers
Example: WALHI, SKEPHI, LBH, JATAM

Again, the above division of NGOs is not simply a dichotomy. There are big NGOs operating in remote areas, but it is almost certain that small NGOs cannot operate in a way that big NGOs can. Apart from the dichotomy, there are distinctive NGOs that focus their activities on the education sector and relief or charity. They may have some of the characteristics demonstrated by Eldridge ranging from the first to the third model. In addition, the fourth Eldridge's model could differ from the style of NGOs. It is more akin to a mass movement led by students or prominent NGOs, yet the mobilisation is usually not a permanent movement. Mass actions or demonstrations, which are outlined in the fourth Eldridge model, usually involve NGOs and other components of society but they are not integral to only one organisation like a NGO.

In comprehending NGOs in Indonesia, different perspectives emerge. For example, Korten (1987) divides NGOs into groups according to their strategic role in empowering community and according to stages of a NGOs involvement. At first glance, NGOs give assistance (similar to charity) followed by the initiation of small scale and self-reliance activities and finally the implementation of a sustainable development strategy. Fakih (1996) categorises NGOs according to their vision and paradigm: conformist, reformist, and transformist. Furthermore, one can also examine the phenomena of NGOs in Indonesia according to the chronological order along with the nature of each governmental period respectively. The development of Indonesian NGOs since they emerged in the Indonesian political scene is outlined below.

The emergence of NGOs in Indonesia can be traced back to the early 1900s when the first known Indonesian NGO-like organisation was founded: the Boedi Oetomo (1908), a NGO within the education movement. At the time, many NGO movements aimed to fight colonial power. Although NGOs were established by mostly educated groups and many religious groups such as *Indische Partij*, Islamic Trader Union (*Sarekat Dagang Islam*, 1911), Islamic Union (*Sarekat Islam*, 1912), *Muhammadiyah* and *Nahdlatul Ulama* (Sumartana, 1997: 130), the general theme was nationalism. Eldridge (1995) agrees with

this notion of early formation and adds several names such as *Taman siswa* (1921) and the Association for Indonesian Nation (*Persatuan Bangsa Indonesia*, 1930s). He cites Rahardjo (1990) to emphasise that the movements operated without government support and played an important role in the national struggle for independence (Eldridge, 1995: 13). Indeed, most Indonesian historical literature includes these organisations. Yet, the literature refers to them as nationalist movements rather than NGOs.

After independence in 1945, NGO activities were still in the context of supporting the new state. This is in parallel to the theory of building a civil society where the state and NGOs work side by side to develop a nation. This continued under Soekarno's government until 1966 when a coup took place and changed the relationship between the state and NGOs. Eldridge (1995) ascertains this by stating that after the Soekarno era, during which the government and NGOs had a fairly relaxed working relationship, a *laissez-faire* climate came to an end in 1971. He also argues that the upheavals of 1965-66 were "followed by systematic depoliticization of Indonesian society" (Eldridge, 1995: 46). The new government, calling itself the 'New Order' under Soeharto, strongly controlled any form of organisation outside the state with the justification of preventing upheavals. Many civil groups disappeared and the state seemed to become stronger and it controlled all civil affairs. The situation of distrust among civil groups seemed to be created by the government to contain opinions of dissent. Any dissenting group was easily accused of being Communist-inspired and thus removed.

What Eldridge (1995: 2) calls the 'culture of silence' continued under the Soeharto regime. However, in the era of deregulation and a few opportunities provided by the government, NGOs started to grow in the 1980s. Princen and Finger (1994: 2) claim that in Indonesia there was a formal network of 79 NGOs in 1980 which had grown to over 320 by 1983 and over 500 organisations in 1992. The number of NGOs started to grow and be recognised by the government, although they were still tightly controlled by legislation. A study by Eldridge comprehensively addresses the relationship between the Indonesian government and NGOs (Eldridge, 1995 and in Schiller & Martin-Schiller, 1997: 198-228). However, this is limited to the era of the New Order, which collapsed in 1998 due to economic pressure and a resurgent reformist movement.

It is interesting to consider the development of NGOs in the New Order era, since the form of NGOs as an alternative to the government became clear. A critical point is use of the term '*LSM*' or '*Lembaga Swadaya Masyarakat*' (Self-Reliant Community Institution) instead of '*ORNOP*' or '*Organisasi Non Pemerintah*' (literally translation of Non

Governmental Organisation). It is believed that the chosen name softened the image of direct confrontation with the government (see also Potter, 1996). Aditjondro (1993: 3-24), in a NGO seminar, suggests that the term LSM is an attempt by the state to confine the real meaning of NGOs. He points out that use of the term LSM started in the 1970s to depoliticise the real paradigm of NGOs as well as to control their political power, yet at the same time, the government presented LSM as a positive development to foreign countries through the media. Eldridge (1995) comments that the term LSM reflects a self-reliance concept in the Indonesian context, although he also ascertains that the use of the term LSM around 1983 was "motivated by political necessity and designed to avoid the appearance of confrontation" (Eldridge, 1995: 12-13). Setiawan (2000: 311) claims that utilisation of the term LSM is manipulative and puts people in a subordinate position to other groups such as technocrats.

In this period, there were also many critiques of NGOs, for example Encip (1996) who criticises NGOs as being vocal on some issues (including East Timor) but say nothing about human rights violations in other places. Other criticisms were made regarding funding sources and the tendency of NGOs to follow donor interests without any reservations. Setiawan (2000) also indicates that NGOs were labelled as troublemakers and state critics by the general public in the 1990s. NGOs also realised that to some extent there was a further gap between NGOs and the public (Fakih, 1993). Fakih (1993: 1) also identifies the fuzziness of NGOs' vision in Indonesia and their paradigms in the democratisation process as being influenced by the state dominant ideology.

However, there were obvious attempts from NGOs to understand these and to correct themselves by means of auto-critique and self-correction. NGO activists always use these means to further the development of NGOs. Debates regarding the issue of the term LSM was maintained along with the terms 'LINGO' for 'Little NGO'; 'BINGO' for 'Big NGO' where big NGOs tend to dominate and dictate little NGOs in their network activities. The term 'GONGO' or 'Government Organised Non-Government Organisation' was another critical issue in their discussions. This period was also marked by the success of many NGO cadres in gaining entry to some arms of the government bureaucracy. Many of them often began to raise democracy issues in government institutions where they were employed. Idealistic NGOs also started to publicise the results of their activities to build some confidence with the public. On the other hand, the state continues in its attempts to control NGOs, and it could be argued that perhaps the GONGO phenomenon was one effort to discredit them.

An important event in the development of NGOs in Indonesia was the period after the New Order. There were claims that the collapse of the regime was due to social movements such as in the Philippines in 1986, where NGOs participated. However, it seems that market forces were the predominant factor, although civil or social movements and the market were joining to challenge the state. Though NGOs anticipated the political unrest, they seemed to be trapped in the exercise of pro-party political power. This is indicated by the involvement of previously prominent NGO activists in the government circle. For example, a prominent activist became a cabinet member in the Habibie period. Although the state appointed him as the Minister of Cooperative and Small Scale Entrepreneurship, which has a close relationship with community development and recognised as a NGO area, it compromised the role of NGOs as a counter to the state.

This was a critical point because it seemed that NGOs were not ready for sudden political changes. As Setiawan explains, this was due to the lack of an organised opposition (Setiawan, 2000: 298). This period was also marked by the growing number of organisations labelling themselves as NGOs but were not NGOs at all. Prominent NGOs labelled them as 'fake NGOs' who manage to capture funds from foreign donors only to then disappear. For example after the 1997 economic crisis, there were so called funds for a 'Social Safety Net' program that distributed money to the public by way of NGOs.

Further turbulence in NGO affairs occurred when Abdurrahman Wahid, a prominent NGO activist from *Nahdlatul Ulama* (and from several other NGOs) become President in 1999. This was contrary to the basic theory of NGOs where they should exist in opposition or as an influencing factor on the state, yet in this case the traditional NGO role was compromised. With the President came several former NGO activists such as the Minister of Regional Settlement and Infrastructure and some others in the inner circle of political power. Criticism was directed to this phenomenon, for example by (Thaha, Ridwan, Djauhari, & Firmansyah, 1999), Sinaga (1999 in Rusmitantri, 1999), and Masha (1999). They noted the hesitancy of NGOs to voice their criticisms since the president was still considered to be a NGO activist.

Despite being a short-term President, Abdurrahman Wahid has left behind an incomprehensible legacy in NGOs affairs. He was greeted by NGOs since there were expectations that the President would more easily accept NGOs' vision, but on the other hand, there were anxieties when it comes to criticising the government. As Setiawan notes the Abdurrahman appointment proved that NGOs' cadre can obtain a top position in

government. Although he was expected to represent his NGO's views, other NGOs found it difficult to play their role of criticising the government (Setiawan, 2000: 315).

More recently under President Megawati's leadership, it seems that NGOs have learned from previous experience. They have become more careful in their activities. Similarly, the new government plays safe with NGOs. Now, no NGO activist explicitly sits on the government or related positions, yet some of them are playing an important role in the inner circle of political power. For example, they are in advisory positions to the President or expert staff to some ministers. It appears that NGOs returned to their traditional role and these could be seen as a way of 'greening' from the inside. Studies regarding the redefinition of Indonesian NGOs continue, for example in "*Perjuangan Demokrasi dan Masyarakat Sipil: Reposisi dan Peran Ornop/LSM di Indonesia*" (the reposition and role of NGOs in Indonesia) (Setiawan, 2000).

5.4.3 Environmental NGOs and EIA in Indonesia

The growth of environmental NGOs in Indonesia corresponds to the development of other general NGOs. The history of NGO formation in Indonesia shows that environmental NGOs are the third generation after the nationalist movements, which fought colonial power. They were formed following the second generation of developmentalist NGOs and emerged at the early Soeharto period. The first environmental NGO was formed during the 1970s (BAPEDAL, 2001c; pers. comm. with a NGO activist, 2001; see also Aditjondro, 1993 and Eldridge, 1995): the 'Group of Ten' (*Kelompok Sepuluh*). Later on, other environmental NGOs were formed in the 1980s such as the WALHI (*Wahana Lingkungan Hidup Indonesia* or the Indonesian Environment Network) (Eldridge, 1995). The literature shows that environmental NGOs soon gained a special position in the international arena since there were many international forums on the economy, environment, population and gender issues (Fernando & Heston, 1997).

The literature frequently refers to Prof. Emil Salim, a prominent academic who promoted and supported the formation of NGOs in Indonesia. He was recognised particularly among environmental NGOs for his commitment to developmental and environmental issues, and his position as State Minister for Development Supervisory and Environment since 1978 (BAPEDAL, 2001c). Later he became the Minister for Population and Environment until 1993. Eldridge (1995: 15) reports that Prof. Emil Salim, who is regarded as sympathetic to NGO activities, influenced NGOs' affairs by advising them to use the LSM term, which emphasises self-reliance. Aditjondro (1993) strongly criticises him and other activists for

renouncing the term NGO that in turn downgrading the role of NGOs as the advocate of opposition to the state. However, Eldridge (1995) sees a value in the term LSM and states that from it comes a distinct characteristic of Indonesian NGOs which is the concept of 'self-reliance'.

Further in the context of Indonesian NGOs, Setiawan concludes that the characteristics of Indonesian NGOs are:

- Non-profit
- Non-discriminative
- Non-partisan
- Non-sectarian
- Non-violence
- Critiques development
- Part of civil society movements (Setiawan, 2000: 294).

More specifically, Eldridge (1995) labels the environmental NGOs in Indonesia as being critical to the government and advancing reform orientation. He elaborates further in Schiller and Martin-Schiller (1997: 217-218) that these NGOs work directly to change public opinion about developmental paradigms through advocacy activities. It is an interesting and quite obvious characteristic of environmental NGOs in Indonesia which puts emphasis on advocacy and political lobbying on governmental levels. They are different to other NGOs which operate in direct community development activities, yet they often create a bigger network and coalition with other NGOs to challenge the government on environmental issues. For example, concerning the development of the dam "*Kedung Ombo*" in 1980s, environmental NGOs such as the Indonesian Environment Forum (WALHI) along with legal advocacy and human rights NGOs joined a bigger NGO coalition: the International NGO Group on Indonesia (INGI) (Rumansara, 1998). The alliance was created to challenge a dam project which was financed by a consortium of governments and banks: the Inter-Governmental Group on Indonesia (IGGI).

Environmental NGOs have been involved in the formulation of environmental policies since the 1980s. The first Indonesian environment law in 1982 was an important result of the close relationship between the government and NGOs, especially WALHI (Eldridge, 1995). The Act 4/1982 clearly accommodates a significant provision of NGOs' interests, for example Article 19 of the act ascertained the NGOs' right to participate in the implementation of environmental policy. This is interesting since this phenomenon can be

seen from contrasting views. One can consider that it was the effort of government to incorporate NGOs. This is also suggested by Aditjondro (1993) who argues that the critical timing of incorporating NGOs was during the drafting of the environment law 1982 by confusing the term NGO with LSM as self-reliant organisations. He further claims that the 1982 law is "the only environment law in the world that lists a specific clause about NGOs" (Aditjondro, 1993: 4). However, some NGOs view this as a success in terms of influencing the government (WALHI, 2001).

Specific provision on EIA was laid down in Article 16 of Act 4/1982, stating that EIA is used for any plan which is predicted to have significant environmental impacts. A further step was made by WALHI to influence the formulation of EIA policy resulting in the Government Regulation No. 29 of 1986. According to Hardjasoemantri (1989), the regulation was established as a result of regular interaction between the government and WALHI (Hardjasoemantri, 1989: 13). However, according to Eldridge (1995), neither was the EIA mainly initiated by the government to elevate its legitimacy, nor due to the strong demands of NGOs. He argues further that other pressures came from foreign donors to set environmental regulations, though the most probable factor was the role of minority intellectuals and planners who promote the importance of EIA (Eldridge, 1995).

The role of NGOs in the EIA regulation of 1986 was limited. However, the role of NGOs is not dominant since other members of the Commission mainly come from the government and "NGOs are only represented on non-standing committees" (Eldridge, 1995: 138). Similarly, Heroepoetri (1993: 45) claims that "the domination of bureaucrats in the EIA committees is very strong". Hence, in decisions regarding proposals, NGOs cannot influence the final decision on EIA approvals. When NGOs take part in the EIA review process, they usually put forward many critical issues ranging from the social and economic to the technical feasibility of the EIS draft. They also often represent directly affected communities and advocate their interests.

Amendment of the 1986 EIA regulation in 1993 did not significantly change the role of NGOs in the EIA process. The position of NGOs was still as the non-permanent member of the EIA Review Commission either at the national level or at provincial level as regulated in Articles 12, 17 and 18. It was stated that NGOs were expected to provide input related to the aspirations of affected communities. In 1997, further amendment was made to the environment act of 1982. There are not many changes in terms of NGOs' interests. The 1997 act uses the term 'organisation' to recognise NGOs, however there is no significant paradigm shift in viewing NGOs. Moreover, the new act adds that

environmental organisations have the right to take legal action on environmental conservation (Article 38, Act 23/1997).

Recent modification on the EIA regulation was made in 1999 by the enactment of Government Regulation 27/1999, which is still current. The term LSM is altered to "environmental organisations" where environmental NGOs are included. However, the formal explanation of Article 10 refers back to the term LSM for "environmental organisations". The position of the organisation in the EIA Review Commission is stated as the actualisation of the public's right to participate in the decision-making process. This is confusing since the new regulation also recognises the affected communities as having a position in the EIA Commission. NGOs are requested to represent the public, although they do not always achieve this, especially when the public is present in the Commission. Furthermore, there is no more differentiation of standing and non-standing status of Commission members for NGOs. However, compared to other members coming from the government, they are still in a minority.

In terms of formal requirements, the role of NGOs is limited in the EIA review process. Aside from the formal role, NGOs keep influencing the EIA policy and its implementation. For example, they propose that the government should provide accreditation for EIA consultants (Eldridge, 1995). NGOs also see the lack of EIA knowledge in the EIA Commission, either on the side of the government or NGO personnel. Supported by the Office of Environment Minister and carried out with the assistance of environmental studies centres, NGOs also promote EIA training. NGOs train and empower local people to inform the EIA process. Since formal EIA training is not simple for the local community, an innovative means of training was introduced through the "Barefoot EIA Training Workshop" (Eldridge, 1995).

Chances to improve the implementation of EIA were carried out by NGOs. However, limitations to access and overruling EIA decision-making make the overall role of NGOs less significant in the EIA process. When NGOs cannot change the EIA decision, they usually utilise other means such as lobbies or environmental campaigns. These have a bigger effect on development proposals and can attract more attention than the EIA process. To some extent, EIA documentation is useful for NGOs since statements in this documentation are often used in advocacy. However, scepticism toward EIA still shapes the attitude of many NGOs. Some of them believe that EIA is only a government vehicle supported by the proponent to incorporate NGOs and justify the proposal by claiming that NGOs have been involved and have agreed upon the proposal.

CHAPTER 6 – THE EIA PROCESS IN THE CASE STUDIES

6.1 Introduction

In Indonesia, government-led development has created economic disparities among areas or regions. Given the extent of the Indonesian area and the extensive island archipelago, efforts to distribute development outcomes are not simple. As a result, public facilities and infrastructure are unevenly distributed in Indonesia, although in general the government of Indonesia has succeeded in reducing its dependency on external resources and alleviating poverty (Soetrisno, 1995: 43-44). Moreover, Soetrisno claims that the government has not yet developed a good social and cultural structure and this is reflected in the low level of people's participation in the overall development process.

Since the 1997 monetary and political crisis, the disproportional results of development are more obvious among Indonesia's localities. The development seems to be polarised in some areas. The area around the capital city of Jakarta as the centre of national activity is likely to have the most wealth from development, and consequently much infrastructure such as transportation and communication facilities are concentrated in this area. Similarly, indirect results of non-physical development such as the level of education and health are also unevenly distributed. In general, the further an area from the centre of government the less it develops. For example, *Badan Koordinasi Tata Ruang Nasional* (1999) highlights the differences of 111 cities in Indonesia in terms of the distribution of infrastructure. Consequently, people tend to congregate near the centres of activity.

The study investigates processes and the levels of public involvement in the development and planning process, particularly in the EIA process. It is expected that the level of public involvement will vary in each area due to a variety of factors including those referred to above. Therefore, the selection of case studies is based on the hypothesis that in Indonesia more intensive public involvement in the EIA process will occur for projects which are closer to the centre of government administration or to the centre of development activities. Another critical factor is the population number or density where a greater public involvement is likely to occur in heavily populated areas. Table 6.1 shows the comparison of population density and distance from the capital city.

Table 6.1 Population in the Case Studies Areas and Distance from Jakarta

Province, city, sub-district and village	Key data				
	Area, km2	Household number	Population	Distance from the capital city, km	Population Density
DKI Jakarta province	590[6]		**8,389,443**[1]	0	14,219 p/km2
10 Sub-districts and 38 villages in 4 municipalities		396,845[2]	1,415,128[2]	0	sample = 120
West Java province	46,300[6]		**35,729,537**[1]		772 p/km2
Purwakarta district	971.71[7]		698,353[7]	93[7]	
Sub-district Babakan Cikao, Purwakarta, West Java	42.40[3]	10,388[3]	35,175[3]	Circa 100	
Cilangkap village	4.38[3]	1,343[3]	4,941[3]	Circa 100	
Conggeang and Narogtog		112[3]		Circa 100	sample = 56
Papua province	421,981		**2,220,934**[1]		5 p/km2
Manokwari district	37,901[8]	52,707[8]	201,455[8]	Circa 4,000	
Sub-district Babo, Manokwari district	11,670[5]	2,777[4]	9,749[4]	Circa 4,000	
Tanah Merah & Simuri villages	934[4]	136[4]	714[4]	Circa 4,000	sample = 68

Source:
[1] 2000 BPS Population Census, www.bps.go.id/sector/population/table1.shtml
[2] KA ANDAL MRT 2000, revised by 2000 census data from http://www.bps.dki.go.id/ June 14, 2003
[3] Numbers in Purwakarta district, BPS, 2002 in KA ANDAL IBR
[4] Bintuni Monograph 2000 in KA ANDAL LNG Tangguh 2000
[5] http://www.indonesia.go.id/home_01.html
[6] http://202.159.18.43/data/tabel1.htm (INFOSIA Sistem Informasi Indonesia)
[7] http://www.pikiran-rakyat.com/petapotensi.php?id=4
[8] http://www.cendrawasih.or.id/Info/profil_singkat_kabupaten_manokwari.htm
[8] http://www.manokwari.go.id/in/

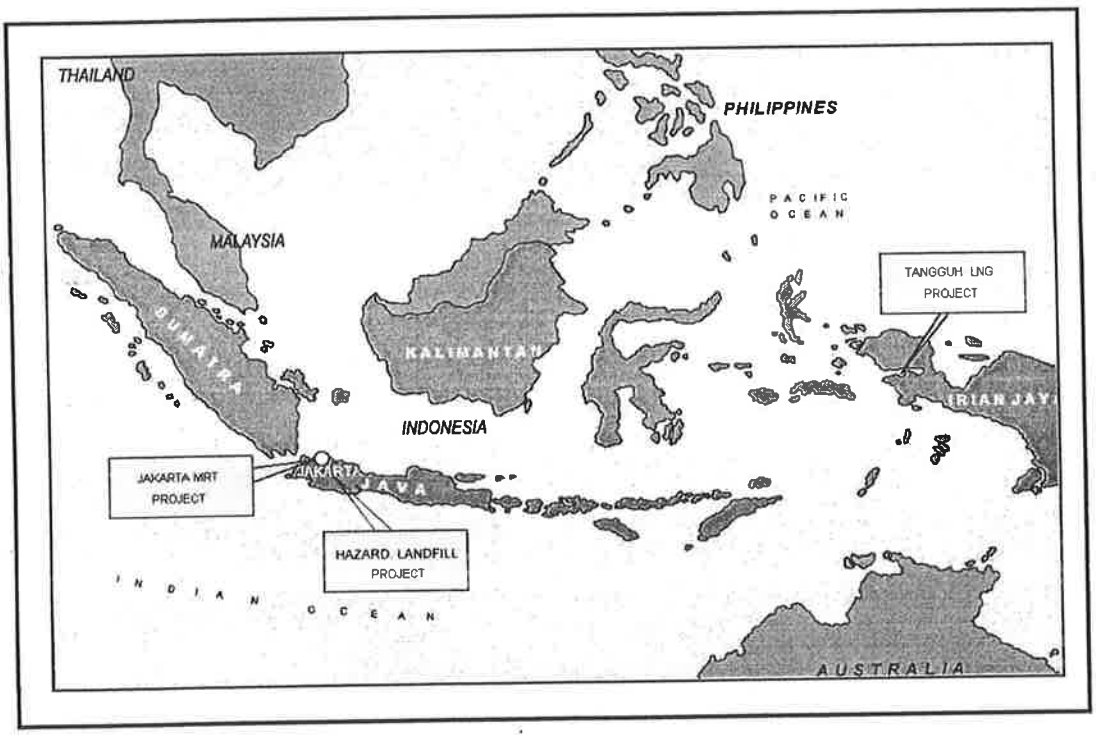
This chapter starts with the presentation of case study selection criteria. The case studies were chosen based on the two main criteria of distance from the centre of development activities and population. Specific criteria for each case study are also put forward. An overview of each case study is provided later in the chapter outlining project description, its administrative requirements and the chronology of events in the EIA process, major issues, level of public involvement, and the outcome. The process of public involvement is summarised under the section of main issues for each proposed project in order to provide a background to the discussion in the next chapter.

6.2 Case Studies Selection

These case studies are expected to show a clear picture of the implementation of public involvement in comparison to the theoretical framework of written administrative procedures. Different forms of involvement are evident from each case study, as well as interactions between EIA actors in achieving their interests. Therefore, different perceptions and attitudes of the EIA stakeholders can be observed. The case studies are expected to reveal a better understanding of the practice of public involvement in the Indonesian EIA process.

Three case studies were selected to highlight the different modes of public involvement. The relative position of cases to each other is shown in Figure 6.1. The first case study is located at the centre of Indonesia's capital city, Jakarta, which is expected to have a very high-level of public involvement since the area has more people and is the centre of development activities. The EIA case study is a Mass Rapid Transit project that consists of flyovers and subways.

Figure 6.1 Location of the Case Studies



The second case study is located in a middle-sized city, which is still relatively close to the capital city. A Hazardous Landfill project in the Province of West Java adjacent to its administrative city is chosen. A middle to high level of public involvement is expected. The

third case study represents a public involvement process in a remote area where access to communication facilities is inadequate. This case is a Liquefied Natural Gas (LNG) project located in West Papua, situated between the mouth of Berau Bay and the neck of the Bird's Head region. More detailed factors relating to each case study are outlined below.

- Case study 1: Jakarta Mass Rapid Transit (MRT) project
  - There are many established large NGOs which are situated in Jakarta. Consequently, they often become involved in activities in the Jakarta area.
  - Many members of the local community are relatively well educated and these range from ordinary citizens, NGOs and university experts.
  - Communities are well informed since communication facilities are relatively advanced and well distributed.
  - The location is the centre of activity, within either the economy, physical development or administration.
  - Many projects or activities by their nature are complex.
  - In addition to the local communities, there are many observers besides the usual stakeholders such as politicians, experts from universities or related government agencies.

  The first case study emphasises observations on the roles and activities of NGOs taking part during the EIA process or implementation. Observations of other stakeholders' perspectives have also been carried out. This case study represents the complexity of public involvement in a big city.

- Case study 2: West Java Hazardous Waste Landfill project
  - Several developed NGOs may take part and it is quite possible for them to be involved in the public involvement process.
  - The location is relatively near to the capital city; hence, any environmental cases will attract interest from many EIA stakeholders.
  - The province is well known as being a centre for educational activities, particularly Bandung city; hence, the people's involvement may be of a moderate to high level.

  The research in the second case study will focus on observing the traditional means of public involvement.

- Case study 3: West Papua Liquefied Natural Gas (LNG) project

  The EIA process in this case study may be complex and the communication may be limited due to its distance from Jakarta.

  - Limited direct central government control in terms of environmental management supervision;
  - Limited involvement of well-managed NGOs which often operate on behalf of people or support less-educated people while long distance and financial constraints may restrict their involvement.

  The research in this case may focus on the perspective of proponents and local communities during the public involvement process.

6.3 Jakarta Mass Rapid Transit (MRT) Project

The provincial government of DKI (Special Capital City Area) Jakarta has for some time been interested in the development of modern transportation facilities for its metropolis. This is now more urgent because of increased economic activity and population growth, which has put pressure on its transport facilities. Furthermore, the growing number of private cars due to limited public transport facilities has made the existing traffic management worse. These conditions cause traffic jams, psychological stress, and increased time and travel cost. Therefore, the provincial government planned to develop facilities in cooperation with the Department of Transportation from the central government. A Master Plan 1985 – 2005 for Jakarta and surrounding area has been drawn up based on studies conducted by the Japan International Cooperation Agency (JICA) in 1987 (Department of Transportation, 1992: 7) and others.

A big effort in transport planning was undertaken in 1997 before Indonesia's economic collapse in mid-1998. At that time, freeway construction businesses were booming and profitable. This led to a company owned by President Soeharto's family becoming involved in the transportation industry. A project called "Triple Decker" was proposed in 1997 to build a transportation system that comprised of LRT (Light Rail Transit), freeway, interchange, and flyover connecting an outer ring road and an inner city transportation system. The political situation at that time assisted the planner to accomplish all requirements including administrative procedures, funding, and government regulations. The EIA process was finalised within five months. A presidential decree and governor's

decree were issued to support the project. However, sudden political changes in 1998 altered these plans and the Triple Decker project was abandoned.

Discussions and publications regarding the development of transportation facilities are continuing in the formal forum among high-ranking government positions (for example in MC1001, Kompas, 2001b). The provincial government of Jakarta has often promised the development, but people were lukewarm to the plan. This continued until early in 2000 when the Department of Transportation submitted a new proposal with some modifications in its plan and put forward a new mode of transportation system called MRT (Mass Rapid Transit). The description of the project below is mainly extracted and translated from the EIA documents (Departemen Perhubungan, 2000).

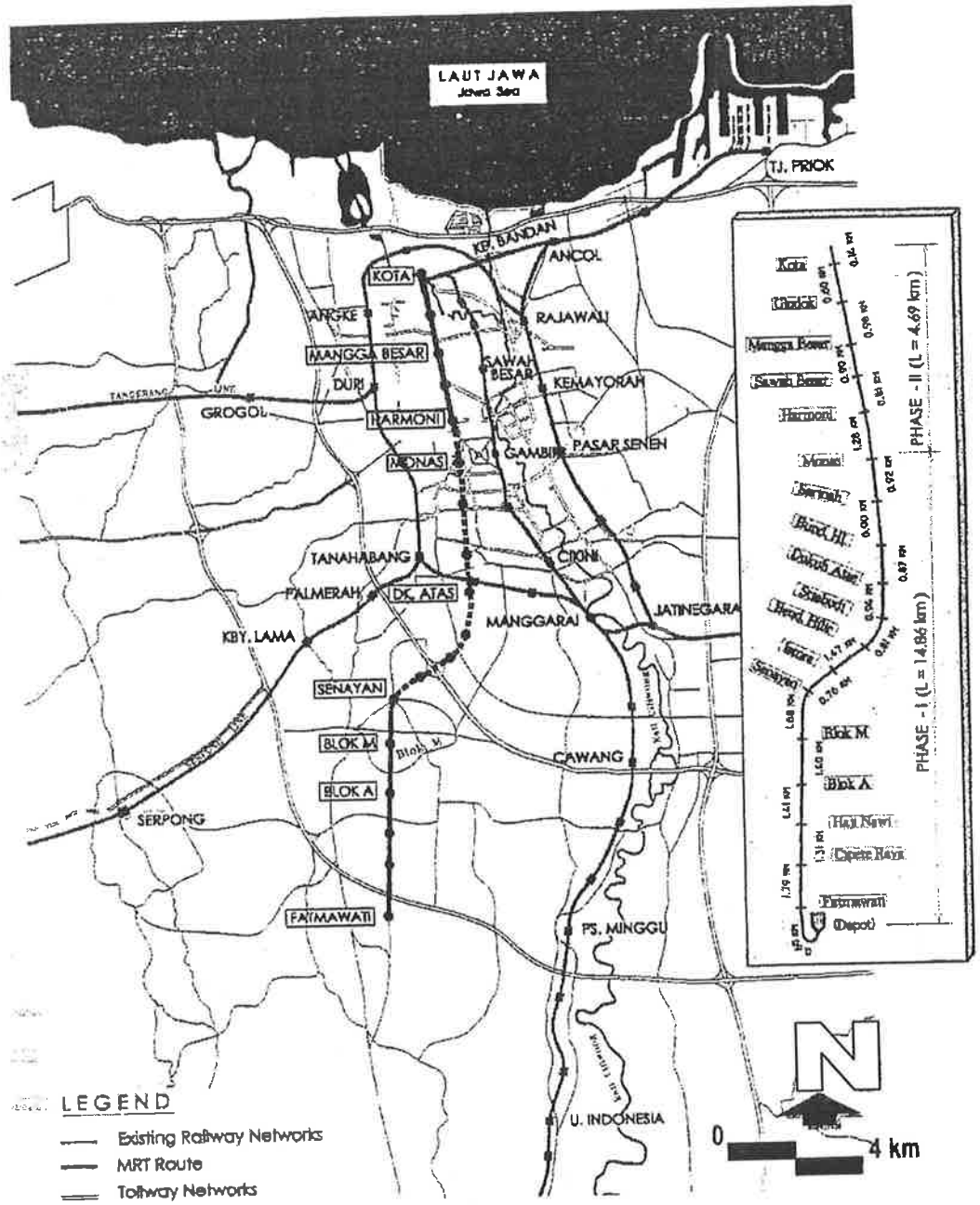
The EIA process for the MRT commenced in May 2000 with the submission of EIA Terms of Reference for review (Departemen Perhubungan, 2000). Changes in political, governmental affairs, and investment policies constrained the EIA process. Hence, the EIA process was not completed until September 2001. One critical reason was the adjustment to decentralisation which started in 1999, moving the EIA review process from central government to the provincial level. Modifying the previous Triple Decker proposal, the MRT plans to develop a shorter route and concentrate its services on the South and North areas of Jakarta. A map of the development plan is presented in Figure 6.2 below.

6.3.1 Environmental Setting

The proposed project site is entirely within the built environment. There is only limited natural environment except some city gardens and an open space for a golf course (19.6 hectares), which will be replaced by the planned train depot. A total of 56,75 hectares will change in its usage. Since the area is within the city, it is likely to have a social impact and require compensation for all involved communities (Departemen Perhubungan, 2001).

The planned route will utilise the existing traffic route, which for a long time has had poor air quality (JICA, 1987). Noise level increases have occurred due to additional cars each year, which during the peak time can reach 80 dBA. The existing roadway has been very congested and reaches 12,012 unit cars per hour during peak time. During this time, cars can only move at a speed of seven km/hour (Departemen Perhubungan, 2001).

Figure 6.2 The Route of the MRT Project



Source: Departemen Perhubungan (2000)

Figure 6.3 Existing Traffic at the Proposed Site of MRT Project

Source: Field observation

The above conditions are worse because land use regulations are not well enforced. Many sections of road are spoiled by illegal temporary buildings adding to the congestion. Similarly, street hawkers who try to sell their goods in the middle of roads and the improper use of traditional transportation (*pedicab* and '*bajaj*' cars) in the main road add to the inefficiency of Jakarta's transportation system. The existing system, commuters' behaviour, and unplanned urban development will make the introduction of a new system more difficult. Even with a modern MRT, the new system will remain unproductive unless, a good management system and law enforcement are introduced.

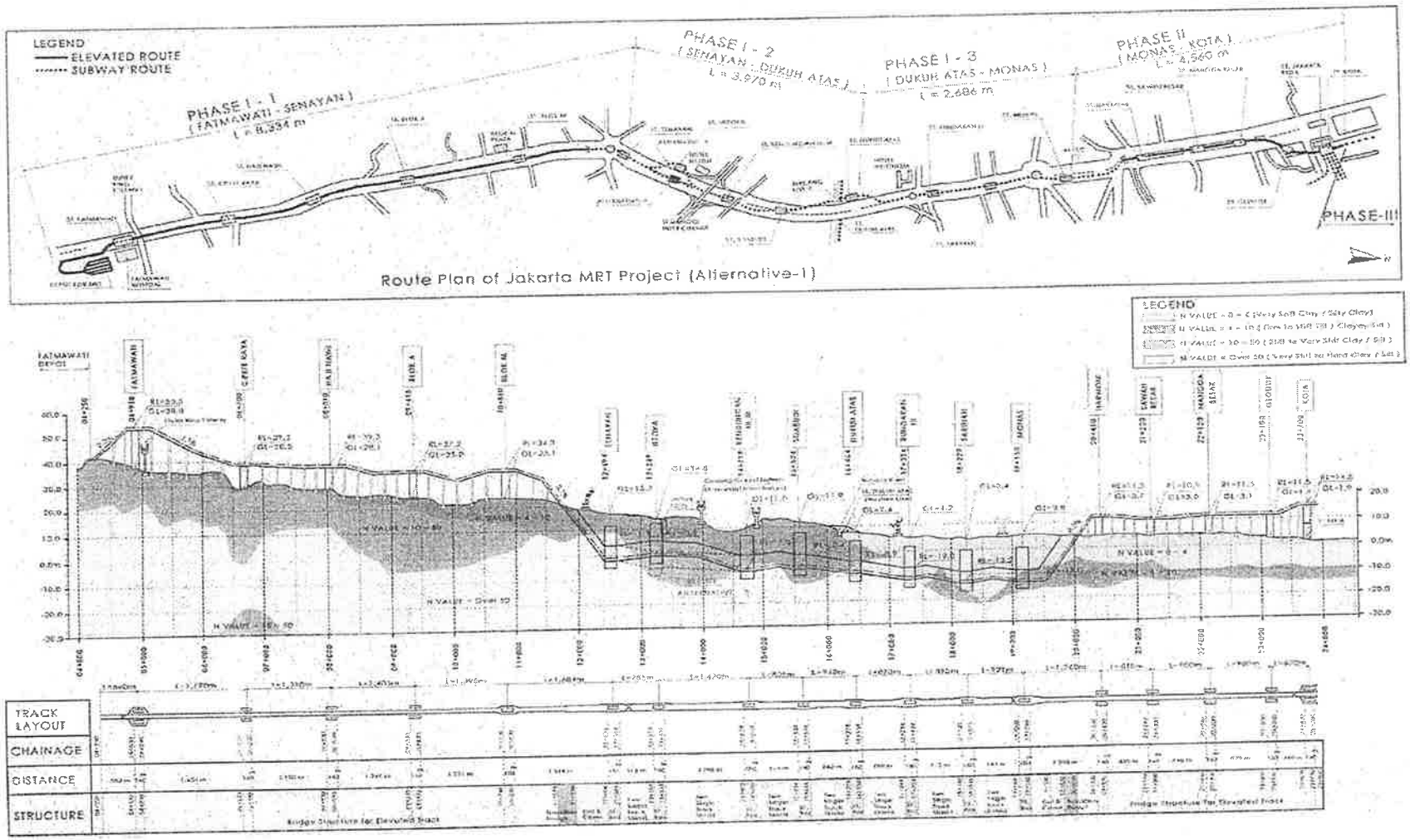
6.3.2 Project Description

The MRT proposed site is located in the middle of Jakarta and is planned to utilise the existing road alignments. The project proposes a main route along the South – North axis and connecting the Southern Outer Ring Road from Fatmawati Street to Kota area. It comprises a subway system (underground guide way) and flyover system (elevated guide way) (Departemen Perhubungan, 2001). The project is divided into two planning and construction phases, and the current EIA process only assesses the first phase. There are

two alternative designs (see Figure 6.4 and 6.5), in which the main difference is the construction design of the second phase. The first design combines a flyover construction for phase I.1 and phase II and an underground construction for phase I.2 and I.3, while the alternative plans a flyover for phase I.1 and an underground construction for phases I.2, I.3 and II.

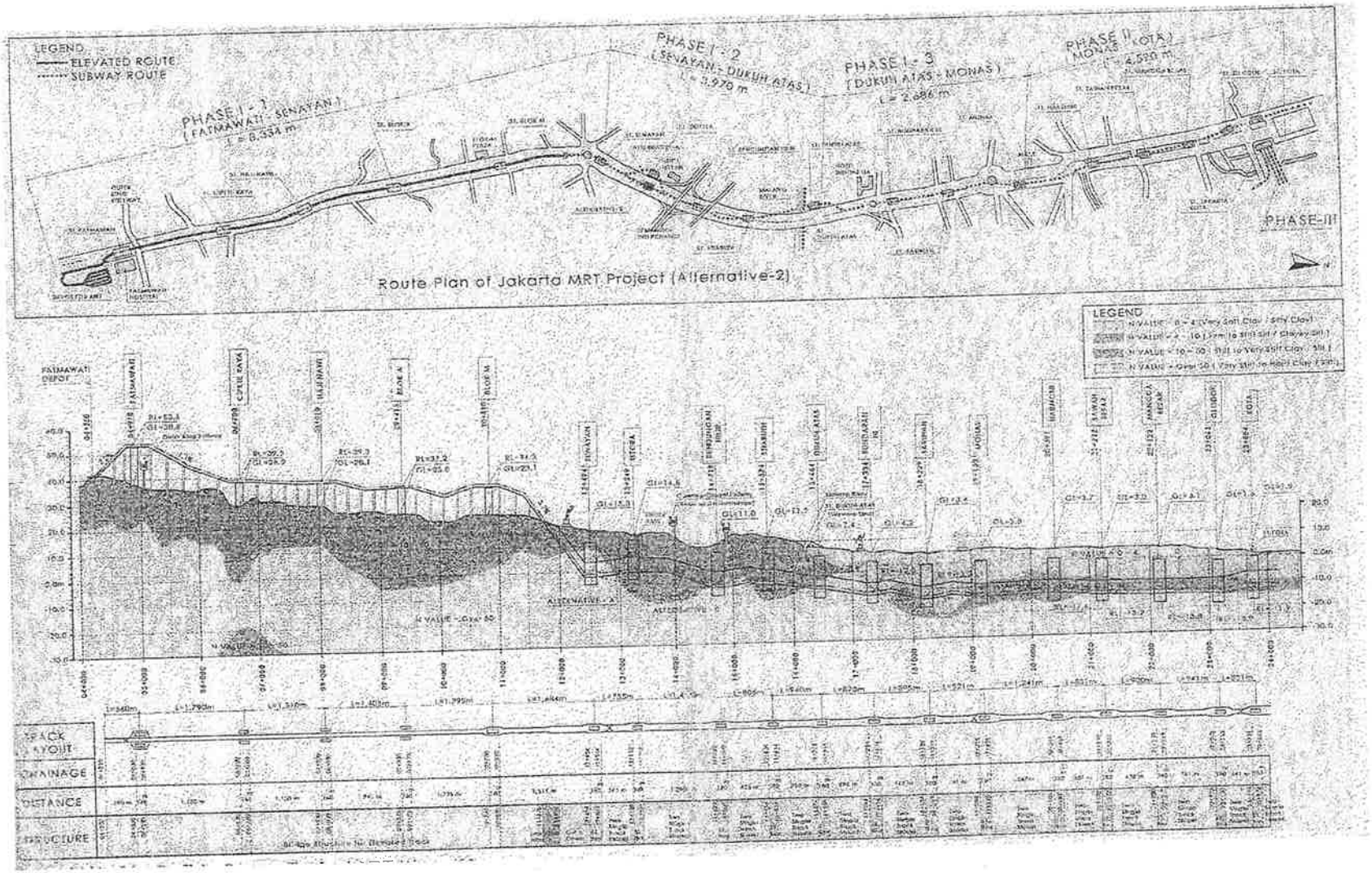
The first phase construction consists of a total of 15.25 km of transportation facilities (7.42 km overfly and 7.83 km subway construction) with five elevated stations and eight subway stations. This phase will provide trains designed to be 135 meters long and comprising six cars per unit. Trains will have a maximum speed of 90 km per hour and able to carry about 2,000 commuters on each trip with a maximum of 300 people per car (sitting and standing). Trains will operate from 06.00 hours until 24.00 hours with peak service interval of 10 minutes and per 15 minutes during inter-peak and evening.

Figure 6.4 Plan 1 of MRT Project



Source: MRT EIS (Departemen Perhubungan, 2001)

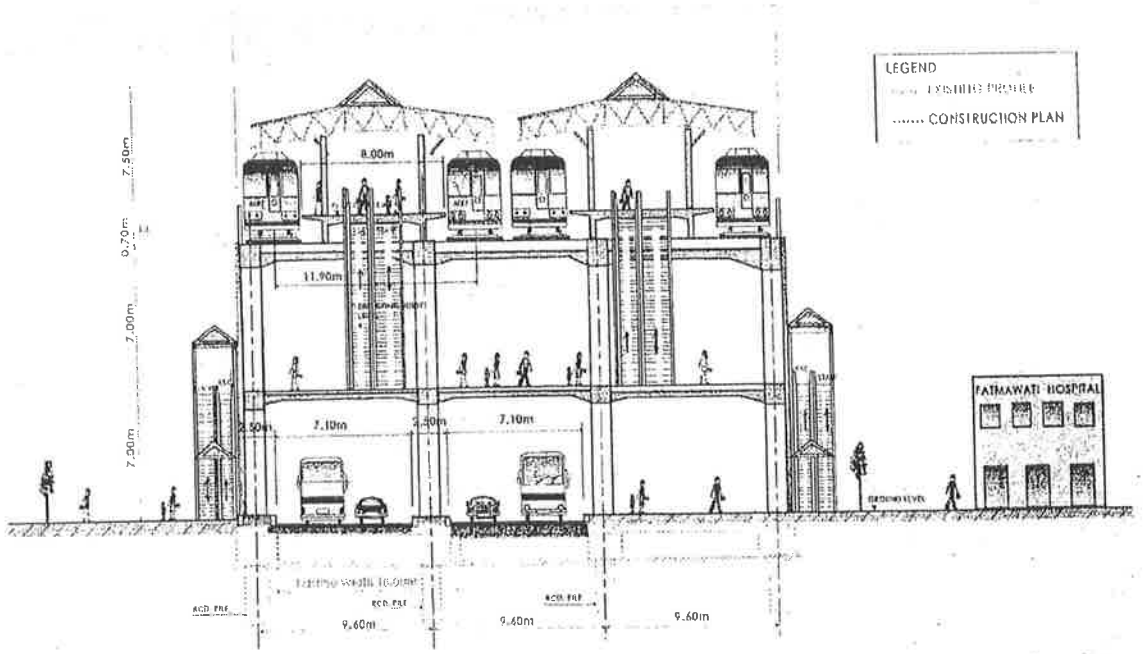
Figure 6.5 Plan 2 of MRT Project



Source: MRT EIS (Departemen Perhubungan, 2001)

The subway will be a minimum 5.5 m in diameter (twin single track shield type) with supporting facilities such as a drainage system and viaduct with 'two island' platform and 'three side' platform design. Other supporting facilities are electrical transmission lines, a communication system, train operation control, and a depot for train maintenance, workshop, and inspection purposes. It is estimated that the project will take seven years to finish (Departemen Perhubungan, 2001). An illustration of the construction is shown in Figure 6.6 below.

Figure 6.6 An Illustration of the 'Three Side' Platform Design



Source: MRT EIS (Departemen Perhubungan, 2001)

6.3.3 Administrative Requirements and Chronology of Events

The MRT is required to carry out an EIA under Government Regulation 27/1999. The proposal was submitted before November 2000. For this reason, the MRT proposal is not required to heed the Decree of the Head of BAPEDAL No. 8 of 2000 (*KepDal* 08/2000). However, in response to requests from the community and government in terms of the transparency of information, the proponent agreed to issue public notices and set a submission period for its EIA process.

Below is a chronology of the major events in Jakarta's MRT EIA process:

- August 1997: The first submission of the Triple Decker EIA documents
- October 1997: Presidential and Governor decrees supporting the Triple Decker project
- December 1997: Approval for Triple Decker EIA
- 1998: Triple Decker project abandoned
- 28 March 2000: Letter of Interest from the proponent to BAPEDAL
- 13 April 2000: Determination of the EIA process and the format of EIS Terms of Reference (TOR), agreed to carry out *KepDal* 08/2000
- 31 May 2000: Review of the EIS TOR by the EIA Review Commission
- 19 June 2000: Minutes of the EIS TOR review to the consultant
- 20 June 2000: Resubmission of the EIS TOR continued by correction process
- 29 August 2000: Response to the correction
- 1 June 2001: Approval of the EIS TOR No. 57/2001
- June 2001: EIS and EMPs are submitted to the EIA secretariat
- 11 & 17 July 2001: Transferring the EIA process from central government to the provincial level
- 18 September 2001: Public notice and invitation for submissions from the public
- September 2001: Preliminary EIA review process by provincial the EIA secretariat
- 2002 - 2003: Project proposal abandoned

6.3.4 Major Issues

From the very beginning of the EIA study, concerns have been raised by many parties. The issue of initial capital investment has never been clearly described and it is critical given the weak Indonesian economy. Therefore, concerns about additional loans, repayments and people's ability to repay the money are the main issue (for example in MC1004, Kompas, 2001b). These became critical concerns for the representatives of the Department of Home Affairs during the review EIS TOR in May 2000 (unpub. EIS TOR review minutes DC1G002, 2000). The representative of the Security and Defence Department expressed concern about the land acquisition and compensation process, which was also expected to be difficult. The disruption of local socio-economic conditions in the surrounding area was a further anxiety. The Tourism Department has questioned the replacement of a golf course adjacent to the Fatmawati Hospital. The concern was in relation to open space and green areas which are becoming rarer in Jakarta. Similarly,

representatives of the Health Department were concerned about the issue of project disturbance adjacent to the hospital, during both the construction and operational phases.

Some technical issues have been raised such as:

- Flood and drainage system for the subway;
- Disturbance and reduction of groundwater system;
- Soil subsidence;
- Disposal area for unused soil from subway digging areas;
- Material transportation;
- Traffic accidents caused by undisciplined utilisation of MRT facilities by commuters.

Redirecting the existing transportation route was also a major issue since the existing traffic is very congested. Without proper management, Jakarta's traffic system will become chaotic even more as has happened on many occasions (for example in MC1008, Kompas, 2001f). An assessment of the existing public transportation mode was also requested by the Department of *Kimpraswil* (Regional Development and Settlement). This related to the replacement of the existing transportation mode and the potential job losses of many bus drivers. Publication, promotion, and marketing of the proposed project were also suggested as part of the public participation process. This is in accordance with the main aim of the project in solving traffic congestion and encouraging the owners of private cars to alter their travelling habits and using of MRT facilities. There were also requests to change the design of the MRT since the train was designed to carry seven passengers per square meter (Departemen Perhubungan, 2001: IV-7). Obviously, this design would not be convenient to passengers, the MRT will not be utilised and thus the main problem would remain unsolved.

The methodology of the EIA study was also criticised. The identification and determination of sampling for social, economic and cultural surveys were not clear. There were no social experts employed to conduct the survey in its EIS TOR (Departemen Perhubungan, 2000). Furthermore, it is confirmed in the EIS that social issues are not fully assessed and economic impacts to the existing drivers (who will be replaced by the MRT) are not included in the document. Moreover, the consultant's suggestion to utilise the Lohani and Thahn method in its impact evaluation was also disapproved since the consultant used its own judgment, which was subjective, to justify the project's feasibility.

Many people in Jakarta, either residents or workers, expect to have better transportation facilities. Yet, in its implementation they also want a professional development which is

transparent in its administration, free from collusion, and paying attention to stakeholders' interests. Those who use the streets for work such as street hawkers, informal business people, traditional transport drivers, and existing bus drivers, demand that they will not be simply marginalised by the project. Certainly, the general community looks forward to having a more convenient and safer transportation system. In terms of environmental protection, concerns for the natural environment are not substantial since the proposed project is planned in the centre of an urban area. However, there is a need to maintain existing open spaces and green areas.

Although the project was predicted to have profound social economic effects, not many NGOs challenged the project. There were at least two large NGOs already involved in the transportation project in the capital city of Jakarta, namely Pelangi and WALHI. On the other hand, support for the MRT development came mainly from the provincial government of Jakarta. The Governor of Jakarta, provincial high-ranking officials, and members of the provincial legislature promised that the project will go ahead (for example in MC1001, MC1007, MC1002 Kompas, 2001a; 2001c; Kompas, 2001e). However, due to lengthy delays, Jakarta's population become sceptical about the commitment to the project (MC1007, MC1006, Kompas, 2001c; Kompas, 2001d). Furthermore, the transportation sector, which is represented by the Department of Transportation (i.e. the proponent), argued that the project is vital and only by providing mass transportation facilities can Jakarta's problems be solved. The National Planning Board also supported the project (The Jakarta Post, 2001).

6.3.5 Outcome of the Case

The MRT project proposal was finally abandoned and there are no further proposals to continue its EIA process. Some believe that the cancellation or delay is due to financial problems; the proposal does not have clear financial approval from the National Planning Board (pers. comm. with NGO activists, IC1G001; ICN001; ICN002, 2002). EIA ceased at the document preparation stage prior to the review process. However, there was no formal notice that stated the rejection or abandonment of the proposal. There are still many parties who are appealing to continue the planning proposal. For example, transportation experts still believe that the proposal is economically viable (Santosa, Basuki, & Gunawan, 2001) or is required to solve the transportation problem in Jakarta (Dikun, 1998). Similarly, Jakarta's local government keeps arguing that the project is a must as often stated by Jakarta's Governor (Kompas, 2001e; The Jakarta Post, 2001).

Delays occurred in this EIA process and this was apparent from the very slow responses of the consultant who prepared the EIA documents. The provincial EIA administrator tried to encourage the process (unpub. meeting minutes, 3 Aug 2001) but the proponent and its consultant never resubmitted corrections to the EIS drafts (IC1G001, 2002). However, the consultant was still optimistic that the project would continue (IC1C001, 2002). On the other hand, media coverage in Jakarta was not supportive toward the proposal and criticised the local government's planning processes, financial provisions and corruption (Kompas, 2001e, 2002a, 2002d, 2002e). Whilst there are many local problems related to technical matters (i.e. subway construction, floods, and solid waste), the current economic and political situation does not support the proposal's feasibility.

The proposal was changed temporarily to a smaller scale project, which did not involve any major construction, but was more a management attempt for traffic control. Jakarta's provincial government launched a program called the "Bus Way System", which was a program that involved a provision of 12.9 km of exclusive traffic lanes for public buses and purchase of new buses (Shahrir, 2002). After further delay, the Governor of Jakarta officially launched a trial phase of the bus way system on 28 February 2003 (Kompas, 2002b, 2003a) amid criticisms that this alternative program was not widely publicised and doubts about unresolved problems (Kompas, 2003b).

Although the EIA process was not completed, the public involvement process had been initiated. The MRT proposal received seven submissions. However, it seemed that the general public did not pay too much attention to the formal process. This will be shown later in the detailed discussion of field data in the next chapter where the public was surveyed for its opinion. Most of the public were aware about the proposed project but they did not know how to be actively involved in the EIA process. On the other hand, NGOs did not pay much attention or respond to the EIA input process. This can be seen from the submission process that there was no submission from NGOs, either from their members or as institutions. It seems that NGOs saved their energy for subsequent stages of the EIA process and kept their resources as much as possible to use it at the right time. They claimed to have data and estimations that the proposed project was technically and economic unviable (pers. comm. with NGO activists, IC1N001, IC1N002, 2002).

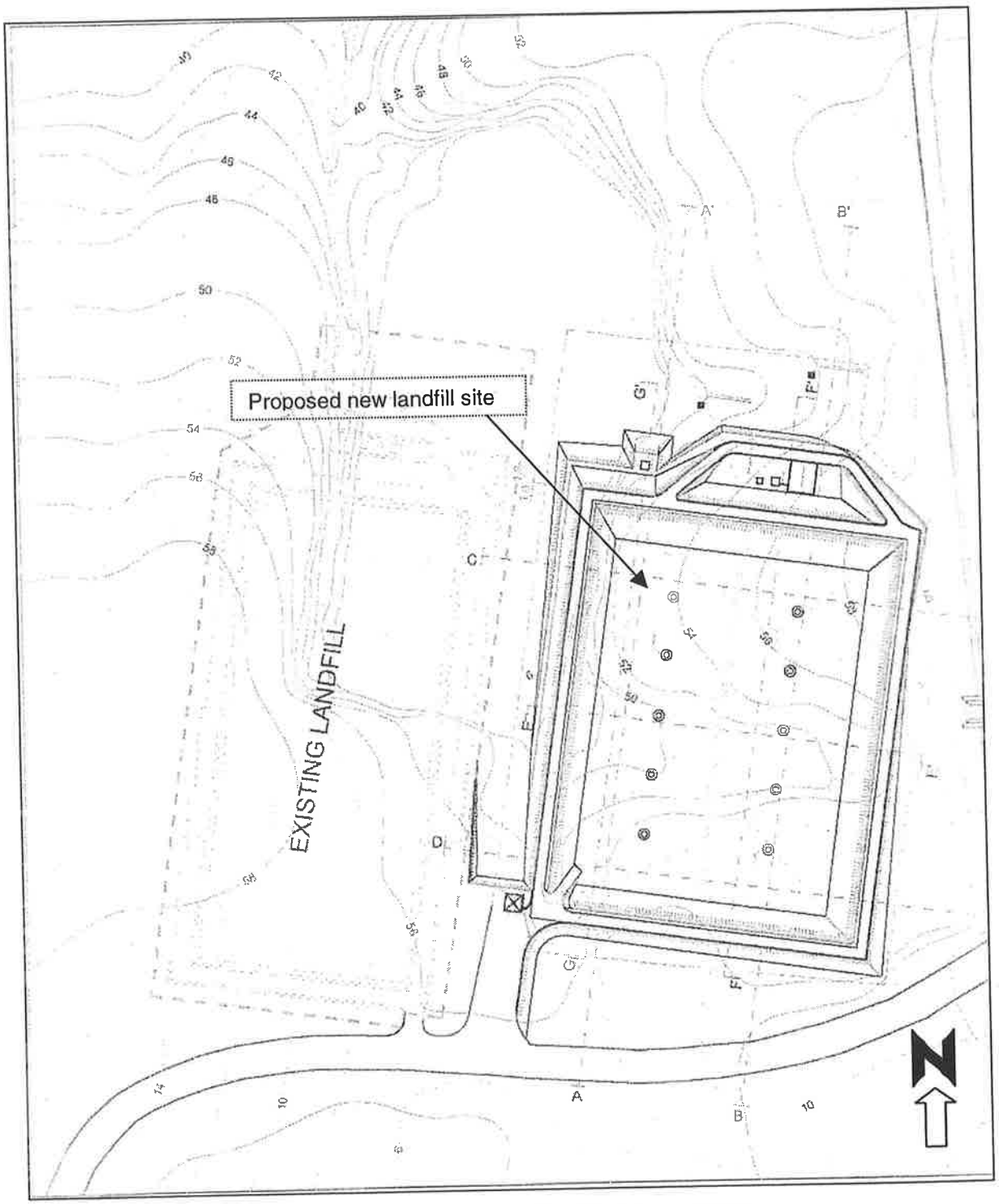
6.4 West Java Hazardous Waste Landfill Project

The second case study is a project proposal from a factory producing synthetic fibre for textile raw materials. The proponent, PT Indo Bharat Rayon (PT IBR), is a foreign joint investment private company from Switzerland, Panama, Liechtenstein, Hong Kong, India, and Singapore (PT Indo Bharat Rayon, 2000b, Appendices). After an initial proposal to construct the plant in 1980, the plant has operated since 1982 and now is planning to increase its production capacity. Located in a 43 hectare area at Cilangkap Village, Purwakarta District, West Java, the proponent produces viscose rayon staple fibre, anhydrous sodium sulphate, carbon bisulphide and sulphuric acid. Its main raw materials are wood pulp, sulphur, caustic soda, sulphate acid, and zinc sulphate (PT Indo Bharat Rayon, 2000a: I-1), which are mainly imported.

The proposed expansion includes building two additional coal power plant units, each 10.8 megawatts, to fulfil its electricity needs. Presently, the proponent is using power from the state-owned electricity company PLN and one diesel power generator. The proposed power plants are expected to produce fly ash and bottom ash from its combustion process. In Indonesia the ashes are categorised as hazardous waste that need a specific landfill. In addition, PT IBR has operated a hazardous landfill for solid wastes coming from its wastewater treatment plants. Standard Operation Procedures (UKL and UPL in Indonesian terms) for the power plant and additional production capacity are still in the process of approval by the local environmental agency – Purwakarta's local administration. It is interesting to note that the proponent did not take advantage of preparing an integrated EIA for all additional activities to ease the EIA process as provided by EIA legislation.

The new proposed landfill site will be placed next to the existing hazardous waste landfill. A total area of four hectares is estimated for the new landfill. It is located at Cilangkap Village, Sub-district of Babakan Cikao at Purwakarta District, West Java Province. An illustration of the landfill site is provided in Figure 6.7 below. The operation of new landfill will not be much different to the existing one. It is most likely that the new landfill will replicate the operation of the existing one especially in the transportation and filling pattern. Some technical specifications could be different depending on the waste characteristics. For illustration, the existing landfill can be seen in Figure 6.8 below.

Figure 6.7 Landfill Site – Illustration



Source: PT IBR EIS Terms of Reference (PT Indo Bharat Rayon, 2002).

Figure 6.8 The Existing Landfill Operation

Source: Field observation (2002)

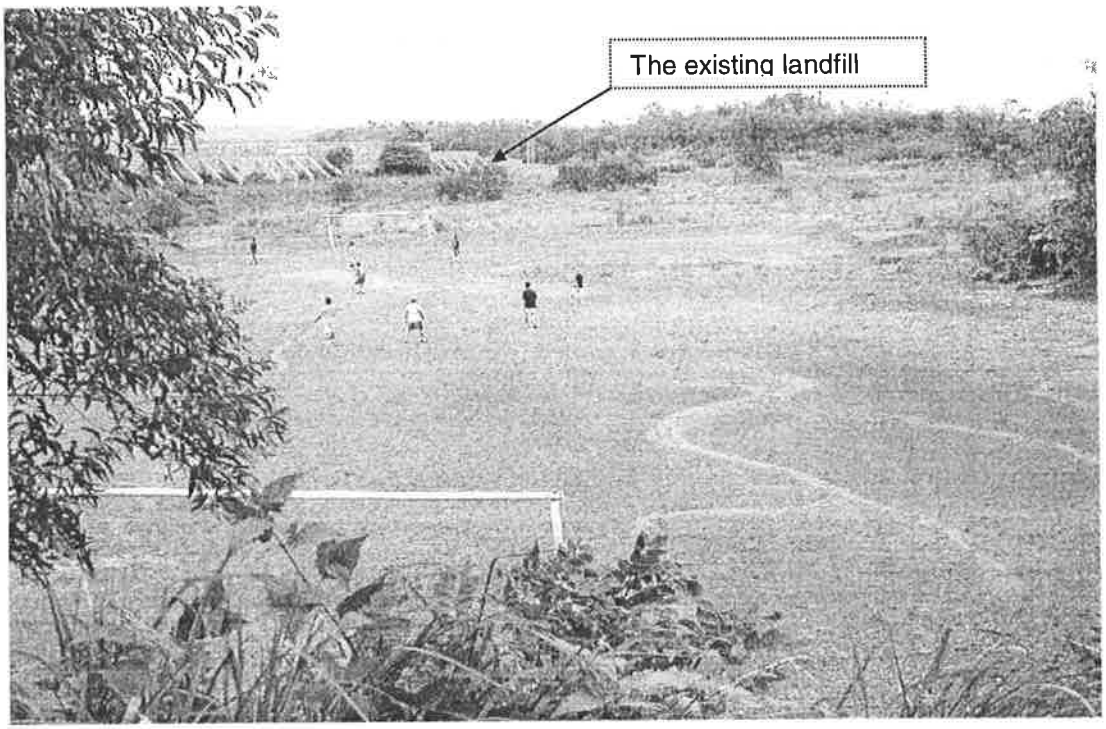
In general, the proposed site for the landfill is surrounded by public land. Field observation shows that the site is an open area that at the present time being is a poorly maintained public soccer ground (see Figure 6.9). The environmental setting of the proposed site is a built environment. The only green area is at the northern border of the site, which is mostly community paddy fields and farming land. The site is adjacent to existing landfill at the west and an abandoned iron-metal processing plant to the east. The EIA area of study will be the neighbouring village Cilangkap which has 4,941 residents (Badan Pusat Statistik, 2002) with the main focus on two *kampungs*: Narogtog and Conggeang.

6.4.1 Environmental Setting

The proposed site currently belongs to the community. According to the proponent, land compensation will be carried out through a fair land acquisition process. A critical area in terms of environmental impact seems to be the northern border of the site where paddy fields and agricultural zones will be affected. This correlates with the proposal where the northern part will be the area for leachate collection facilities and discharge outlet from the drainage system of the landfill area. This was considered to be a potential issue by the

proponent from the very beginning of the planning process. An overview of project major issues is outlined in the following section.

Figure 6.9 The Present Use of the Landfill Proposed Site



Source: Field observation (2002)

6.4.2 Project Description

The main activities of the proposed project are waste transportation and dumping. The proponent divides its activities into four stages: pre-construction, construction, operational stage and post-operational stage. Referring to the draft EIA Terms of Reference, the proposed activity includes twelve main components, which are (PT Indo-Bharat Rayon, 2002: II-4):

Pre-construction stage:

1. Land acquisition
2. Worker recruitment

Construction stage:

3. Worker and equipment mobilisation
4. Preliminary construction
5. Physical construction

6. Construction of supporting facilities

Operational stage:

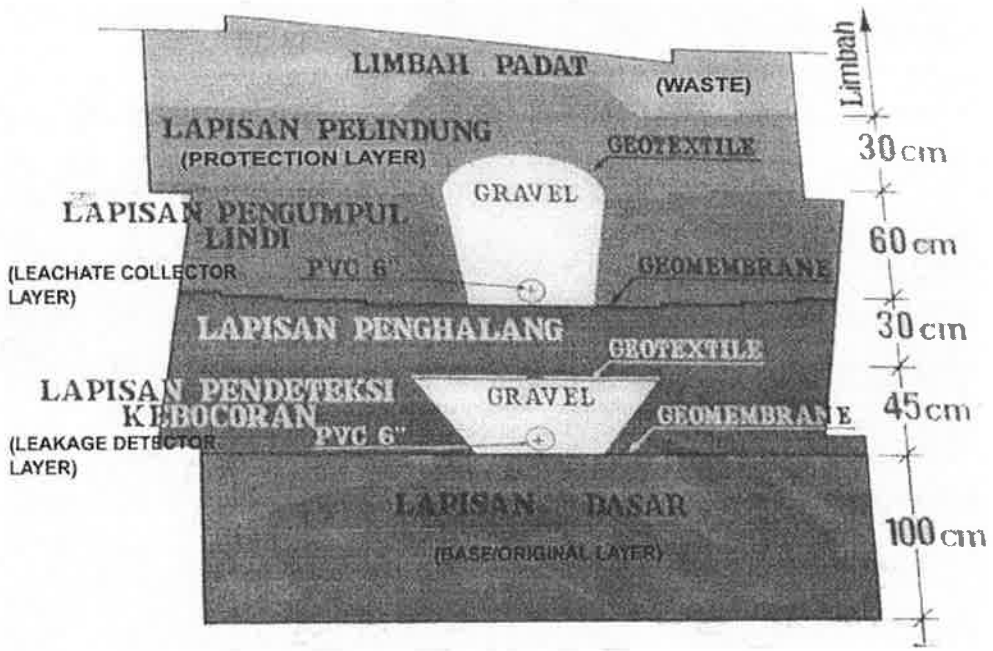
7. Hazardous waste transportation
8. Dumping and filling of hazardous waste

Post-operational:

9. Construction of cover layer and gas ventilation
10. Re-greening
11. Leakage monitoring
12. Release of workers

For an estimated waste generation of 30 m^3/day, the waste transportation will need three trips per day using a 10 m^3 truck. The total area for the proposed project is four hectares with a capacity of hazardous waste 200,000 m^3, which will be used for about 20 years. The construction stage will involve cut and fill activities during land preparation. The landfill will be supported by geo-textile liner, geo-membrane, low permeability silty clay cover and compactions. Compaction will be carried out every 0.25 to 0.30 m of waste and the soil permeability is designed between 9.62 x 10^{-8} to 9.47 x 10^{-7} cm/sec. The schematic illustration of the landfill cross-section is shown in Figure 6.10 below.

Figure 6.10 The Schematic Illustration of the Landfill Cross-section



Source: Field observation (2002)

6.4.3 Administrative Requirements and Chronology of Events

The EIA process was triggered by the requirement of Government Regulation 27/1999 and the Decree of Environment Minister No. 17 of 2001 that oblige the operator of a hazardous landfill to prepare an EIA before obtaining an operation permit. The supervision of hazardous waste is the responsibility of the State Ministry for the Environment (previously this was BAPEDAL's responsibility) as regulated by the Government Regulation No. 85 of 2001 pertaining to Hazardous Waste Management. The decree of the Environment Minister, Head of BAPEDAL, and Governor direct the guidelines regarding environment standards, technical requirements on hazardous waste storage, hazardous waste documentation, hazardous waste treatments and requirements for hazardous waste landfill.

Below is a chronology of major events in the PT IBR EIA process:

- September 2002: Preparation of EIS Terms of Reference (EIS TOR)
- September 24, 2002: Public notice for the EIA process
- November 5, 2002: Initial submission of draft EIS TOR
- November 28, 2002: Notice from the National EIA Secretariat requiring location permit from the local government.
- January 2003: (expected) Re-submission and approval of EIS TOR
- February 2003: (expected, but delayed) Submission of EIS and EMPs drafts.

6.4.4 Major Issues

The main environmental issues of the project relate to ground water and surface water pollution due to heavy metal components in the ashes. However, if all activities were carried out according to a tight standard operation procedure (SOP), those issues could be avoided. The failure to comply with the SOP will trigger negative community perceptions. Nevertheless, the impact of land acquisition is also important in order to achieve a fair compensation for the community. There will be no issue of odour from the new landfill since fly ash and bottom ash are free from smell. However, since the project is located near the existing smelly landfill of wastewater sludge, the general public may misunderstand or assume that the new landfill is similar to the existing one. Since the public is unaware that the proposal is different to the existing landfill, it is likely to assume that its environment will become worse.

According to the draft EIS TOR, the consultant predicts the following environmental impacts (PT Indo Bharat Rayon, 2002: II-35):

- The changing of ambient air quality;
- The changing of ground water quality;
- Disturbance of terrestrial and water biota;
- Social unrest;
- Negative perceptions from the public.

The consultant also lists three environmental components that will be assessed during the preparation of EIS: Physical-chemical, Biological, and "Socio-economy-cultural-public health" (PT Indo Bharat Rayon, 2002: II-34-35):

Physical-chemical:

- Micro climate;
- Dust concentration;
- Noise level;
- Erosion;
- Sedimentation;
- Surface water quality;
- Ground water quality.

Biological:

- Terrestrial biota;
- Water biota.

"Socio-economy-cultural-public health":

- Population density, structure and increment rate;
- Spatial and land use;
- Working opportunities, people's income;
- Economic infrastructure;
- Community custom and tradition;
- Social structure, religions, social processes, social organisations, education;
- Public attitudes and perceptions toward their environment and proposed project;
- Diseases related to the proposed project, environmental sanitation;
- Health facilities and services.

The consultant also identifies and evaluates the environmental impacts in the draft EIA Terms of Reference using flow charts and matrix (PT Indo Bharat Rayon, 2002: III-20-21, attachment).

This EIA process was entirely triggered by the initiative of a private company. A hazardous waste landfill is an important requirement for Indo-Bharat since it started to construct a new coal power plant, where the ash from combustion is categorised as hazardous waste. This effort obtained support from the local government and central government through the State Ministry for the Environment. The proponent started the EIA process soon after obtaining advice from the office of the State Minister. The proponent assigned a consultant who previously worked with the proponent for the construction of the first landfill facility in 1999. The proposal was published in a newspaper on 24 September 2002 but this did not reach the public at the proposed site. Therefore, the general public was not aware of the proposal. The proponent and its consultant should have been aware that other media would have been more appropriate.

The public notice eventually reached a small group within the community. The group suspected that the public notice was intentionally designed negate awareness and comments, and was made only to fulfil legal requirements. In addition, there was a legal claim from a public figure in *Kampung* Norogtog, but the claim related to the existing landfill. No NGOs or academic observers became involved in the case study. The lack of NGO and others' involvement meant that the obvious confrontation was between the proponent and the local group. Meanwhile, the general public, which had no access to the information, was still occupied by the impacts of the existing landfill operation.

6.4.5 Outcome of the Case

Up to September 2003, the EIA process was not completed (pers. comm. with the EIA consultant). It was previously expected that the EIA approval would be easily obtained since the proponent had a similar experience with hazardous landfill that operates adequately now in the same area. Indeed, the public would be familiar with this type of proposal where the proponent has been communicating with the local community since the early 1980s. However, the public seems to have a negative perception of the proponent due to conflict between the community and the proponent. The last communications with the proponent, its consultant, and environmental agency show that the landfill facility should be built. It is a major requirement for the operation of new coal power plant which is under construction in 2003.

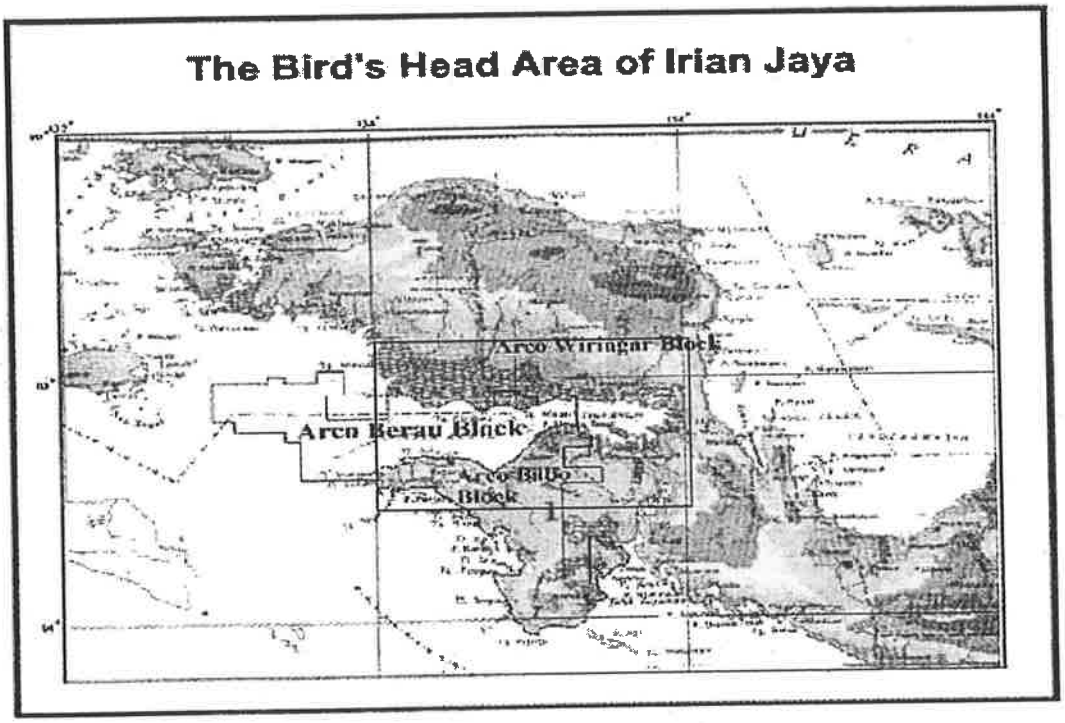
Delays in the EIA process began when the proponent and its consultant issued a formal public notice and submitted the EIS TOR to the EIA administrator. At the time, it was known that the proponent did not have a 'location permit' or 'land use permit' from the local government. Furthermore, the proposed site was also a property being disputed by several interested parties. This indicated to the proponent that though the site fulfilled technical requirements and had many advantages, it was not feasible from an economic and political perspective. Finally, the proponent reassigned its consultant to assess two alternative locations (pers. comm. with consultants IC2P001, IC2C001, 2003). The consultant complained that this alteration created additional work.

In terms of public involvement, some stages of the procedure have been carried out, though these have been generally ineffective. Eventually as predicted, public opinion was not properly channelled and this caused a major backlash. At the end of the field survey stage in February 2003, the public rallied and blocked the existed landfill facilities and demanded compensation (Lampu Merah, 2003; Pikiran Rakyat, 2003a, 2003b). This received media coverage that ironically came from a media source which was not used for the EIA public notice. The EIA process for this proposal will have a long way to go.

6.5 West Papua Liquefied Natural Gas (LNG) Project

Exploration for oil and gas in West Papua (Irian Jaya) has a long history, dating back to 1937 (Department of Mines and Energy, 1990). Exploration activities were centred in an area between Berau Bay and the neck of the Bird's Head Area of West Papua (see Figure 6.11). The *Nederlandsche Nieuw Guinee Petroleum Maatschappij NV* is on record as one company that initiated oil exploration in 1962. Moreover, the Australian Bureau of Mineral Resources, Geology and Geophysics made a reconnaissance of the area as did the company GEOCO in 1972 (Department of Mines and Energy, 1990). Finally, the Indonesian State Oil Company Pertamina with its production-sharing contractors continued the exploration. Conoco Irian Jaya Company performed its initial exploration activities in 1977 and Atlantic Richfield Company (ARCO) succeeded in identifying significant gas reserves in 1994 (ARCO Tangguh, 1998).

Figure 6.11 Oil and Gas Exploration Area at West Papua



Source: ARCO Tangguh (1998)

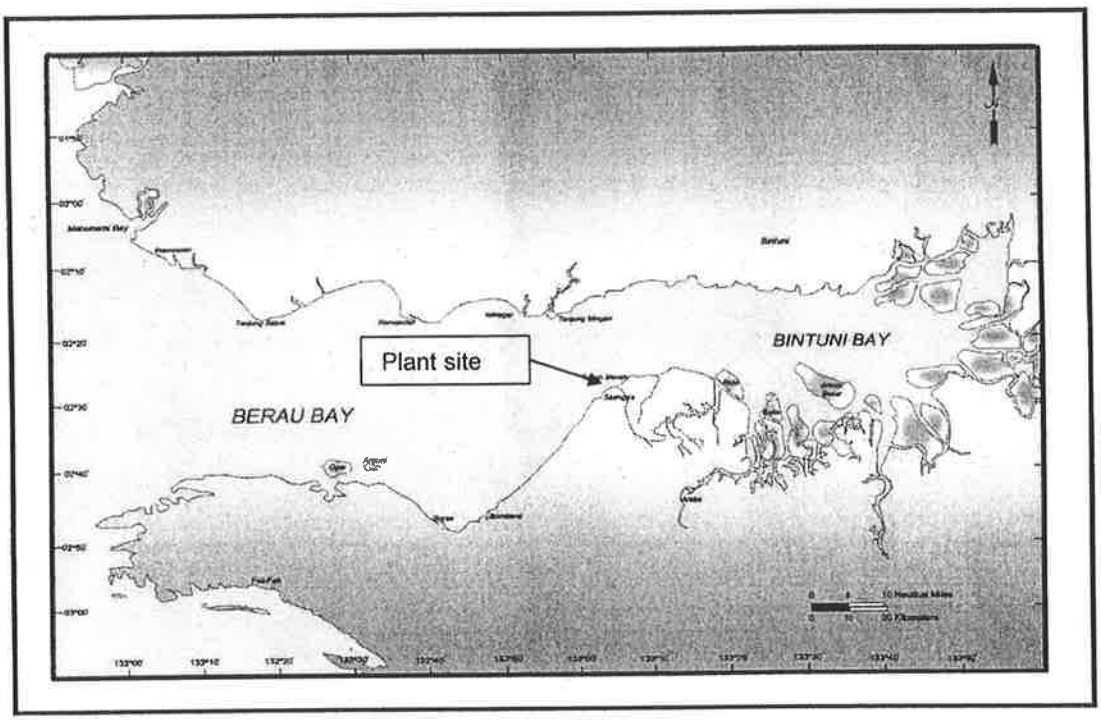
Recent exploration activities estimated that there are 23.7 trillion cubic feet of gas, of which 14.4 have been independently certified as proved reserved (BP, 2000; ARCO Tangguh, 1998). It was named the "Tangguh" project by the Indonesian government in 1997, which literally means "strong" or "hard to defeat" and aimed to become the largest LNG producer in Indonesia. Recently, the project has been developed by BP in cooperation with Pertamina. BP is a multinational company that comprises British Petroleum Amoco, ARCO and Burmah Castrol.

6.5.1 Environmental Setting

West Papua is covered by large area of undisturbed rainforest, which is about ninety percent of its 422,000 km^2 area and is classified as the world's second largest rainforest after the Amazon (ARCO Tangguh, 1998). The Berau Bay and Bintuni Bay, where the proposed plant site and production wells are located, represent ten percent of Indonesia's total mangrove area (see Figure 6.12). The site comprises a large sheltered bay and is bordered by intertidal mudflats, sandbars, and an extensive mangrove area. In terms of its flora, West Papua has the richest biodiversity of plant life of all Indonesia and its swamps are the largest habitat for Sago palms in the world. Extracted starch from the Sago tree

serves as the staple diet for local people. In addition, West Papua has a great diversity of fauna especially birds (over 90 known species) and reptiles including the indigenous estuarine crocodile. It is the largest "salt water crocodile" (ARCO Tangguh, 1998).

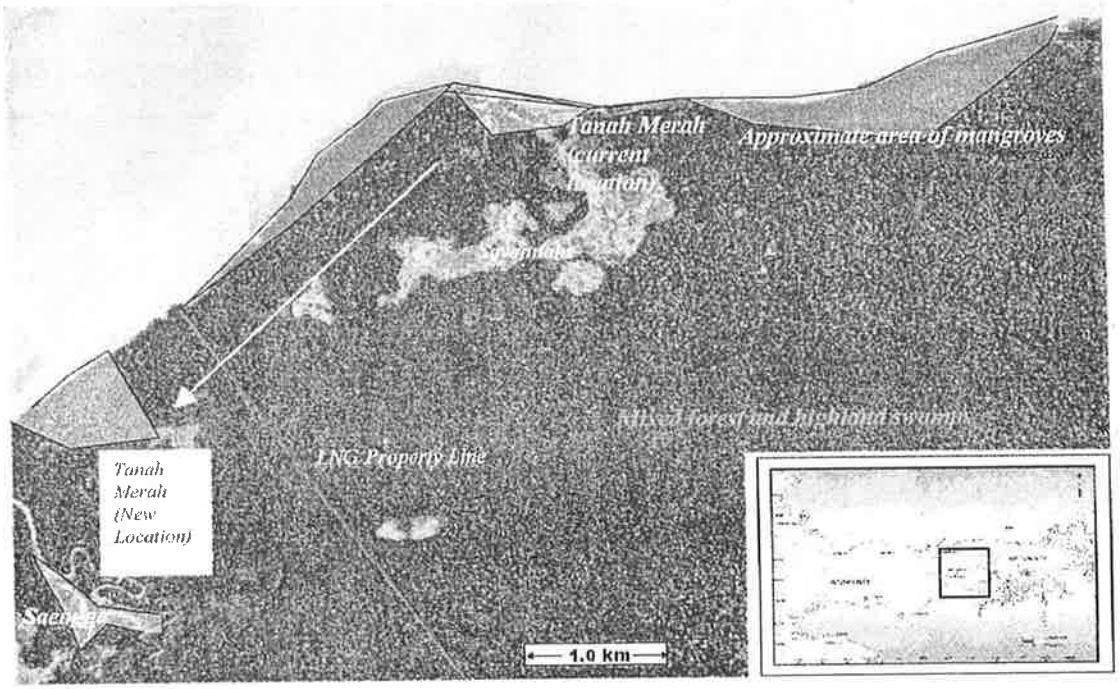
Figure 6.12 Proposed Tangguh Plant Site at Berau and Bintuni Bays



Source: Tangguh EIS TOR (BP & Pertamina, 2000)

Six sub-districts with more than 74 villages are located around Berau and Bintuni Bays and some of the villages were specifically built for the Indonesian transmigration program. There are nine dominant tribes in the Bays area out of a total of 38 tribes (WWF, 1999). The plant site is proposed in Tanah Merah Village, Babo Sub-district. For that reason, the village will be relocated to another place nearby and having a similar environment to the previous site (see Figure 6.13). A total of 79 families or 369 people will be directly affected in Tanah Merah as a result of resettlement. Tanah Merah Village is occupied by the local *Simuri* Tribe (BP & Pertamina, 2000). Most people in the village work as fishermen, shrimp catchers, farmers and sago gatherers. Hunting and working as irregular workers are practised as well.

Figure 6.13 Resettlement Plan for Tanah Merah's Inhabitants



Source: Tangguh EIS TOR (BP & Pertamina, 2000)

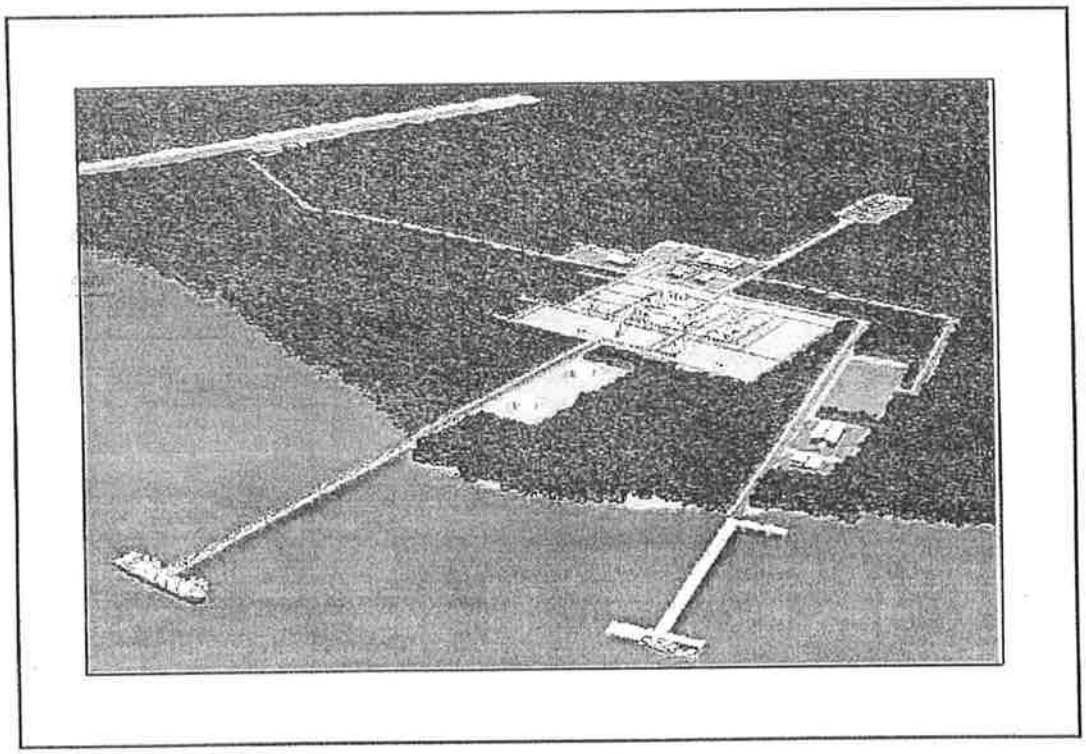
6.5.2 Project Description

The project description below is drawn from the EIS TOR document (BP & Pertamina, 2000). The project consists of producing, collecting and transferring facilities for gas and hydrocarbon from production platform and offshore treatment plants. The project's components will include two LNG trains that operate to purify and liquefy the gas into LNG. The initial stage of the project will develop trains with a capacity of 6 to 7 million metric tons per year using 1,200 – 1,400 million cubic feet (MCF) input gas per day. This stage will need 25 production wells from two gas fields that supply two LNG trains, several LNG storage facilities, harbour, airport, other supporting facilities, and worker settlement houses. Four offshore platforms will support the operation of the trains and each platform will collect gas from 3 – 12 production wells. Each production well will generate 175 MCF gas per day (using standard techniques) and up to 200 MCF with more advance techniques. Alternatively, produced gas could be processed at offshore facilities utilising regular carbon steel pipelines instead of the expensive Corrosion Resistant Alloy pipeline.

Initially, the project was planned for development in mid-2001 with production to commence by the end of 2005, but it is likely to be delayed. Since the gas reserves are estimated to supply up to five trains or even eight (if other exploration activities were

succeed), there are possibilities to expand production capacity or adjust total LNG trains during the development period depending upon the world's energy demands. A total of 20 years is estimated to accomplish all aspects of the project's development.

Figure 6.14 An Artist's Illustration of the Tangguh LNG Facilities



Source: Tangguh EIS TOR (BP & Pertamina, 2000)

6.5.3 Administrative Requirements and Chronology of Events

The Tangguh LNG project proposal was prepared in early 2000. Under government's Regulation 27/1999, the proponent of Tangguh LNG project was required to conduct an EIA study. The proponent agreed to carry out public consultation and dissemination of information under the Decree of the Head of BAPEDAL No. *KepDal* 08 of 2000. As outlined in the guidelines, BP and Pertamina as proponents started to make public announcements and displays of their proposal. The announcement was made public in Jakarta on May 27, 2000 and from May until July 2000 in Jayapura (the capital city of Irian Jaya Province) and three districts within the province (unpub. record on submission, 2000). These were followed by public notices in national newspapers on May 30 and June 6, 2000.

Below is a chronology of major events in the Tangguh EIA process:

- 27 May 2000: Public announcement and public display
- 30 May & 6 June 2000: Public notices in local and national mass media inviting public participation, suggestions and submissions
- June & July 2000: Public participation process at West Papua
- December 2000: Submission of EIS TOR and review by the national EIA Technical Team
- 11 December 2000: Review of the EIS TOR by the provincial EIA Commission in Jayapura
- 14 December 2000: Review of the EIS TOR by the national EIA Technical Team.
- 16 January 2001: Review of the EIS TOR by the national EIA Review Commission
- 1 June 2001: Approval of the EIS TOR (*Kepka* BAPEDAL No. 58, DC0G006)
- 1 and 8 May 2002: Submission followed by the review of the EIA and EMPs documents by the EIA Technical Team and the EIA Review Commission in Jayapura and Jakarta
- 25 October 2002: Approval of the EIA from the Minister for the Environment (*Kep* MNLH No. 85, DC0G007, 2002)

6.5.4 Major Issues

The proposed development did not attract much interest during the public announcement of the proposal in May 2000 in Jakarta (the author was present during the announcement). The concerns during that time were mainly about the prospect of product marketing. There were no critical questions about potential environmental damage and social-cultural concerns from those attending. At the site, the local communities had opportunities to communicate their interests through several meetings conducted by the proponent and their consultant. Submissions from local communities emphasised many issues regarding traditional rights, willingness to participate and potential environmental impact (see Box 6.1).

Related issues on this proposed project are found in some documents such as in the EIS TOR (BP & Pertamina, 2000). The proposed site was selected based on the potential impact on coastal swamp and mangrove forest (BP & Pertamina, 2000: 60). Other criteria

for the selection were established such as avoiding protected areas and national parks and to prevent the utilisation of a natural port for dredging. Moreover, the EIS TOR lists main issues for further assessment where the proposed project will potentially affect the function of ecosystem (Box 6.1):

Box 6.1 Ecosystem Functions that will be Potentially Affected by the Proposal

- The quality and quantity of fresh water which are utilised by local communities and groundwater recharge for other locations;
- Water management, especially flooding control;
- The prevention of salt-water intrusion into groundwater or surface water;
- The protection of coastal area, erosion control and wind shield protection;
- Water catchment area and sedimentation;
- Water catchment area and hazardous waste disposal;
- The supply of ecologically valuable substances such as organic and inorganic materials, dissolved nutrients for downstream areas, and for fish and migrant birds;
- Energy production such as energy from wood and hydro-electricity;
- Transportation and communication;
- Genetic material bank for important commercial plant species and fauna population;
- Endangered species conservation and protected species, habitat, significant plants and ecosystem;
- Natural aesthetics, recreation and tourism;
- Social and cultural aspects: religion and history;
- Social and economic: community's resources and traditional land for local communities;
- Research and education;
- The maintenance of natural processes such as ecology, geomorphology and geology, carbon reduction and the prevention of sulphate acid soil.

(BP & Pertamina, 2000: 132)

The consultant preparing the EIS TOR also predicts a number of potentially significant issues that vary from social impact to physical impact on mangrove and water quality. It seems that the consultant put heavy emphasis on social and economic factors as can be seen in Box 6.2.

The draft of EIS TOR was presented to the EIA Technical Team prior to being studied by the EIA Review Commission. The Department of Mines and Energy focused attention on the comprehensiveness of detail on all project components and the potential for further planning. The Department was also concerned about the water supply situation in regard to the utilisation of groundwater and surface water resources; the TOR was still uncertain about the utilisation of water resources.

Box 6.2 Main Issues Generated by the Proposed Project

- Social-economic impacts from the recruitment of construction workers (about 5 000 workers in the early stage) and more from operational staff families (about 600 inhabitants);
- The relocation of the local community from proposed site Tanah Merah to Saengga;
- The loss of the traditional land of local communities and the loss of land right near the shore;
- Disturbance to the land, loss of woods and loss of fauna habitat due to land clearing;
- Impact on the mangrove area due to the placement of pipe network and establishment of facilities for ships;
- Impact on water quality caused by the produced water from the project, cooling water and waste disposal, and by the sediment load during construction and during dredging activities in the near shore and off shore;
- Impact on the fish catchment operation in the near shore and off shore and a legal right for fish exploitation;
- Waste production from industrial and community activities;
- Impact on air quality during the construction phase and operational phase: from mobile and stationary sources and dust;
- Impact from noise and light;
- Impact caused by limited access to the fish exploitation area in the shore, traditional plantation production area, traditional hunting area and other land use areas;
- Other impacts related to the project.

(BP & Pertamina, 2000: 133)

Moreover, more information was requested on wastewater from pressure testing processes and impacts on vessels operating along traditional sailing routes and traditional fishing activities. In addition, the Department also demanded an assessment on emergency response, pipeline inspection and safety and the impact of flare dispersion on local plantations (unpub. EIA review minutes, DC1G002, 2000).

Representatives from the Department of Industry and Trade criticised the consultant's study method. According to the representative, the method does not integrate all project components and therefore the cumulative impacts could not be correctly understood. Security aspects also concerned the Department. The Department of Transportation questioned the plan to establish transportation facilities including a harbour and airport since the draft TOR did not explicitly explain these matters. The plan for dredging activities and road construction also concerned the Department and there were sea-traffic safety issues as well.

Members of the EIA Technical Team from the environmental agency were concerned about pollution issues such as CFC for refrigerants, fugitive gases, wastewater dispersion, and drilling mud. The members also requested the consultant to revise the related methods on each environmental study. Since the draft TOR still offers two technical alternatives, the consultant was questioned about the possible final preference to

understand the impact of such activities. Some concerns were also in regard to the process of forest acquisition, the lack of conformity to a regional master plan, and land use. Traditional rights and the needs for planned community development were ascertained.

In the EIS TOR draft, the consultant claimed that they announced and published their proposal to local communities (BP and Pertamina, 2000). However, after several formal meetings initiated by the provincial government, concerns had been raised on a wide range of issues. Water pollution during exploration stages triggered complaints from nearby communities. They claimed that about 40 children had died because of the pollution. Seismic surveys in 1996-1997 caused fire in 25 hectares of the sago-producing area (Lembaga Masyarakat Adat Teluk Bintuni, March 2001). This caused anarchy and local people to resist. Some people took over a company's helicopter in Weriagar Base Camp and took three company staff hostage. They demanded compensation for their loss because of the company's activities. This caused the central government to take over the situation and send military personnel to the site.

Local NGOs such as the *Lembaga Musyawarah Masyarakat Adat (LMMA) Kecamatan Babo, Teluk Bintuni* and the *Lembaga Pemberdayaan Masyarakat Adat Sanggaria Atiati Fakfak* put forward the relevant issues:

- Social-economic gap, especially between locals and newcomers and between regions.
- Gaps in the quality of human resources and health.
- Gaps in social and transportation infrastructure.
- Distribution of wealth generated from development. Conflicts of interest. Violation of local and traditional communities' right, including human rights violations.
- The previous bad experience concerning Freeport Mining Company in the area (Lembaga Masyarakat Adat Teluk Bintuni, 2001).

It is obvious that the proposed project was initiated by the government. The proposal was submitted under the supervision of a government-owned company – Pertamina. It is the only company in Indonesia which has privileges in the exploitation of oil and gas resources. Although the Department of Mines and Energy regulates oil and gas, almost all development related government departments support the proposal. In fact, the Department of Mines and Energy has a strong link to Pertamina. Government regulations state that all oil and gas exploitation will be carried out by Pertamina. It made a

production-sharing contract with BP. In this contract, it is clear that the government has a key interest to carry out the project.

Prominent NGOs did not get involved from the beginning of the EIA process. Several local NGOs pushed themselves into the process. A physical conflict between the company and local people on March 15, 2001 was reported (unpub. report, Lembaga Masyarakat Adat Teluk Bintuni, 2001). It was claimed that the conflict was triggered by the company's previous survey activities that are believed to have contaminated an area in the bay. The government's action of sending military troops traumatised local people and generated further unrest. Two other NGOs joined a movement in advocating on Tangguh issues. They unified the communities in Bentuni Bay and Onin Peninsula. In their program, they initiated a strategic alliance for the solution of national disintegration by administering traditional rights in environmental management. They demanded action to resolve traditional rights in the Tangguh project (LMMA Teluk Bintuni & Fakfak, 2001).

The local people doubted that land acquisitions were properly carried out. The proponent made use the locals' ignorance of land ownership law and dictated to the communities to agree to be relocated without clearly knowing why or the future consequences to them. The locals claimed that during meetings with the proponent, topics were always about traditional rights without discussion on how to resolve disputes and compensation (meeting notes, March 2001). As a result, local representatives asked the National BAPEDAL to facilitate their interests in the Tangguh planning process. They also requested that the EIA process be postponed and not to approve the proposal if existing conflicts were not resolved.

6.5.5 Outcome of the Case

Of the three case studies, this case study had the most complete EIA process. The proponent has given assurance that it will include public involvement as best as possible. The State Minister for the Environment approved the EIA on 25 October 2002 (Bisnis Indonesia, 2002; The Jakarta Post, 2002). The overall EIA process took almost two and half years since the public announcement on 27 May 2000. This long process is understandable considering the size and complexity of the project proposal, while environmental databases about the proposed site are limited. As well, there are complex socio-cultural conditions where local people are still unfamiliar with the formal public participation and the EIA process.

The EIA process in this case has been interesting. Until the completion of the process, there were no big NGOs at the national level that directly became involved in the public participation process but many local NGOs did. Only two big NGOs JATAM (*Jaringan Advokasi Tambang* or Mine Advocacy Network) and WALHI from the national level became involved during the last part of EIA process (i.e. the review process), but they did not substantially contribute to the public involvement process. However, the public was invited by the proponent and its consultant to attend frequent public meetings. The developer also supported local public organisations in planning their village, educating the public to select its representatives in the EIA Review Commission, providing EIA training for representatives, and making available financial support for participating people. Overall, most EIA stakeholders in this case got what they wanted from the involvement process. The government was glad that its regulations were carried out, the proponent obtained EIA approval, concerns of NGOs were accommodated and the public, hopefully, gained valuable experience and fair compensation.

CHAPTER 7 – PUBLIC INVOLVEMENT PRACTICE IN THREE EIA CASE STUDIES: SURVEY RESULTS

7.1 Introduction

While public participation should be an important input at each stage of the EIA process as suggested by Wood (1995: 5), not all EIA systems use best practices at every stage. Public consultation and participation in the Indonesian EIA system, as described in Chapter Four, are still limited. The Indonesian EIA guidelines of *KepDal* 08/2000 show that the opportunity for participation covers the following three EIA stages:

- prior to scoping, information disclosure or the public notice
- during the scoping stage
- during the EIA review stage

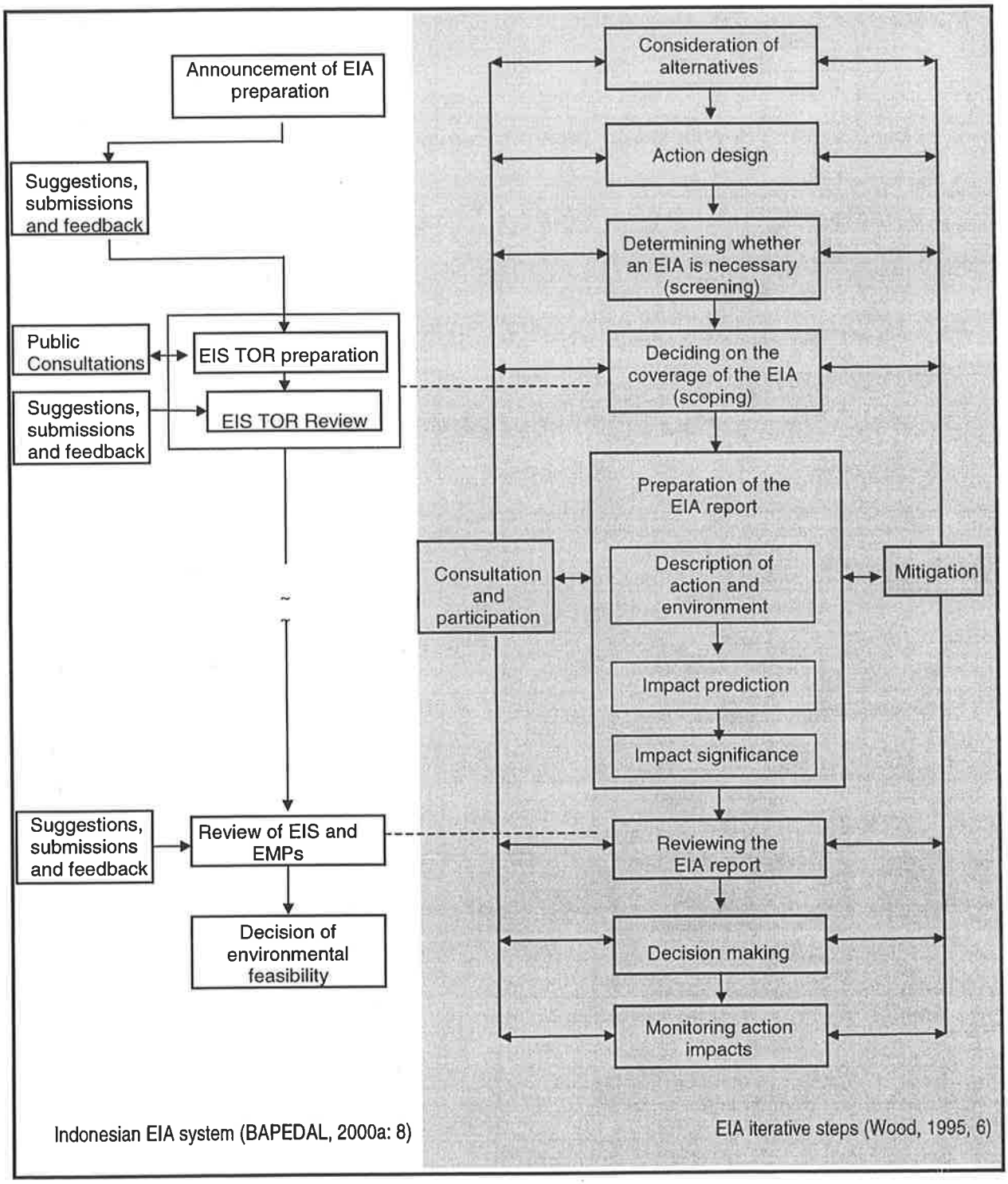
Figure 7.1 illustrates that the EIA system focuses on the initial stages of scoping and assessment, though the EIA provisions explicitly mention that public participation must be encouraged at other stages. For example, Articles 6 and 7 of Act 23/1997 provide the public with rights to become involved in the monitoring of environmental management. However, the procedure does not provide an opportunity for people to participate in every EIA stage. Obviously, several stages such as screening, preparation of EIA documents, EIA decision-making and monitoring provide no opportunity for public participation.

Although there are provisions in EIA law regarding monitoring, procedure gives no guidance for involvement in it. EIA administrator deliberately chose several initial EIA stages for the application of public participation (pers. comm. with the Head of the National EIA Centre, 2003).

> Head of the national EIA Centre (IC0G010):
>
> Public participation in EIA indeed is to trigger the culture of participation in various decision-making processes. Therefore, at this initial stage we focused on few stages of the EIA process.

Consequently, this research will only discuss those three main elements: public notice and submissions; scoping; and the EIA review process.

Figure 7.1 Public Involvement Procedure in the Indonesian EIA Compared to the Theoretical EIA Steps



This chapter presents the case studies survey results. As outlined in Chapter Two, the survey was conducted using several methods. The primary data were collected from the affected people through direct interviews immediately after the advertisement of the public notice (post-notice interviews). It was deliberately designed for a brief or simple approach to facilitate the willingness of people to respond because they had only a limited time to engage in interviews. However, there was opportunity to engage in more in-depth interview for those interested respondents. The interview topics for these post-notice interviews ranged from the respondents' awareness of the proposed project, understanding of the EIA process, comprehension of the public participation procedure, and environmental concerns.

Table 7.1 Survey Sequence and the Number of Interviewees

Data collection methods		Approached Interviewees (Responded)		
		Case study 1 Jakarta's MRT	Case study 2 Hazardous Landfill	Case study 3 Tangguh LNG
1. Observation 2. Media coverage 3. Document analysis	4. Post-notice interview with the affected public	120 (90)	56 (50)	68 (20)
	5. Questionnaires' distribution to the EIA Commission members	23 (11)	N/A	27 (14)
	6. In-depth interview	(60)		

The post-notice interviews were conducted as simply as possible to facilitate the understanding of respondents. Since a total population survey was not possible, the survey was conducted using a simple random sampling of 50% population for the Landfill and Tangguh case studies based on the selection made in Chapters Two and Six. A relatively small sample of 120 respondents is approached in Jakarta's MRT case study since the respondents, who are mostly city commuters, are considered homogeneous. Most of the surveys were carried out at the proposed site during business hours and some of them were made using door-to-door surveys. A telephone survey method was piloted for the Jakarta MRT project but since the rate of response was low, it was not continued. The interviews were conducted with: 90 respondents about this project; 50 respondents for the hazardous waste landfill project; and 20 respondents for the Tangguh LNG project.

The interviews were backed up with field observations. The observations were conducted at several stages of the public participation process such as public meetings, EIA workshops, EIA data collection, EIA review processes, and during the daily life of the affected people. This includes some public events related to the proposed activities such as public rallies. However, the observations could not be made at similar stages for each case study due to time limitations. In general, the observations were carried out immediately after the advertisement of the public notice. Not all of the case studies could be observed until the approval of their EIA, but most people's interaction had been studied during the process. Observations were also made about the EIA administration and environmental NGOs.

A survey using questionnaires was also conducted for the key representatives of EIA stakeholders. Since most EIA stakeholders including the public are members of the EIA Review Commission, the questionnaires were distributed to them. In this way, perceptions of the EIA stakeholders could be observed. Questionnaires were distributed during the EIA review process for Jakarta's MRT and the Tangguh case studies but the Landfill project was not ready until the preparation of this thesis. Respondents were given opportunities to engage in more in-depth interviews at their preferred time to make additional comments. 23 questionnaires for Jakarta's MRT project and 27 questionnaires for the Tangguh LNG project were distributed. Although the survey was designed to cover all EIA stakeholders, the voluntary nature of the survey only had about a 50% return rate, consisting of 11 and 14 questionnaires respectively.

Contacts with EIA stakeholders during the previous post-notice interviews, the distribution of questionnaires, field observations during daily activities with the public, and communication with EIA administration, proponents, consultants and NGOs made easier to get the confidence of interviewees. This made it possible to have more in-depth interviews with selected respondents from EIA stakeholders. In-depth interviews were carried out with 60 respondents ranging from with public leaders, EIA administration officers, NGO activists, proponents, consultants and persons who made formal submissions. Together with questionnaires, in-depth interviews are utilised to confirm or triangulate the result of the previous post-notice interviews and field observations.

Document concerning the EIA process in the three case studies are also presented in this chapter. Those documents are written submissions, minutes of public meetings and formal EIA meetings, and the EIA documents. Documents related to the preparation of guidelines for public participation are also shown. Most of this data are summarised and

categorised according to the relevant discussions. In addition, 55 clippings from newspapers coverage during the EIA process of three case studies are presented. In order to facilitate the management of data, specific data coding is utilised to categorise them. The chapter starts by introducing public involvement in the Indonesian EIA process and descriptions of survey data. Furthermore, each step of public involvement will be outlined in a sequential approach according to the EIA process of each case study presenting the current level of involvement in the process.

7.2 Public Involvement in the Early Stage of EIA: Information Disclosure

Public involvement begins when public notices are published. The minimum requirement for the notices is once in two newspapers - one national and one local. The notices should be made before the proponent prepares a draft for the guidelines of the EIA study (the EIS Term of Reference or the EIS TOR), to be approved later by the EIA commission. Thus, public participation starts at the scoping stage, not before, or at the screening stage. Furthermore, there are also provisions that the notice can be simultaneously communicated in alternative media such as notice boards at the proposed site and at the local government office, using radio and television. Guidelines in *KepDal* 08/2000 state that the responsible agency and the proponent are obliged to announce proposed projects in local and national printed media, billboards at the proposed site and at determined strategic locations, electronic media such as television (TV) and radio, and other suitable media (BAPEDAL, 2000a).

Media selection

From the result of post-notice interviews with the general public, observations, and in-depth interviews, the general view is that the public notice is not effectively carried out. The view is that the media, particularly a newspaper, is not properly selected. Others think that the general public do not read the newspapers (because it has a low readership), and the notices are easily missed. Respondents want to have a higher frequency of public notices in various media with the expectation that the general public will have a higher chance to get information. However, there are other influencing factors such as the public's environmental awareness, willingness, and knowledge to participate. All these influence the effectiveness of public notices to convey the message and to get the expected result from the participation process, specifically feedback in the form of written submissions.

Jakarta's MRT case study reveals a situation where the public had low newspaper readership and required alternative media for the public notice. The public also had little knowledge of the specific environmental issues and the procedure of public participation. Therefore, there was a low rate of written submissions in this case. About 68% of respondents from the general public claimed that they heard about the case but they were not sure if the information came from public notices. Those respondents claimed that they read the issue once and some felt that they obtained the information from their colleagues. Only 21% admitted to reading the information from newspapers but no respondent recognised the copy of the public notice when it was shown. The percentage becomes lower when compared to the number of submissions. There were only seven submissions. The following responses (author's translation) from in-depth interviews regarding the MRT project illustrate the situation:

> Bus user, a worker, general public (IC1GP003): I knew the issue but only from hearsay, I only know in general. Actually, it would be more widely spread if they use TV because everyone sees TV.
>
> A secretary, general public (IC1GP014): I knew it from hearsay.
>
> A higher degree student (IC1GP034): Yes, I heard the issue once. It is about the bus way project, isn't it?
>
> A worker, general public (IC1GP078): I read that from a newspaper, but I'm not sure if it was the news about the public notice. It was a long time ago. (When the clipping of the public notice was shown)... uhm, I think I've never seen that column.
>
> A public servant (GIC1GP090): Do you think I read a newspaper everyday? I don't have time to do that. By the way, the advertisement is so small (after seeing the clipping), nobody could read that.

The hazardous waste landfill case study shows a similar situation but with an additional issue that the newspaper was not appropriate in terms of its coverage. Almost none of the respondents read the public notice from this newspaper. 58% of respondents learned about the proposed plan from word of mouth, especially from workers in the related activity. The typical responses can be indicated from 24% of respondents who suggested that there is the low availability of newspapers in the proposed site. Furthermore, only 14% of respondents actually saw the public notice. Thus, the coverage of the public notice was very low. In addition, community leaders did not read the newspaper's public notice:

> The Village Leader (IC2G007): I did not get detailed information about the public notice for the new proposed landfill plan ... not yet. There was no such notice and I did not read it in the *Suara Karya* newspaper. There was also no other notice in the village administration office.

> A person who opposes the proposal (IC2GP005): Why they made the public notice in *Suara Karya* newspaper? Not all people could read *Suara Karya*, couldn't they? Why they did not put it in other newspaper?
>
> A person who made a written submission (IC2GP008): He criticised the publication of the notice in *Suara Karya*. Before publishing in a newspaper, the factory (proponent) and government should find information and contact the community. Why was it issued in *Suara Karya*? Fortunately we understood and could read it in the *Suara Karya* newspaper. It was only ten days more for the submission; if we missed it, we would not have any chance.
>
> A local religious leader, *ustadz* (IC2GP010): There was no public notice here. Reading newspapers is still not a public habit. Do not mention for the lay person who always works hard in paddy fields, even for me who have spare time, we are no habitual newspaper reader.
>
> A local leader (Head of *Kampung*) (IC2GP013): Newspapers will not reach the general public.
>
> A worker in the proponent's company (IC2GP014): It is not easy to get a newspaper in the village. If you want it, you have to go to the city. Reading a newspaper is a non-priority and is considered a luxurious habit.

It is obvious that the selection of the newspaper was not adequate. The particular newspaper does not cover the proposed area, especially in the rural area. This was confirmed when there was a public rally against the proponent. The event was covered by other newspapers rather than the *Suara Karya* newspaper (MC2001, MC2002, MC2006, MC2007, MC2008).

The Tangguh LNG case study presents a similar problem since the proposed location is in a remote area. Newspapers can barely reach the location though the proponent made several advertisements either at the national (*Kompas*) or provincial (*Cendrawasih post*) level. On the other hand, field observation confirmed that there was no newspaper circulation at the proposed site (Tanah Merah and Saengga villages) except in the proponent's base camp and no one from the general public read the newspaper there. So publication via newspapers only serves the information needs for a bigger area. However, it was not the intention to spread the information by means of newspaper only. The proponent carried out an intensive public consultation process with public meetings, exhibitions, and workshops. Obviously, the selection of the newspaper for the public notice is influenced by several factors such as fulfilling legal requirements, cost consideration, and obtaining genuine feedback from the public.

The content of public notices

The guidelines for public participation in the EIA process provide directions for conducting public notices: media, the specification of notice form, clear and easy-to-understand language, minimal size for the notice and other details as follows:

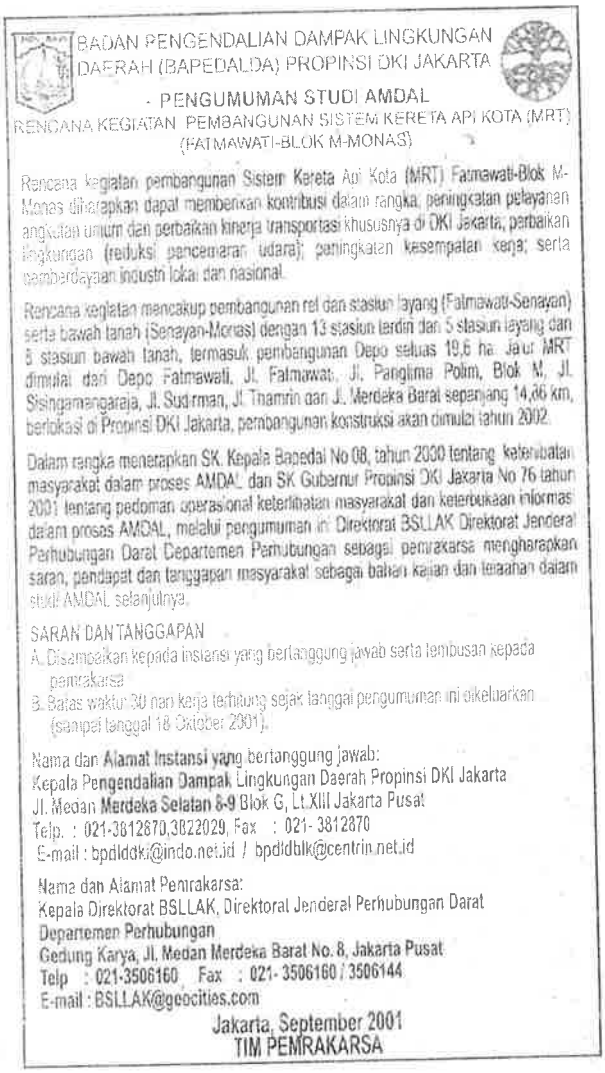
- Name and address of the proponent;
- Location, size and scope of the proposed activity with relevant maps
- Type of proposed activity
- Expected products from the activity
- Type and volume of wastes to be produced and their treatment
- Expected environmental impacts
- Date of the announcement and the last date for written submissions
- Name and address of the responsible agency receiving the public's submissions (BAPEDAL, 2000a)

Analysis of media coverage shows that the content of the public notice in the MRT case study fulfilled almost all notice requirements from the existing guidelines, yet still did not give any information on the potential impact of the proposed project. There was also no explanation regarding the waste that may be generated from the development process and operational stage. The provision to provide relevant maps of the proposed site was not carried out. In addition, the notice did not explicitly invite the interested public to obtain more information either from the proponent or relevant agencies.

The notice for the Hazardous Landfill project is similar to the previous one and fulfilled most of the legal requirements. Although a brief description regarding the proposed activity was provided, there was no orientation map to show where the proposed site was. Similarly, it was stated that the proposal may generate impacts but there was no illustration about what kind of impacts. Furthermore, there was no description regarding outputs and wastes produced by the proposed activity. The notice stated that its purpose was to fulfil the requirement of Guidelines No. *KepDal* 8 of 2000. At the end of the notice, it was stated that further information about the development could be obtained from IBR's company director.

The Tangguh LNG case study differed from the other two. The proponent made two public notices in the *Kompas* newspaper at the national level although only one was required. Because of this, the allocated time for public input was twice that required by the guidelines. One reason was that the previous notice did not meet the requirements set by the guidelines. In fact, the second notice was not too different from the previous one. There were no more details and descriptions of the project as the public may expect and it only added the responsible agencies' name and address.

Figure 7.2 The Jakarta's MRT Case Study



BADAN PENGENDALIAN DAMPAK LINGKUNGAN DAERAH (BAPEDALDA) PROPINSI DKI JAKARTA

- PENGUMUMAN STUDI AMDAL

RENCANA KEGIATAN PEMBANGUNAN SISTEM KERETA API KOTA (MRT) (FATMAWATI-BLOK M-MONAS)

Rencana kegiatan pembangunan Sistem Kereta Api Kota (MRT) Fatmawati-Blok M-Monas diharapkan dapat memberikan kontribusi dalam rangka, peningkatan pelayanan angkutan umum dan perbaikan kinerja transportasi khususnya di DKI Jakarta; perbaikan lingkungan (reduksi pencemaran udara); peningkatan kesempatan kerja; serta pemberdayaan industri lokal dan nasional.

Rencana kegiatan mencakup pembangunan rel dan stasiun layang (Fatmawati-Senayan) serta bawah tanah (Senayan-Monas) dengan 13 stasiun terdiri dari 5 stasiun layang dan 8 stasiun bawah tanah, termasuk pembangunan Depo seluas 19,6 ha. Jalur MRT dimulai dari Depo Fatmawati, Jl. Fatmawati, Jl. Panglima Polim, Blok M, Jl. Sisingamangaraja, Jl. Sudirman, Jl. Thamrin dan Jl. Merdeka Barat sepanjang 14,86 km, berlokasi di Propinsi DKI Jakarta, pembangunan konstruksi akan dimulai tahun 2002.

Dalam rangka menetapkan SK. Kepala Bapedal No 08, tahun 2000 tentang keterlibatan masyarakat dalam proses AMDAL dan SK Gubernur Propinsi DKI Jakarta No 76 tahun 2001 tentang pedoman operasional keterlibatan masyarakat dan keterbukaan informasi dalam proses AMDAL, melalui pengumuman ini Direktorat BSLLAK Direktorat Jenderal Perhubungan Darat Departemen Perhubungan sebagai pemrakarsa mengharapkan saran, pendapat dan tanggapan masyarakat sebagai bahan kajian dan telaahan dalam studi AMDAL selanjutnya.

SARAN DAN TANGGAPAN

A. Disampaikan kepada instansi yang bertanggung jawab serta tembusan kepada pemrakarsa

B. Batas waktu 30 hari kerja terhitung sejak tanggal pengumuman ini dikeluarkan (sampai tanggal 18 Oktober 2001).

Nama dan Alamat Instansi yang bertanggung jawab:
Kepala Pengendalian Dampak Lingkungan Daerah Propinsi DKI Jakarta
Jl. Medan Merdeka Selatan 8-9 Blok G, Lt.XIII Jakarta Pusat
Telp. : 021-3812870,3822029, Fax : 021- 3812870
E-mail : bpdlddki@indo.net.id / bpdldblk@centrin.net.id

Nama dan Alamat Pemrakarsa:
Kepala Direktorat BSLLAK, Direktoral Jenderal Perhubungan Darat
Departemen Perhubungan
Gedung Karya, Jl. Medan Merdeka Barat No. 8, Jakarta Pusat
Telp : 021-3506160 Fax : 021- 3506160 / 3506144
E-mail : BSLLAK@geocities.com

Jakarta, September 2001
TIM PEMRAKARSA

Source: *Kompas*, September 18, 2001

Translation (author):

PUBLIC NOTICE FOR EIA STUDY

The project proposal for a Mass Rapid Transit development (MRT) from Fatmawati Street to Blok M to the National Monument is expected to contribute to: the improvement of public transport service and to increase the performance of transportation system especially in Jakarta Special Capital City Area; environmental improvement (air pollution reduction); the provision of work opportunities; and the development of local and national industries.

The planned activity covers the development of fly over railways and stations/stops (Fatmawati – Senayan) and sub way (Senayan – the National Monument) with 13 stops including a 19.6 Ha depot development. The 14.86 km MRT alignment starts from Fatmawati Depot, Fatmawati Street, Panglima Polim Street, Blok M, Sisingamangaraja Street, Sudirman Street, Thamrin Street and Merdeka Barat Street, located in Jakarta Province, and the construction will start in 2002.

In order to carry out the Decree No. 8/200 regarding public involvement in the EIA process and Governor Decree No. 76 of 2001 regarding operational guidelines for public involvement and information transparency in the EIA process, through this public notice, the Directorate BSLLAK of Directorate General for Land Transportation of the Transportation Department as the proponent, expects the public's suggestions, opinions and responses for review in the further EIA study.

Suggestion and responses

A. To be submitted to the responsible agency with a cc to the proponent

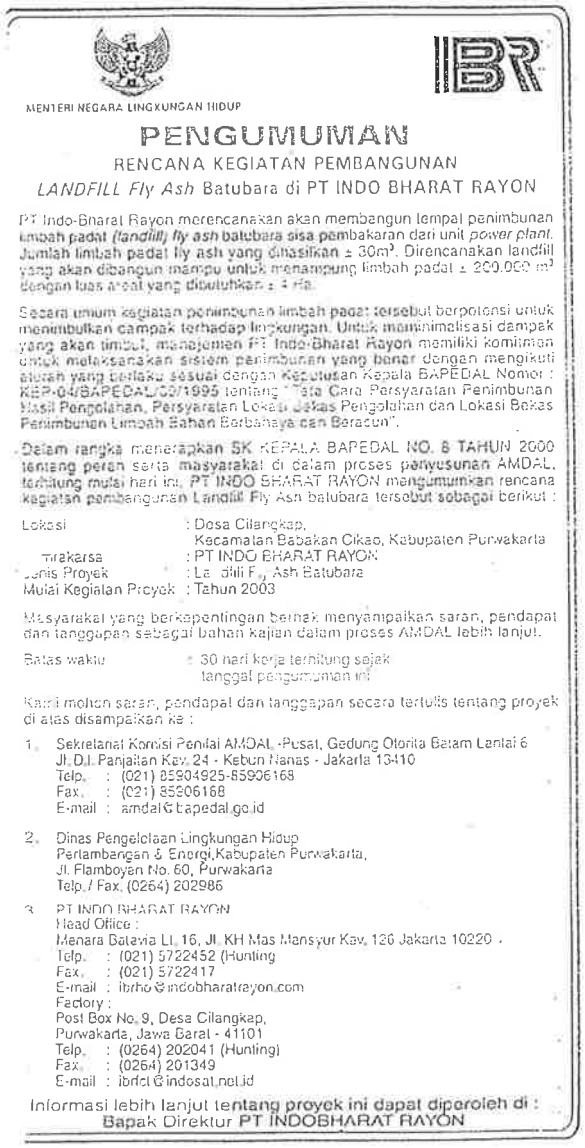
B. Time limitation: 30 days after the public notice date (until October 18, 2001).

Name and address of the responsible agency.

Name and address of the proponent.

(*Kompas*, September 18, 2001)

Figure 7.3 Hazardous Waste Landfill Case Study



MENTERI NEGARA LINGKUNGAN HIDUP

PENGUMUMAN

RENCANA KEGIATAN PEMBANGUNAN

LANDFILL Fly Ash Batubara di PT INDO BHARAT RAYON

PT Indo-Bharat Rayon merencanakan akan membangun tempat penimbunan limbah padat *(landfill) fly ash* batubara sisa pembakaran dari unit *power plant*. Jumlah limbah padat fly ash yang dihasilkan ± 30m³. Direncanakan landfill yang akan dibangun mampu untuk menampung limbah padat ± 200.000 m³ dengan luas areal yang dibutuhkan ± 4 Ha.

Secara umum kegiatan penimbunan limbah padat tersebut berpotensi untuk menimbulkan dampak terhadap lingkungan. Untuk meminimalisasi dampak yang akan timbul, manajemen PT Indo-Bharat Rayon memiliki komitmen untuk melaksanakan sistem penimbunan yang benar dengan mengikuti aturan yang berlaku sesuai dengan Keputusan Kepala BAPEDAL Nomor : KEP-04/BAPEDAL/09/1995 tentang "Tata Cara Persyaratan Penimbunan Hasil Pengolahan, Persyaratan Lokasi Bekas Pengolahan dan Lokasi Bekas Penimbunan Limbah Bahan Berbahaya dan Beracun".

Dalam rangka menerapkan SK KEPALA BAPEDAL NO. 8 TAHUN 2000 tentang peran serta masyarakat di dalam proses penyusunan AMDAL, terhitung mulai hari ini, PT INDO BHARAT RAYON mengumumkan rencana kegiatan pembangunan Landfill Fly Ash batubara tersebut sebagai berikut :

Lokasi : Desa Cilangkap,
Kecamatan Babakan Cikao, Kabupaten Purwakarta
Pewakarsa : PT INDO BHARAT RAYON
Jenis Proyek : Landfill Fly Ash Batubara
Mulai Kegiatan Proyek : Tahun 2003

Masyarakat yang berkepentingan berhak menyampaikan saran, pendapat dan tanggapan sebagai bahan kajian dalam proses AMDAL lebih lanjut.

Batas waktu : 30 hari kerja terhitung sejak tanggal pengumuman ini

Kami mohon saran, pendapat dan tanggapan secara tertulis tentang proyek di atas disampaikan ke :

1. Sekretariat Komisi Penilai AMDAL Pusat, Gedung Otorita Batam Lantai 6
Jl. D.I. Panjaitan Kav. 24 - Kebun Nanas - Jakarta 13410
Telp. : (021) 85904925-85906168
Fax. : (021) 85906168
E-mail : amdal@bapedal.go.id

2. Dinas Pengelolaan Lingkungan Hidup
Pertambangan & Energi,Kabupaten Purwakarta,
Jl. Flamboyan No. 60, Purwakarta
Telp./ Fax. (0264) 202986

3. PT INDO BHARAT RAYON
Head Office :
Menara Batavia Lt. 16, Jl. KH Mas Mansyur Kav. 126 Jakarta 10220
Telp. : (021) 5722452 (Hunting)
Fax. : (021) 5722417
E-mail : ibrho@indobharatrayon.com
Factory :
Post Box No. 9, Desa Cilangkap,
Purwakarta, Jawa Barat - 41101
Telp. : (0264) 202041 (Hunting)
Fax. : (0264) 201349
E-mail : ibrfct@indosat.net.id

Informasi lebih lanjut tentang proyek ini dapat diperoleh di :
Bapak Direktur PT INDOBHARAT RAYON

Source: *Suara Karya*, September 24, 2002

Translation (author):

PUBLIC NOTICE OF COAL FLY ASH LANDFILL DEVELOPMENT PLAN

PT Indo-Bharat Rayon is planning to a build a landfill site for coal fly ash, waste from power plant unit. The volume of solid waste fly ash to be produced approximately is 30m³. The landfill is planned to receive approximately 200,000 m³ solid waste with a required area about 4 Ha.

Generally, the waste landfill activity will potentially to generate environmental impacts. To minimize the predicted impacts, the management of PT Indo-Bharat Rayon has commitments to carry out an appropriate landfill system in line with applied regulations according to the Decree of BAPEDAL Head No. KEP-04/BAPEDAL/09/ 1995 regarding "Procedures and Requirements for Landfill, Product of Treatment, Requirements for Used Treatment Location and Used Landfill Location of Hazardous Waste".

In order to carry out the Decree No. 8 of 2000 regarding public participation in the EIA process, from today, PT INDO BHARAT RAYON announces the development activity plan of Coal Fly Ash Landfill as follows:

Location

The proponent

Project type

Project starting activity: 2003

The interested public has the right to give suggestions, opinions, and responses for further review in the EIA process.

Time limitation: 30 days starting from this announcement date.

We hope that written suggestions, opinions, and responses about the project are submitted to:

1. The Central EIA Commission Secretariat

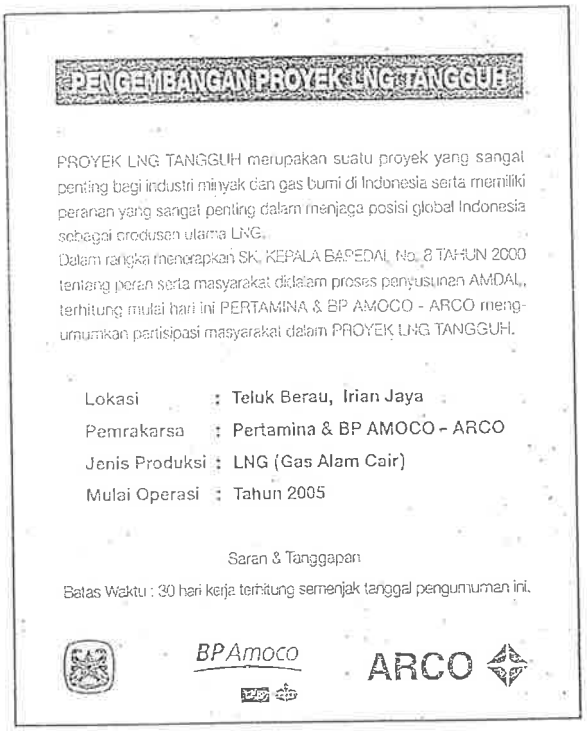
2. Environmental Management Agency in District main town

3. PT INDO BHARAT RAYON

Further information about this project can be obtained from the Director of PT INDO BHARAT RAYON (*Suara Karya*, September 24, 2002).

Figure 7.4 The Tangguh LNG Case Study

First announcement:



PENGEMBANGAN PROYEK LNG TANGGUH

PROYEK LNG TANGGUH merupakan suatu proyek yang sangat penting bagi industri minyak dan gas bumi di Indonesia serta memiliki peranan yang sangat penting dalam menjaga posisi global Indonesia sebagai produsen utama LNG.
Dalam rangka menerapkan SK. KEPALA BAPEDAL No. 8 TAHUN 2000 tentang peran serta masyarakat didalam proses penyusunan AMDAL, terhitung mulai hari ini PERTAMINA & BP AMOCO - ARCO mengumumkan partisipasi masyarakat dalam PROYEK LNG TANGGUH.

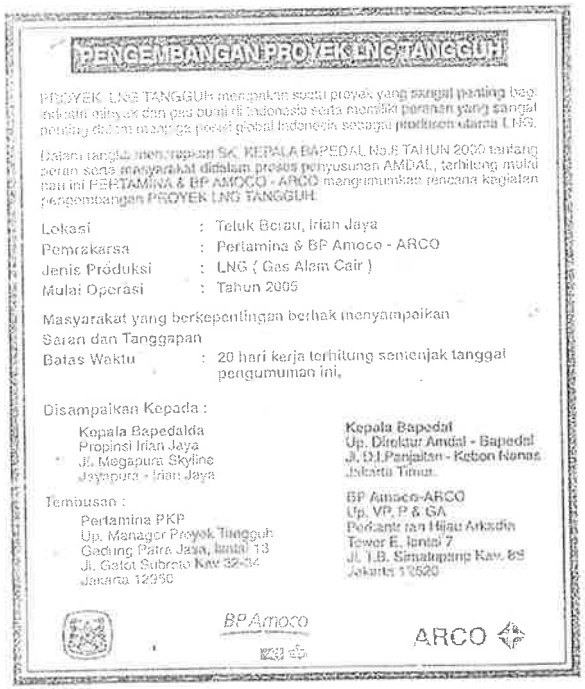
Lokasi : Teluk Berau, Irian Jaya
Pemrakarsa : Pertamina & BP AMOCO - ARCO
Jenis Produksi : LNG (Gas Alam Cair)
Mulai Operasi : Tahun 2005

Saran & Tanggapan
Batas Waktu : 30 hari kerja terhitung semenjak tanggal pengumuman ini.

BP Amoco ARCO

Source: *Kompas*, May 30, 2000

Second announcement:



PENGEMBANGAN PROYEK LNG TANGGUH

PROYEK LNG TANGGUH merupakan suatu proyek yang sangat penting bagi industri minyak dan gas bumi di Indonesia serta memiliki peranan yang sangat penting dalam menjaga posisi global Indonesia sebagai produsen utama LNG.

Dalam rangka menerapkan SK. KEPALA BAPEDAL No.8 TAHUN 2000 tentang peran serta masyarakat didalam proses penyusunan AMDAL, terhitung mulai hari ini PERTAMINA & BP AMOCO - ARCO mengumumkan rencana kegiatan pengembangan PROYEK LNG TANGGUH.

Lokasi : Teluk Berau, Irian Jaya
Pemrakarsa : Pertamina & BP Amoco - ARCO
Jenis Produksi : LNG (Gas Alam Cair)
Mulai Operasi : Tahun 2005

Masyarakat yang berkepentingan berhak menyampaikan Saran dan Tanggapan
Batas Waktu : 20 hari kerja terhitung semenjak tanggal pengumuman ini.

Disampaikan Kepada :
Kepala Bapedalda Propinsi Irian Jaya
Jl. Megapura Skyline Jayapura - Irian Jaya

Kepala Bapedal
Up. Direktur Amdal - Bapedal
Jl. D.I.Panjaitan - Kebon Nanas
Jakarta Timur.

Tembusan :
Pertamina PKP
Up. Manager Proyek Tangguh
Gedung Patra Jasa, lantai 13
Jl. Gatot Subroto Kav 32-34
Jakarta 12950

BP Amoco-ARCO
Up. VP, P & GA
Pedeante tan Hilau Arkadia
Tower E, lantai 7
Jl. T.B. Simatupang Kav. 88
Jakarta 12520

BP Amoco ARCO

Source: *Kompas*, June 6, 2000

Translation (author):

First announcement:

TANGGUH LNG DEVELOPMENT PROJECT

TANGGUH LNG PROJECT is a very important project for oil and gas industries in Indonesia and has a very important role in keeping the global position of Indonesia as the main producer of LNG.

In order to carry out the Decree No. 8 of 2000 regarding public participation in the EIA process, from today PERTAMINA & BP AMOCO – ARCO announce the public participation in the TANGGUH LNG PROJECT.

Location

The proponent

Production type: LNG (Liquefied Natural Gas)

Start to operate: year 2005

Suggestions and responses

Time limitation: 30 days since this announcement (*Kompas*, May 30, 2000).

Second announcement:

TANGGUH LNG DEVELOPMENT PROJECT

TANGGUH LNG PROJECT is a very important project for oil and gas industries in Indonesia and has a very important role in keeping the global position of Indonesia as the main producer of LNG.

In order to carry out the Decree No. 8 of 2000 regarding public participation in the EIA process, from today PERTAMINA & BP AMOCO – ARCO announce the public participation in the TANGGUH LNG PROJECT.

Location
The proponent
Production type: LNG (Liquefied Natural Gas)
Start to operate: year 2005
The interested public has the right to submit suggestions and responses
Time limitation: 20 days since this announcement.
Submit to:
Head of BAPEDALDA, Irian Jaya Province
Head of BAPEDAL, Jakarta
Cc to:
Pertamina PKP
BP Amoco-ARCO (*Kompas*, June 6, 2000).

The Tangguh LNG case study lacks some information. It did not state the coverage of the proposed project in terms of its area, size and there were no relevant maps that could give the orientation about where the activity would be carried out. The notice did not explain the project capacity, the quantity of expected products, waste types and volume generated from the activity or the illustration of environmental setting. One critical issue was that the notice did not describe the potential impact that may occur during project development.

It is clear that in all thee case studies there was a lack of public information which consequently did not allow the public to understand the participation process.

Submission

The public notice stage is followed by the submission period from the public. At this stage, relevant government agencies do not make any responses (or formal submission) since their responses would be accommodated during the formal scoping process later. The level of response resulting from the public notice can be observed from the number of written submissions. However, the number of submissions for each case study cannot be regarded as the only criterion because there may be many factors affecting the number of submissions such as environmental awareness, the knowledge of proposed project substances or the knowledge of participation process. Discussion of these factors will be addressed in the following chapter.

In general, the research shows a low level of written submissions compared with submission in the EIA processes in developed countries. There were only seven submissions in Jakarta's MRT case study. They came from:

- A prominent environmental expert from an environmental centre,
- A postgraduate student,
- An association (Merchant and User of Hazardous Substances Association),
- A civil servant from a planning department,
- A hydro-geologist (member of the Indonesian Groundwater Expert Association),
- A transportation observer, and
- A member of the general public.

It was suggested that they expected to be involved in the EIA process. This is shown by the high proportion (57%) of submissions that requested public involvement in the EIA process, intensive communication between the proponent with the public, and transparent information about the proposed project. There was a high percentage of submissions

questioning alternative technologies and suggested that public transport in Jakarta is vital for the public. Hence, the proposed project should be designed adequately. Other concerns were about solutions for air pollution problems generated by the existing transportation modes and the need to provide infrastructure for the MRT system such as an appropriate drainage network and facilities to manage waste water and used oil. The need for strategic planning was also a major issue raised in the submissions given the complicated traffic system existing in Jakarta. The submissions are summarised in Table 7.2 below. While there was a minor concern about the ability of the proponent to carry out the project, there was no explicit opposition in the submissions.

Table 7.2 Issues Frequently Raised in Jakarta's MRT Public Submissions

Rank	Issues	Proportion of total number of submissions raising the issue
1	Communication, involvement of public, openness	57.1%
2	Alternative technologies	57.1%
3	Public service considerations, service plan	57.1%
4	Air pollution, waste water, used oil, drainage	42.9%
5	Strategic policy and planning	42.9%
6	Social impact assessment, social issues	28.6%
7	Investment and financial sources for the project	28.6%
8	Consideration of open space	28.6%
9	Traffic management	28.6%
10	Groundwater consideration	28.6%
11	Safety	28.6%
12	Ground stability, subsidence	28.6%
13	The EIA preparation, EIA study, adequacy of experts	28.6%
14	Informal local economy, street hawkers	28.6%
15	Alternative locations	14.3%
16	The need for supervision on statements in EIA and their implementation	14.3%
17	Accountability of the EIA preparer	14.3%
18	Concerns about the EIA data and information	14.3%
19	Maintenance involving the public	14.3%
20	Private sector involvement	14.3%
21	Related regulations	14.3%
22	Corruption in the project implementation	14.3%
23	Land acquisition	14.3%

Source: Submission documents (n = 7)

When those issues are compared with the result of post-notice interviews (n = 90) of the general public, there were some similar concerns. For example, the general public doubted the capability of the proponent to carry out the project (50%) though the public

has an expectation to have access to a good transport facility (83%). The general public believed that Jakarta needs the facility to solve major existing traffic problems. A minor percentage (7.8%) thought the proposal unnecessary considering the ability of Jakarta's government to deal with the existing urban infrastructure such as solid waste management and drainage networks. Issues raised by respondents collected during post-notice interviews follow in Table 7.3.

Table 7.3 Issues Frequently Raised during Post-notice Interviews on MRT project

Rank	Issues	Proportion of total number of comments raising the issue
1	Supportive (good, necessary)	83.3%
2	To solve traffic problems (traffic density)	52.2%
3	Capability	50.0%
4	To facilitate the population mobility	28.9%
5	Investment cost	17.8%
6	Air pollution	8.9%
7	Unnecessary	7.8%
8	Corruption *(KKN)*	6.7%
9	Safety	4.4%
10	Floods	3.3%
11	Complication, doubtfulness	3.3%
12	Have no idea	2.2%
13	Alternative (route, transportation, technology)	2.2%

Source: Field survey (n = 90)

The Hazardous Waste Landfill case study obtained only one submission from a group of seven community members. The submission did not directly relate to environmental issues and project substances but showed community's anxiety about suspected environmental impacts. The submission also questioned the follow-up from the proponent regarding the notice, about whether there would be a further participation process. The content of the submission is summarised below (SC2001, author's translation):

- Concern of environmental impacts from the proposed project especially for pollution and land acquisition that in turn will affect social lives and economy of the public
- The need to assess all potential impacts
- Partnership and cooperation of all stakeholders in monitoring the environment
- The need to prepare an Environmental Management Plan

- The need to obtain further information relating to policies and the proponent taking steps in order to prevent and handle the impact generated by the project.

It seems that the respondents in this case study have little knowledge of EIA processes and less confidence to directly state their concerns.

The concern about environmental impact was more obvious from the post-notice interviews. The most important issue raised was the inconvenient situation of the transportation of existing hazardous waste. Odour (70%, n = 50) and dust (26%) are major issues to respondents. They believed that the proponent caused pollution (28%) and hence created diseases in the people (8%). Respondents thought that the proponent should empower the community by recruiting local people for its work force (36%). This correlated with the demand for community development (24%). However, they were not sure what kind of development they needed. Some respondents mentioned the need for road facilities, compensation, public education and local infrastructure.

Table 7.4 Issues Frequently Raised during Post-notice Interviews on Hazardous Landfill Project

Rank	Issues	Proportion of total number of comments raising the issue
1	Odour pollution	70.0%
2	Local labour, work opportunities	36.0%
3	Pollution in general	28.0%
4	Dust pollution	26.0%
5	Community development	24.0%
6	Diseases related to pollution (skin, respiratory)	8.0%
7	Road facilities	4.0%
8	Local facilities (in general)	4.0%
9	Water pollution	4.0%
10	Compensation	2.0%
11	Public education, training	2.0%
12	Noise pollution	2.0%
13	Public information	2.0%

Source: Field survey (n = 50)

The Tangguh LNG case study took a different approach since a submission from the directly affected community cannot be expected, especially from people in a remote area

having limited communication. Therefore, the proponent used other means for public participation such as public meetings and information dissemination from one village to another. It was reported that there were 53 written submissions received in this case study (pers. comm. with the national EIA centre, DC3G002, 2002). However, those actually are not written submissions but responses, opinions, suggestions and requests from the public recorded by the provincial EIA administrator during public meetings (minutes, DC3G003). It is also claimed that more than 1,722 persons responded during the meetings (BP & Pertamina, 2000).

Analysis of the documentation of four public meetings shows that there were 179 questions raised by 64 persons from the general public, government agencies, academics, and NGOs. Issues raised during public meetings were widely diverse. It is necessary to note that although the public meetings were carried out in district main towns, comments were mainly made by people from outside the proposed project area. The frequency of issues raised during the public meetings is summarised in Table 7.5 below.

There were four major issues frequently raised during the public meetings. The issue was the demand for more communication between the proponent and the public (36%, n = 64). This included a need for genuine public involvement and openness of the proponent. Local labour recruitment was the next important issue (30%) including the need for the proponent to prepare local human resources by training so the local could actively participate in the project implementation. The public was also aware about the possibility of social resentment between the local and the incoming labour, hence it warned the proponent to respect local traditional rights. Moreover, issues of local welfare (22%) and the need of community development (12.5%) were also put forward. In addition, the public wanted to participate in the EIA process (15.6%) while those who attended had doubts regarding the actual implementation of forthcoming statements in EIA (14.1%).

The remaining issues ranged from revenue sharing, land acquisition, resettlement to the anxiety of military involvement. However, the public was not concerned much about technical issues such as pollution, or alternative technologies. There was also no explicit opposition. It is interesting to note that while less focused comments might be expected to come from the public, only a small proportion raised such issues (1.6%).

Table 7.5 Issues Frequently Raised in the Tangguh LNG Public Meetings

Rank	Issues	Proportion of public members raising the issue
1	Communication, involvement of public, public leaders, assoc. openness	35.9%
2	Local labour recruitment, training for labour, work opportunities	29.7%
3	Social resentment, social relationships, traditional rights, local identity	29.7%
4	Local welfare, development of local economy	21.9%
5	Education, scholarships, community education, human resources	18.8%
6	Public representation in the EIA process, EIA training for the public	15.6%
7	Doubt on statements in EIA and their implementation, supervision	14.1%
8	Community development, local development, general infrastructure	12.5%
9	Waste in general	10.9%
10	The EIA procedure, EIA study, EIA authority	9.4%
11	Revenue sharing, royalties	9.4%
12	Transportation infrastructure (air, land, sea)	9.4%
13	Public sanitation (infrastructure, concerns), effect on community health	7.8%
14	Land acquisition (renting method, traditional & legal agreement)	6.3%
15	Related usage of natural resources	4.7%
16	Forest, mangrove, wood for construction	4.7%
17	Sea environment, biota, coral reef	4.7%
18	Investment, supports to local investment	4.7%
19	Direct compensation (previous accidents, previous agreements)	4.7%
20	Feasibility of the study	3.1%
21	Project border, definitive location	3.1%
22	Related regulations	3.1%
23	Project ownership, the role of local leader/representation in company	3.1%
24	Resettlement	3.1%
25	Gas emissions (effect on human health and the environment)	1.6%
26	Sea traffic, safety	1.6%
27	Data accuracy	1.6%
28	Less focused suggestions, personal interests	1.6%
29	Military involvement	1.6%
30	Groundwater usage	1.6%

Source: Minutes of public meetings (n = 64) (BP & Pertamina, 2000)

The comments from these meetings were no different compared with issues raised by respondents in the proposed site. Local labour and work opportunities for the public were the main issues (85%, n = 20). Resettlement issues and compensation for the public land were the next ranked issues raised by the respondents (45%). This was perhaps because the local people felt that they would be directly affected by the project. Concerns of the respondents on the Tangguh LNG case study are as follows:

Table 7.6 Issues Frequently Raised during Post-notice Interviews on Tangguh

Rank	Issues	Proportion of total number of comments raising the issue
1	Local labour, work opportunities	85.0%
2	Resettlement	45.0%
3	Compensation	45.0%
4	Involvement, information	30.0%
5	Security	20.0%
6	Land acquisition	15.0%
7	Education	5.0%
8	Project ownership	5.0%

Source: Field survey (n = 20)

7.3 Public Participation during the Scoping Process

Following the public notices, public meetings and submissions, there is a scoping process. The framework of scoping is aimed at limiting the study or EIA investigation only to relevant issues and to make a concise study. It is expected that the submission could help the proponent in preparing the document by giving more information. Observation from the case studies showed that the consultant often stops the consultation and prepares the TOR based on the formal submission and field survey. After the period of submission, the consultant and the proponent applied to the EIA administration to review (formal scoping process) their EIS TOR draft to get approval from the administration.

Formal scoping process (the review of the EIS TOR)

After the draft of the EIS TOR is prepared, formal scoping is carried out in a meeting that invites all related government agencies. NGOs are also invited to attend the meeting and to discuss the coverage of the EIA study. Moreover, Regulation 27/1999 states that a 'community representative' is also a member of the Commission (Articles 9 and 10 of Regulation 27/1999, The Government of Indonesia, 1999a). However, there is a potential problem in interpreting the terms 'NGO' and 'community representative', whether the term is singular or plural. Both could lead to a misinterpretation that creates a poor result of the Commission's meeting.

The work of the Commission cannot convince the community that it will produce a good decision. This was confirmed by a criticism from a prominent Indonesian EIA practitioner

(pers. comm. with Otto Soemarwoto, 2002c) who states that the EIA Commission's meetings have never produced definitive conclusions or agreements out of the EIA processes. This is supported by the fact that most EIA processes can never be resolved by the Commission's meetings, where it discusses opinions, and will end up in the EIA secretariat to follow-up responses from the proponent and its consultants.

In the MRT case study, the formal scoping process took place on May 31, 2000. There were 43 people attending the scoping process (DC1G008, 2000) including 23 representatives from ten related agencies (DC1G002, 2000) without the presence of NGOs or the affected people. According to the minutes of the EIA Commission's meeting, there were over 109 questions and suggestions aimed at the consultant demanding clarification and further explanations in the EIS TOR document. Certainly, the consultant needed a significant amount of time to revise the document. It was about one year after the formal scoping process until the issuing of the formal EIS TOR approval on June 1, 2001 (DC0G006). In the same month, the consultant submitted the EIA draft containing EIS and EMPs documents. Obviously, the consultant carried out the EIA study without delay prior to the formal approval of the EIS TOR.

Issues raised by those who attended the formal scoping process are summarised below in Table 7.7. The most raised issue during the process was about the accuracy of the EIA study methods (67%, n = 23) including impact prediction and evaluation techniques, calculation, modelling, and mitigation measures. The description of the EIS TOR document was also considered inadequate (58%). Related regulations were also a major issue (50%) raised by EIA Commission members, similarly for the format of the document which needed further clarification both in terminology and data presentation (42%). It was interesting to note that technical issues did not attract much attention from the Commission members. These are quite different to the issue raised during public submission. The need for strategic planning and social assessment did not appear during the review process. However, issues about the need for adequate traffic management and alternative technology still needed consideration.

Table 7.7 Issues Frequently Raised during the Review of the Jakarta MRT EIS TOR by the EIA Commission of the National Level

Rank	Issues	Proportion of total number of comments raising the issue
1	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	66.7%
2	Adequacy of description (process, environmental setting, project)	58.3%
3	Related regulations	50.0%
4	Clarification, document format, terminologies, data presentation	41.7%
5	Land-use management	33.3%
6	Overlapping with other development activities	33.3%
7	Security approach, user safety	33.3%
8	Land acquisition, social conflict	33.3%
9	Project border, definitive location, study's border	25.0%
10	The EIA procedure, EIA authority	25.0%
11	Adequacy of EIA expert	25.0%
12	Alternative technologies, alternative traffic arrangement	25.0%
13	Groundwater consideration	25.0%
14	Ground stability, subsidence, hydrostatic effect	25.0%
15	Alternative locations/routes	25.0%
16	Coordination with related authorities	25.0%
17	Dumping site arrangement (location, procedure, transportation)	16.7%
18	Quarry and filling material	16.7%
19	Earthquake, natural disaster	16.7%
20	Supporting infrastructure (depot, pedestrian, bus stop)	16.7%
21	Communication, involvement of public, openness	16.7%
22	Public service considerations, service plan, comfort	16.7%
23	Air pollution	16.7%
24	Investment and financial sources for the project	16.7%
25	Disturbance to historical buildings and strategic state offices	16.7%

Source: Minutes of the review meeting (n = 23), 31 May 2000

In the landfill case study, the formal scoping process has not yet been carried out. The preparation of the EIS TOR by the consultant started in September 2002 followed by a public notice in a newspaper on September 24, 2002 (MC2009, Suara Karya, 2003). After the public submission period, the proponent formally submitted the draft of the EIS TOR in November 2002. Despite an immediate scoping process of the EIS TOR, the proponent could not provide the location permit from the local government (DC2001, DC2002) as required in the TOR review process. Confirmation with the consultant who prepares the EIA documents (IC2C004. pers. comm. with Dahyar, 2003), shows the uncertainty of the consultant about the continuity of the EIA study. This was also indicated by the proponent

itself which stated uncertainty in obtaining an adequate proposed site (IC2P002, pers. comm. with Hendra Iskandar, 2003). Recent communication with an officer from the EIA administration on May 28, 2003 confirmed that the EIA process is stuck since there is no further information either from the proponent or from the consultant.

Table 7.8 Issues Frequently Raised during the Review of the Tangguh LNG EIS TOR by the EIA Technical Team at the National Level

Rank	Issues	Proportion of total number of comments raising the issue
1	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	83.3%
2	Adequacy of description (process, environmental setting, project)	75.0%
3	Clarification, document format, terminologies, data presentation	41.7%
4	Related regulations	41.7%
5	Waste (solid, liquid, and gas emission), treatment technology, management	33.3%
6	Groundwater and water usage, clean water quality	33.3%
7	Water balance	33.3%
8	SOP: Env Management System, Emergency Response, safety and health	25.0%
9	Forest and mangrove management	25.0%
10	Traditional rights, local social interaction, traditional life, mutual acceptance	16.7%
11	Biodiversity	16.7%
12	Project border, definitive location, study's border, exclusive zone	16.7%
13	Land-use management	16.7%
14	Management of transportation infrastructure (air, land, sea)	16.7%
15	Chemical usage	16.7%
16	Earthquake, natural disaster	16.7%
17	Cumulative impact	16.7%
18	Sludge treatment (used bore catalyst, drilling cuttings/mud), technique	16.7%
19	Management of oil spills: communication, reporting	16.7%
20	Communication, coordination with related authorities	16.7%
21	Adequacy of EIA expert	16.7%
22	Flare effects	16.7%

Source: Minutes of the review meeting (n = 12), 14 December 2001

The formal scoping process in the Tangguh LNG case study was carried out several times by the EIA Technical Teams and the EIA Commissions at the provincial and national levels. Review by the national EIA Commission took place on January 16, 2001 in Jakarta involving 44 participants (DC3G005, 2001), including 20 representatives from twelve government agencies and one NGO. According to the minutes of the EIA Commission's meeting (DC3G001, 2001), there were 205 questions and suggestions to the consultant demanding clarification and further explanations in the EIS TOR document. The revision

process took almost five months and was finally approved in June 2001. Below are two tables of issues from two meetings, which are reviews by the Technical Team (Table 7.8) and by the EIA Commission (Table 7.9).

Table 7.9 Issues Frequently Raised during the Review of the Tangguh LNG EIS TOR by the EIA Commission at the National Level

Rank	Issues	Proportion of total number of comments raising the issue
1	Adequacy of description (process, environmental setting, project)	50%
2	Resettlement, including traditional infrastructure, migration	40%
3	Local labour recruitment, labour training, work opportunities	35%
4	Waste (solid, liquid, and gas emission), treatment technology, management	30%
5	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	25%
6	Traditional rights, local social interaction, traditional life, equal recognition	20%
7	SOP: Env. Management System, Emergency Response, safety and health	15%
8	Forest and mangrove management	15%
9	Community development, local development, general infrastructure	15%
10	Land acquisition (traditional & legal agreement, property value, contract)	15%
11	Biodiversity	15%
12	Groundwater and water usage	15%
13	Public involvement	15%
14	Clarification, document format, terminologies, data presentation	15%
15	Monitoring arrangement	10%
16	Local welfare, development of local economy	10%
17	Dredging techniques and management	10%
18	Sea environment, sea pollution and effects to biota, coral reef, turbidity	10%
19	Quarry and filling material	10%
20	Related usage of natural resources	10%
21	Military involvement, security, law enforcement	10%

Source: Minutes of the review meeting (n = 20), 16 January 2001

Comparing two minutes of the meeting, one can observe that the issues raised are not so different. For example, within five most frequently raised issues, the adequacy of description in the EIA documentation had a high proportion (75%, n = 12 and 50%, n = 20). Similarly, the selection of the EIA methods: prediction, evaluation, modelling, and calculation, obtained high response from the review members (83% and 25%). However, the review held by the EIA Technical Team was more focused on technical substances, as it is the main task of the team. Therefore, the Technical Team did not discuss much about resettlement, labour recruitment, and community development.

On the other hand, the EIA Commission had a wider interest and more diverse discussion during the review process since they accommodated more representation from the EIA stakeholders. Issues raised during the review by the Commission ranged from the EIA techniques and production processes to social issues and even to military involvement. However, some Commission members believed that the proponent did not consider the previous comments during the review by the Technical Team that aimed to assist it in improving the adequacy of the EIA document. There seems to be unnecessary repetition between review processes held by the Technical Team and the Commission.

Following the approval of the EIS TOR, the proponent and its consultants will carry out the EIA study in accordance to the defined scope of the EIS TOR. Since the approval often takes a significant amount of time, the consultants often begin the EIA study before the approval since they already knew most issues required for the EIA study, but with a provision that they would carry out additional studies if required by the forthcoming approval of the EIS TOR.

Observations of Jakarta's MRT project did not show any evidence of the public consultation process during the EIA study and the preparation of EIA documentation. The EIA documentation shows that the consultant preparing the documents chose a project border consisting of four municipalities with ten sub-districts and 38 urban villages affecting more than 1.4 million people (Departemen Perhubungan, 2000). In spite of surveys carried out by the consultant and involving the public, there was no more involvement during the EIA preparation period in 2000 and 2001. The EIS TOR was approved on June 1, 2001 and the EIS and EMPs were submitted later in the same month. This was not in accordance with the previous comments during the review of the EIS TOR (and the approved TOR) that the consultant should include public involvement.

The national EIA secretariat was not satisfied with the submitted EIA documents and requested a major revision before further work by the EIA Commission. However, changes in the EIA legal and institutional frameworks delayed this process. The process was transferred from the national to provincial level in July 2001 (DC1G007, BAPEDAL, 2001). Following the transfer of authority, the provincial EIA administration made public notices in newspapers in September 2001. However, as mentioned in Chapter Six, the process ceased amid the uncertainty of investment sources. Jakarta's government postponed the proposal and altered it with a subtle approach to solve its traffic problems. A system called 'Bus way' replaced the MRT proposal. Up until now, the Bus way project was still being prepared (Kompas, September 2003).

The EIA process for the Hazardous Landfill case study was delayed due to the uncertainty over land acquisition. The process even ceased at the EIA scoping stage. However, observation showed that the proponent had no choice other than to continue the EIA process since the development of a new coal power plant has started, and it would produce coal ash categorised as hazardous waste. Interestingly, the consultant admitted that the EIA documents (EIS and EMPs) were prepared and ready for reviewing (IC2C004, pers. comm. with Dahyar, 2003) while the scope of the EIA study has yet to be approved. No further analysis could be made in this case.

The Tangguh LNG case observations showed some degree of public involvement. The proponent started to effectively communicate with the public at the proposed site or at its base camp. Local people were recruited for field surveys and investigation purposes. Similarly, hired consultants employed some local people to help with the EIA study in order to familiarise themselves with the area and local terms. With the assistance of local government, local leaders, and the proponent, a council or representative group of people was established at Tanah Merah Village. Through this council, local people could convey their concerns and ask information about the project. The proponent also opened its base camp to the local inhabitants for any questions.

The people were also able to choose their representatives for the EIA review process since they started to familiarise themselves with the whole process, especially the local leaders. The proponent then requested an independent party, a university, to train public representatives regarding the EIA process. This was critical since these representatives would attend the formal EIA review, so they knew how to play their role in the process.

The EIA review process

As outlined in the EIA guidelines *KepDal* 08 of 2000, another opportunity for public participation is during the formal EIA review. The public can influence a decision on EIA through the public representative who attends a meeting of the EIA Commission. Issues at this stage are similar to those during the formal EIA scoping process such as the number of representatives, effectiveness of discussion and resolutions, and budgeting for the Commission's meeting. This section will only outline the EIA process for the Tangguh case study since the other two cases, would not or have not reached the EIA review stage yet.

The Tangguh project finally completed its EIA preparation and produced a series of EIA documents. It was interesting to note that the proponent had to present its EIA many times

both at the provincial and national level to accommodate provincial government and the decentralisation process. The EIA review started on April 11, 2002 to May 8, 2002 involving four different groups namely the EIA Technical Team and the EIA Commission at the provincial level and the EIA Technical Team and the EIA Commission at the national level. Issues during the review process are summarised in Tables 7.10 to 7.13 below.

Table 7.10 Issues Frequently Raised during the Review of Tangguh LNG EIA by the EIA Technical Team at the Provincial Level

Rank	Issues	Proportion of total number of comments raising the issue
1	Adequacy of description (process, environmental setting, project)	58.8%
2	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	35.3%
3	Clarification, document format, terminologies, data presentation	29.4%
4	Waste (solid, liquid, and gas emission), treatment technology, management	23.5%
5	Project border, definitive location, study's border, exclusive zone	23.5%
6	Compensation (land, job replacement)	23.5%
7	Sea environment, sea pollution and effects to biota, coral reef, turbidity	23.5%
8	Related regulations	17.6%
9	Management of oil spills: communication, reporting	17.6%
10	Resettlement, including traditional infrastructure	11.8%
11	Gas emission	11.8%
12	Monitoring arrangement	11.8%
13	SOP: Env. Management System, Emergency Response	11.8%
14	Traditional rights, local social interaction, traditional life	11.8%
15	Land-use management	11.8%
16	Piping, reservoir, compressor	11.8%
17	Drainage, storm water management	11.8%
18	Local welfare, development of local economy	11.8%
19	Groundwater and water usage, water balance, water supply	11.8%
20	Fishery	11.8%

Source: Minutes of the review meeting (n = 17), 11-12 April 2002

Table 7.11 Issues Frequently Raised during the Review of Tangguh LNG EIA by the EIA Commission at the Provincial Level

Rank	Issues	Proportion of total number of comments raising the issue
1	Traditional rights, local social interaction, traditional life, mutual acceptance	42.9%
2	Public involvement, openness, public campaign, information dissemination	42.9%
3	Compensation (previous accident, agreement, promised follow-up)	28.6%
4	Local labour recruitment, labour training, work opportunities	25.7%
5	Communication, coordination	25.7%
6	The EIA procedure, public comprehension	20.0%
7	Adequacy of description (process, environmental setting, project)	17.1%
8	Related regulations	14.3%
9	Waste (solid, liquid, and gas emission), treatment technology, management	11.4%
10	Local welfare, development of local economy	11.4%
11	Community development, local development, general infrastructure	11.4%
12	Follow-up of previous meetings	11.4%
13	Clarification, document format, terminologies, data presentation	8.6%
14	Sea environment, sea pollution and effects on biota, coral reef, turbidity	8.6%
15	Overlapping with other development activities, cumulative impact	8.6%
16	Public opposition, hostility, distrust	8.6%
17	Revenue sharing, royalties	8.6%
18	Compensation (land, job replacement)	5.7%
19	Data accurateness	5.7%
20	Forest and mangrove management	5.7%
21	Hazardous waste management	5.7%
22	Doubt on statements in EIA and their implementation, supervision	5.7%
23	Epidemic, public sanitation concerns	5.7%
24	Adequacy of EIA expert	5.7%
25	Education, scholarships, community education, human resources development, education facilities	5.7%
26	Less focused suggestions, personal interests	5.7%
27	Investment	5.7%
28	Project ownership, the role of local leaders/representation in the company	5.7%

Source: Minutes of the review meeting (n = 35), 15 April 2002

Table 7.12 Issues Frequently Raised during the Review of Tangguh LNG EIA by the EIA Technical Team at the National Level

Rank	Issues	Proportion of total number of comments raising the issue
1	Adequacy of description (process, environmental setting, project)	76%
2	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	76%
3	Clarification, document format, terminologies, data presentation	48%
4	Communication, coordination, openness, public campaign	44%
5	Local labour recruitment, labour training, work opportunities	36%
6	Waste (solid, liquid, and gas emission), treatment technology, management	36%
7	Related regulations	32%
8	CO2 injection, condensation, and produced water management	28%
9	Project border, definitive location, study's border, exclusive zone	28%
10	Sea traffic management, safety, supporting infrastructure, resources	28%
11	Social impact assessment, social issues	28%
12	Dredging techniques and management	24%
13	Resettlement, including traditional infrastructure	24%
14	Sea dumping arrangement (location, procedure)	24%
15	Sludge treatment (used bore catalyst, drilling cuttings/mud), technique	24%
16	Community development, local development, general infrastructure	20%
17	Gas emissions	20%
18	Monitoring arrangement	20%
19	Post-operational stage	16%
20	SOP: Env. Management System, Emergency Response	16%
21	Strategic policy and planning	16%
22	Traditional rights, local social interaction, traditional life	16%
23	Compensation (job displacement)	12%
24	Data accurateness	12%
25	Forest, mangrove, wood for construction	12%
26	Hazardous waste management, toxicity reference	12%
27	Land-use management	12%
28	Overlapping with other development activities, cumulative impact	12%
29	Piping, reservoir, compressor	12%
30	Sea environment, sea pollution and effects on biota, coral reef, turbidity	12%

Source: Minutes of the review meeting (n = 25), 1 May 2002

Table 7.13 Issues Frequently Raised during the Review of Tangguh LNG EIA by the EIA Commission at the National Level

Rank	Issues	Proportion of total number of comments raising the issue
1	Adequacy of description (process, environmental setting, project)	65%
2	The EIA methods, impact prediction and evaluation technique, calculation, modelling selection, mitigation	50%
3	Clarification, document format, terminologies, data presentation	45%
4	Related regulations	40%
5	Waste (solid, liquid, and gas emission), treatment technology, management	30%
6	Resettlement, including traditional infrastructure, migration	30%
7	SOP: Env. Management System, Emergency Response, safety and health	25%
8	Traditional rights, local social interaction, traditional life	25%
9	Sea dumping arrangement (location, procedure)	20%
10	Sludge treatment (used bore catalyst, drilling cuttings/mud), technique	20%
11	Monitoring arrangement	20%
12	Hazardous waste management	20%
13	Local labour recruitment, labour training, work opportunities	15%
14	CO2 injection, condensation, and produced water management	15%
15	Gas emissions, dust	15%
16	Post-operational stage	15%
17	Data accurateness	15%
18	Forest, mangrove, wood for construction	15%
19	Less focused suggestions, personal interests	15%
20	Landfill	15%
21	Local welfare, development of local economy	15%
22	Project border, definitive location, study's border, exclusive zone	10%
23	Dredging techniques and management	10%
24	Community development, local development, general infrastructure	10%
25	Compensation (job displacement)	10%
26	Land-use management	10%
27	Sea environment, sea pollution and effects on biota, coral reef, turbidity	10%
28	Supervision of the implementation of EIA statements	10%
29	Incinerator	10%
30	Land acquisition (renting method, traditional & legal agreement, property value)	10%
31	Management of oil spills: communication, reporting	10%
32	Management of transportation infrastructure (air, land, sea)	10%
33	Mitigation	10%
34	Military involvement, security, law enforcement	10%
35	Biodiversity	10%

Source: Minutes of the review meeting (n = 20), 8 May 2002

Results from questionnaires

In order to obtain perceptions of EIA stakeholders, questionnaire surveys were conducted with the EIA Commission members. While it was not the intention to survey all EIA stakeholders in each case study, it was expected to obtain most stakeholders' opinions in the Commission. To obtain optimal results, the questionnaires were distributed after a brief explanation about the research and its importance for the development of the EIA process especially public involvement. A formal written notice was also provided with the questionnaires describing the voluntary nature of the survey and assuring confidentiality of the respondents' identity. Adequate time was allowed for the respondents to fill out the questionnaires after the review process and the results were directly collected after it.

The surveys were carried out for the MRT and Tangguh case studies, since the other one has not yet reached the review stage. It was designed to survey all stakeholder representatives on EIA Commission, which were 23 and 27 respectively. However, the voluntary nature of the survey resulted in only about a 50% return rate, which was 11 and 14 (48% for MRT and 52% for LNG respectively). While the participant of the EIA review process included government representatives, the proponent, consultants, NGOs, experts, and the public representatives, the returned questionnaires mostly came from government representatives. It reflects the fact that government representatives dominated the composition of the EIA Review Commission. It also indicates that the public is still less involved in the EIA review process. The surveys show that all 11 respondents returning the questionnaires in the MRT case study came from government and 9 out of 14 respondents in the Tangguh case study. Government employees perhaps felt more secure to participate in the survey than other people.

The sources of information related to the proposed project

Information relating to the project is critical for the decision-making process. Distributed information sources reflect the open nature of the EIA process and to a certain degree indicate the local community's awareness and how widely the public involvement process has been carried out.

The survey shows that most information related to the proposed project came from the government, specifically from the EIA administrator (73% for the MRT and 29% for the Tangguh) and from the proponent (18% for the MRT and 50% for the Tangguh). In both cases, the media did not play a big role in publishing or disseminating the proposed

project. Similarly, the survey does not give any indication that NGOs were active in advocating issues related to the proposed project during the planning stage.

Public participation in the EIA stages

In terms of the implementation of public participation in the EIA stages, many of the Commission members seemed to believe public involvement was implemented in most stages of the EIA process. The survey shows that public participation is believed to be already applied during the pre-EIA stage (73% for the MRT and 64% for the Tangguh) and during the EIA review process (82% for the MRT and 64% for the Tangguh). A few members considered that the public was already involved during the EIA preparation (45% for the MRT and 43% for the Tangguh) or during the revision of EIS document (27% for the MRT and 7% for the Tangguh). This is in accordance with the *KepDal* 08/2000 that the involvement procedure is focused on the beginning of the EIA process.

Submissions

In terms of making a submission, it is important to assure that all EIA stakeholders understand and can easily take part in the process. Otherwise, the EIA administrator should revise the procedure to encourage one who wishes to make a submission. The survey shows that most respondents believed that it is easy to make submissions (82% for the MRT and 64% for the Tangguh). However, it also indicates that the procedure still needs to be improved since a few respondents thought that it was difficult (18% for the MRT and 7% for the Tangguh).

The availability of the EIA documents

This question tests the distribution and availability of EIA documents. It is an important issue for all EIA stakeholders in order to prepare their assessment for the EIA review process. The survey shows that the EIA documents were mostly kept and distributed by two main EIA stakeholders – the government (91% for the MRT and 57% the Tangguh) and the proponent or its consultant (9% for the MRT and 29% for the Tangguh). It is interesting to note in the surveys that NGOs were not considered as a source of information. It seems that there is no chance to obtain EIA documents from other sources, even if stakeholders or the public wish to copy or buy the documents. However, most Commission members believed that it was easy to obtain the documents (82% for the MRT and 64% for the Tangguh) although a few considered it difficult to get the documents (18% for the MRT and 21% for the Tangguh).

Public involvement process

The process of public involvement was observed by stakeholders during the EIA process. According to their experience and observation, the extent of involvement can be assessed. In general, almost all stakeholders agreed that there was some degree of public involvement. Some of them (36% for the MRT and 43% for the Tangguh) considered that public involvement included many people but some of them (55% for the MRT and 43% for the Tangguh) also believed that such involvement was limited.

When it comes to the reason why public participation is important in the EIA review, most respondents thought that the process should involve the affected public in the decision-making process (100% for the MRT and 86% for Tangguh). There are many reasons for involving the affected people in the review process. The most important one put forward by respondents was that it is the right of affected people to understand the impact of a proposed project. In addition, citizens will be affected so they have to be involved in decision-making. According to comments on the surveys, several reasons for the need of such involvement are as follows (author's translation):

> They need to be directly involved. They could not be only as observer; it is about advantages and disadvantages affecting the people.
>
> The public has rights in the development process.
>
> Because the public will get the development impacts and it has interests.
>
> The public needs to participate to anticipate the environmental impact.
>
> Because the EIA documents are open for public scrutiny.
>
> It is in accordance with guidelines from the government.
>
> To make the public understand the situation and taking any opportunity in the project.
>
> Since the public understands the proposed project, there will be no complaints in the future.
>
> Since the public understands the proposed project, it can supervise the implementation of statements in the EIA documents.
>
> Without public participation, the project schedule will be constrained in the future.
>
> It is considered a proper procedure since the public will experience project impacts.

However, there were also a few strong responses from respondents in the surveys criticising the involvement of the public in the EIA review process. This was on the basis that public participation made the process more complicated:

> There is no need for public participation since it will make the process more complicated.

Public participation during the EIA review process

A critical factor for the public when it is involved in a formal EIA review discussion is the atmosphere of the meeting. This will encourage EIA stakeholders, especially the public, to participate in the discussion. If the meeting seems to be convenient to the majority of EIA stakeholders, it could be expected that the exchange of information will create a positive discussion. However, the sense of ease will vary according to each stakeholder. Government personnel who are familiar with formal meetings will have no problem with the atmosphere but the general public may find it more threatening.

The survey indicates that almost half of respondents felt that the meeting in each case study was open, friendly, and comfortable (45% for the MRT and 50% for the Tangguh). However, some respondents thought that other stakeholders dominated the meeting. It is interesting to note that even some official respondents still perceived that the EIA documents contained too much unfamiliar terminology (45% for the MRT and 21% for the Tangguh). This indicates the lack of readability of the EIA documents. In spite of a lack of comprehensive information, a few respondents also commented that to a certain degree "the public seems to be more dominant in commenting on social and economics issues".

Other critical considerations in the public participation process are the attention of the review process to the public's concerns. Due to the public's varied background, its suggestions are occasionally less focused on the discussion. However, public participation is aimed at gaining its views and therefore it is the task of the meeting to accommodate its voice. The role of the person in charge of the meeting is very critical in addressing issues put forward by the public.

Most respondents observed that public opinion was considered and acquired an appropriate response from the EIA Commission (55% for the MRT and 57% for the Tangguh). This is a positive indication that the meeting appreciated the role of the public. However, some respondents still assumed that the participation process was inadequate and claimed that it was only a token procedure (36% for the MRT and 36% for the Tangguh). Public opinions could get less attention from other stakeholders who might have limited time for discussion or they might only be recorded in the minutes of the meeting without sufficient explanations.

The role of the public during an EIA review also depends on people's ability to understand the substance of EIA documents, particularly technical terms and their implications. Another important factor is comprehending the participation procedure such as how to

make a formal inquiry, challenge ones explanation and to continue the discussion. The survey shows that most respondents felt that the public could follow a discussion and respond (55% for the MRT and 64% for the Tangguh) though there are also indications that the public did not fully respond to the review process (18% for the MRT). This could be caused by the nature of the discussion itself which was too technical. This is related to the fact that EIA documents often contained too much jargon. Some respondents pointed out regarding the procedure of discussion as follows:

> The public can understand the discussion but it gets less further attention and discussion.
>
> The responses from the public are very diverse and often are irrelevant.

The role of NGOs

NGOs are still believed to stand for the public's interests. They are thought to be more capable of dealing with environmental issues. The survey results mostly fall into two main categories that indicate the important role of NGOs in representing the public (64% for the MRT and 21% for the Tangguh) and the possibility of NGOs having their own agenda (36% for the MRT case and 43% for Tangguh LNG case). Some respondents criticised the review process for taking too much notice of NGOs and questioned their representation of certain social groups. For example:

> The role of NGOs is important but not every suggestion from NGO should be adopted. Their input needs to be selected and carefully considered.
>
> NGOs sometime represent the public's interests but also have their own agenda since some of them stay far from the proposed site.

Table 7.14 The Role of NGOs

How do you assess the role of NGOs in EIA public participation, particularly in the EIA review process?

Responses	MRT case study	Tangguh case stud
Play very important role in representing the public's interests	7	3
Often bring their own interests or agenda	4	6
Do not represent the interests of a 'likely affected community'		
Unnecessary		
Other		3
NA		2

Note: n = 11 for the MRT case study and n = 14 for the Tangguh case study

Conflict resolution in the formal EIA review process

Strong discussions often occurred in the EIA review process and sometimes it is hard to mediate between stakeholders' views. On the other hand, the time frame for the review process is limited to only eight hours on average. Therefore, it is necessary to have a specific procedure for conflict resolution and for achieving agreements among EIA stakeholders. The survey shows that most EIA Commission members believed that there was a procedure to reach agreements among stakeholders (73% for the MRT and 50% for the Tangguh). However, they also added some comments indicating that indeed there was no specific procedure for mediating conflicts, rather the person in charge during the meeting who usually takes that critical role. Below are some comments from the respondents (author's translation):

> The person in charge of the meeting takes the critical role to mitigate any disagreements.
>
> The person in charge usually gives solution when there is a serious disagreement during the meeting.
>
> It is the role of the person in charge.
>
> It needs a specific procedure for this.
>
> There is openness in this matter.
>
> It is usually reviewed together in an objective means.
>
> It is usually solved by agreements.
>
> It is usually solved by requiring the proponent to complement data in the EIA documents.
>
> Disputes must be recorded and discussed in a limited forum.

In both cases, most respondents considered that the direction of the person in charge was adequate, while some other respondents thought that the specific procedure is required to ensure objectivity of the EIA review process.

The benefit of public participation

Public participation is believed to have benefits in the decision-making process. Whilst responses from stakeholders could be subjective in nature, it is worthwhile to obtain their views about the benefits of public participation. In general, almost all EIA Commission members believed that public participation would have some benefits to the decision-making process. Some of them considered that public participation is very useful (64% for the MRT and 36% for the Tangguh) and the remaining also agreed although they suggested that the EIA administrator carry out further assessment (36% for the MRT and

64% for the Tangguh). Not one respondent thought that public participation is useless. Some respondents commented that public participation is useful (author's translation):

> Yes, it is useful especially if the public is given a chance to speak without intimidation.
>
> Yes, it will benefit the process because agreements will bring a smooth development process.
>
> It needs transparency and honesty in the process of public participation.
>
> Yes, it is worthwhile because it gives input to the decision-making process in EIA.

Such opinions are critical in improving the public participation process. Since the majority of EIA stakeholders agreed about this, it would be easier to enhance the participation procedure.

Required time for public participation

A critical part of public participation is the additional time to carry out the EIA study and its process. Literature shows that additional time to conduct meaningful public participation during the EIA process will save much more time during a project's implementation. A well-informed community will even support the proposed project because it understands the potential advantages to it. Similarly, the community can anticipate any potential problems and mitigate them in advance.

More than half of the respondents believed that public participation would affect the total time required for planning (73% for the MRT and 79% for the Tangguh). 64% of respondents in the MRT case study thought that the planning stage had become longer because of the participation process but they thought this reasonable. Similarly, in the Tangguh LNG case, 57% of respondents thought likewise.

> The public takes part in the supervision of the development activities.
>
> This is a project under the national authority and therefore the EIA process at local level should be limited.

However, there were also opinions that including participation in the EIA process would not affect the time for needed, especially if it is well prepared by the proponent.

> It is unclear whether the total required time would be longer or not. It could be faster or longer depending on preparations by the proponent.

The overall implementation of public participation

The majority of EIA stakeholders believed that the public participation is positive and improves the EIA process but it needs some refinement in the future. 86% of respondents in the MRT case and 90% in the Tangguh case consider that some improvements are needed. Some comments from respondents are as follows (author's translation):

> There was still a limited involvement.
>
> Please consider that the public's organisations are not only NGOs but also mass organisations such as *LKMD, Karang Taruna,* etc.
>
> To make the public understand its rights and obligations in the national development.
>
> It is important so the public can understand and anticipate potential impacts.
>
> It needs to improve the knowledge, human resources training of the public to understand the process.
>
> It needs to educate the public regarding the EIA technical review.
>
> The public should be involved, sit together and talk according to the *Kep* 08/2000.
>
> The irritated public arises because there is no public participation. It is needed to build a sense of belonging (be part of, take advantage of) the proposed project.
>
> There is no perfect work at once since there are many interested parties therefore the method of public participation needs to be improved.
>
> The public often wishes to be directly involved in the EIA study therefore the procedure of public participation needs to be regulated.
>
> It is needed for example to determine labour recruitments from several districts and to develop local economy.
>
> The proponent decides to execute its own the community development program and relies on unclear NGOs in terms of involving the public.
>
> There is still the limitation on education and knowledge of the public and it speaks based on its experience only.
>
> There is inefficiency in the EIA review since responses from the public is to wide and take long time to be discussed. The EIA Commission should only review the EIA draft (not the public's responses). The review process wastes the time of related agencies only to correct the responses from the public.

There was also a comment from a respondent that public participation made the EIA process more complicated:

> Public participation complicated the proponent in terms of time and cost. Its result is less useful.

7.4 The Involvement of NGOs in the Case Studies

There were prominent NGOs involved in the EIA process in two case studies. This section presents the observation results and newspapers coverage related to the involvement of NGOs in the case studies. The following description focuses on two national NGOs, which are WALHI and Pelangi. Many local NGOs also played a critical role since the big NGOs in Jakarta could not reach remote areas due to distance and communication problems. JATAM is another national NGO involved in the Tangguh issue. It assisted the local NGOs. It will be discussed later that the recruitment of a NGO activist onto the proponent's side influenced the communication channel in the EIA process.

The mass media recognises WALHI as a 'whistle blower' in most environmental cases and its activities have received national coverage. It was WALHI that had the courage to challenge large multinational companies like the US-based Freeport gold mining, the notorious Inti Indo Rayon pulp production (WALHI, 2001; WALHI, 2002a) and Kedung Ombo dam (Rumansara, 1998). Critical efforts are also made to monitor policy and legislation (Eldridge, 1995), especially in environmental policy. It is claimed that WALHI succeeded in putting forward the necessity of a Natural Resources Act (WALHI, 2001). Eldridge (1995) asserts that the first environmental act in 1982 was influenced by WALHI.

Pelangi (literally meaning rainbow) was established in 1990 (Pelangi, 2001). The main five agenda of Pelangi are: energy conservation management; forestry; transportation management; research into air pollution; and water pollution. Its two main research areas are global warming and transportation (Pelangi, 2001; Both ENDS, 1994: 29). In contrast to WALHI, the activity of Pelangi focuses on research. In comparison to WALHI, Pelangi is relatively smaller and concentrated in Jakarta. It has no branch in regional or local areas. However, Pelangi maintains a good network with other NGOs including WALHI as a peak environmental organisation. Although it focuses its activities on research, it sometimes becomes involved in advocacy activities by offering its research results.

Most NGOs in Indonesia establish and maintain a wider network with other NGOs and this includes some local NGOs. Local NGOs are admitted for their local knowledge and their ability to monitor their immediate environment. Considering the size of Indonesia and the limitation of transportation and communication facilities, the role of local NGOs is vital. Many of them were established in anticipation of developments which usually temporarily during the project period or triggered by environmental issues. For example, three local NGOs became involved in one of the Tangguh case study:

- The *LMA (Lembaga Masyarakat Adat) Teluk Bentuni* (the Organisation of Traditional Community in the Bentuni Bay) claimed it self as a NGO which initiates reconciliation between government, company and local communities;
- The *LMMA (Lembaga Musyawarah Masyarakat Adat) Kecamatan Babo* (the Organisation Assembly of Traditional Community of Babo District); and
- The *LPMA (Lembaga Pemberdayaan Masyarakat Adat) Sanggaria Ati Ati* (the Organisation for Empowerment of Traditional Community).

The Jakarta's MRT case study

Pelangi and WALHI Jakarta became involved in the transportation project in Jakarta. Pelangi put forward the result of its studies on local transportation. It also prepared mass mobilisation to reject the MRT proposal. The main reason for Pelangi's rejection of the proposal was financial.

> The Jakarta Local Government and the Department of Transportation tried hard to launch the proposal despite their lack of financial support. If the project proposal were continued, the MRT investment will not successful because the public willingness to pay is very low ... (IC1N002, 2002).

According to Pelangi, the MRT project is not needed and it suggests the government fix the transportation management first. Better, integrated, and long-term planning processes in transportation are needed. The Executive Director of Pelangi speculated that a MRT-like project would not be viable in the next ten or twenty years in Jakarta (pers. comm. with Agus P. Sari, IC1N002 2002). Pelangi also suggested a more suitable transportation management called "Bus way", which is considered cheaper and simpler. The suggestion was latter adopted by the Jakarta authorities. Pelangi also warned that whatever solution was implemented, the preparation of transportation infrastructure, management, and planning has to be done in advance since failure to meet the requirement will lead to unsuccessful implementation and public disappointment.

WALHI's main consideration of the MRT proposal was also financial:

> It is unfair if the MRT in Jakarta has to be financed by *Anggaran Pendapatan dan Belanja Negara*, *APBN* (national expenditure budget) that in turn all Indonesian people have to pay foreign debt (the MRT will be financed by foreign loan), not to say the implication of KKN (corruption, collusion and nepotism) .... The MRT should be financed by the people of Jakarta.... Jakarta's people need a mass transportation system, but a subway is too expensive (IC1N003, 2002).

WALHI formed the opinion that after the economic crisis in Indonesia, it is impossible to have such high-risk investments. It doubted if the provincial government could afford the project by self-financing and suggested prioritising other development sectors. However, WALHI admitted that the MRT concept was a good one and Jakarta's people need such mass transportation facilities (pers comm. with Achmad Syafrudin, IC1N003, 2002).

There were not many advocacy campaigns on behalf of the MRT proposal. There were only media campaigns and information exchanges in a forum called INFOTRANS initiated by WALHI. According to WALHI, it was not necessary to put some extra works into this particular stage of EIA preparation. From the early stage of this, WALHI explicitly rejected the proposal. Eventually, when the MRT proposal was abandoned, WALHI was not surprised. It believes that the major reason for the cancellation of the proposal was mainly due to financial constraints. WALHI also denied that the success of the MRT advocacy was due to NGO lobbying. It suspected and argued that the role of a previous NGO activist in the planning agency (now a government officer) in blocking the MRT proposal was not to lobby. WALHI suggested a cheaper alternative of the MRT proposal called the "Bus Line". Again, like Pelangi, WALHI stresses that good planning in advance and competent management of the bus line system are very important.

The Hazardous Landfill case study

In contrast to the other case studies, the EIA process for this proposal did not attract any NGO involvement. There was no involvement of NGOs from the very beginning of the EIA process until September 2003 (Awan, pers. comm., 2003). This is an interesting situation considering that the proposed site is located near big cities between Jakarta and the provincial capital city of Bandung. Furthermore, there are records of conflicts between the proponent and neighbouring communities but so far, no NGOs have tried to intervene in environmental disputes in the area. Possible reasons for this may be that NGOs had not become sufficiently interested in the issue to take an advocacy role on behalf of the public or that there were no active NGOs in the area.

The Tangguh case study

Not many prominent NGOs attended the public announcement of this proposal except journalists covering the publication. This is unusual considering that West Papua is well known among NGOs in having a big environmental problem because there is an enormous copper and gold mining plant. Nevertheless, local NGOs brought up some issues in March 2001. Their profound concern was voiced in a slogan of "no more company like Freeport in Irian" (meetings with local NGO, March 2001). Freeport is the

first and largest copper and gold mining in Irian Jaya (West Papua) which is believed by many NGOs and local inhabitants to cause significant environmental degradation and pays little heed to local development (LMMA Teluk Bintuni & Fakfak, 2001).

In terms of the EIA process, local people or their representatives at the EIA review meeting declared that they were not ready (minutes of BAPEDAL meeting with local representatives, March 2001). Personal communication with a representative from the proposed site in Tanah Merah confirmed that they agreed to having a short course on EIA, yet they did not fully understand what the meeting was for (February 2001). Moreover, the locals felt that the invitation for the EIA review was too sudden and when they attended the review process, they could not participate in the discussion. What they only knew was that there would be a large industry in their area (Meeting notes, March 2001). Moreover, they also complained that during the public notice and public meetings, the proponent only invited selected people and others could not attend the meeting. Therefore, the public was not satisfied with this process.

Due to the growing expectation of local communities, a wider community network has been established. Two other NGOs joined a movement in advocating on the Tangguh issue: the LMMA Kecamatan Babo and the LPMA Sanggaria Ati Ati. They brought together communities in Bentuni Bay and Onin Peninsula. They wanted to build a strategic alliance for the solution of national disintegration by administering traditional rights concerning environmental management. They suggested that the government and the proponent find a solution for the union of traditional communities in Bentuni Bay and resolve traditional rights (LMMA Teluk Bintuni & Fakfak, 2001).

During the EIA review process, there were six actively involved NGOs: Foker, LP2UKTI, Perdu, ELSHAM, YPMD, and LPMA Sanggaria Atiati Fakfak. It was interesting to observe the process when local NGOs advanced their views and criticisms. The local NGOs both in local and national EIA reviews began criticising the proponent in a rather hostile fashion, but they acted very politely to representatives of the affected community. However, the recruitment of a previously prominent NGO activist from the regional World Wildlife Fund for Nature (WWF) onto the proponent side had the effect of quashing the hostile attitudes of NGO activists. Apparently, even in the network of NGOs a senior activist may derail the significant issue.

In general, the support of large NGOs from the cities was not obvious in this case. It is perhaps the prominent NGOs' view that local NGOs can handle their own problems through a local forum called FORDA, a NGO network (IC3G006, 2002). On the other

hand, there was a tendency for the local community to become more confident and does not fully rely on NGOs any longer. The public replicated the style of NGOs in expressing their interests by challenging the proponent and government in EIA forums.

Toward the end of the EIA review at the national level, two big NGOs sent written responses: from JATAM and National WALHI. JATAM pointed out a press release from a NGO alliance in Manokwari – the Alliance of NGOs for Tangguh Advocacy – that criticised the substance of EIA documents. This alliance is comprised of LP3BH, Perdu, YBLC, ELSHAM, and YALHIMO. All of them come from the Manokwari District (DC3G008, 2002; JATAM, 2002). According to the Alliance, the EIA documents did not consider the Special Act of Autonomous Papua. It also questioned the consultation process which was considered fraudulent. Most NGOs expressing disappointment came from the city of Manokwari rather than from the proposed site. Some of them became involved in the provincial EIA review on April 15, 2002. During the provincial EIA review, a high-ranking government officer from Manokwari District made hostile comments to the proponent. It seemed that there was a number of unresolved matters between interested groups in Manokwari and the proponent.

In contrast to JATAM's and other NGOs' concerns, National WALHI did not directly criticise the EIA documents. National WALHI questioned the role of the EIA Commission by stating that the EIA process was not in accordance with EIA law. This was due to the abolishment of BAPEDAL as administrator of the EIA Commission and approval body for EIA. According to WALHI, since the EIA legislation failed in its implementation, the EIA process was not legal. Although the criticism did not directly affect the discussion of the EIA review, WALHI's response is potential for disputing the validity of the EIA decision in the future. There were no WALHI and JATAM representatives during the EIA review at the national level since they considered they would be manipulated if they attended the review (JATAM 2002).

WALHI is a prominent supporter challenging the government decision (Presidential Decree No. 2/2002) regarding the abolishment of the national BAPEDAL. It led a coalition of 57 NGOs in a judicial review before the Supreme Court (Kompas, 2002c) and the case is continuing. It is a critical issue where NGOs used the EIA process to dispute a broader decision. Since BAPEDAL was abolished in early 2002, WALHI maintained that the Tangguh EIA process was illegal because it contradicted EIA law that appoints BAPEDAL as the EIA administrator not the Ministry for the Environment (WALHI, 2002b). According to WALHI, there is a significantly different role between BAPEDAL and the Ministry for the Environment and that BAPEDAL has the authority to make EIA approvals. It is perceived

that WALHI had two agendas, to dispute the environmental institutional framework including EIA institution and to reject the whole Tangguh EIA process.

It appears that different perceptions in the public participation process are influenced by many factors such as the gap between the stakeholders' understanding and their expectations, previously limited involvement practices, limited information and publication infrastructure, and the media coverage. On the one hand, some critical actors still carry out the process half-heartedly. For example, consultants still consider public involvement only to fulfil their legal requirements, and proponents are afraid of being more publicly accountable. Therefore, they tend to carry out a limited public involvement process to a few public figures. On the other hand, the EIA administrator has limited experience in engaging directly with the general public either in the formal or informal process.

Another critical factor is that while the public is unfamiliar with formal public participation, most people do not know the new involvement and participation procedures yet. Indeed, many communities have traditional deliberation forums but they cannot be combined with the government's procedure which is very formal and different. This can be seen in the situation when the public could not decide on or appoint certain delegates to speak at the EIA assessment forum. There is no trust between the public and their representatives and each member of the public wishes to talk about their interests. Even NGOs, which are regarded as representing the public interest in the past, are starting not to be trusted.

The above facts from the field, along with changing EIA institutional arrangements and broader policy processes, will guide the discussion in the next chapter. Public perceptions should be accommodated in the EIA procedure if public involvement is aimed at fulfilling the expectation of most EIA stakeholders. The next chapter will discuss those perceptions and processes in the case studies, with some comments on the EIA and public involvement experience in other systems. This will indicate the level of involvement needed in the Indonesian EIA system.

CHAPTER 8 – DISCUSSION

8.1 Introduction

Decision-making in the EIA process in Indonesia has begun to consider public involvement. However, the process of public involvement and its implementation has not yet fully accommodated the interest of many parties. Constraints and misunderstandings in implementing public involvement guidelines were identified in the previous chapter. This chapter will discuss the procedure and practice of public involvement at each stage of the EIA process in order to suggest a better process for public involvement. Improvement is critical in order to fulfil the requirements of regulations and guidelines as well as to best satisfy the majority of EIA stakeholders. Although it is not always possible to ensure a high level of satisfaction for all EIA stakeholders, a win-win approach could be achieved by considering the perceptions of the public and key EIA stakeholders and by adopting the best practice of other EIA systems.

This chapter analyses in more detail how public involvement is implemented in the Indonesian EIA process through the evaluation of the case studies. It discusses the overall research issues, particularly to answer objective three of the thesis, which is "to investigate public involvement processes in practice and to find out the perspectives of the EIA stakeholders regarding the process" and objective four related to the role of NGOs and traditional participation. Part of this chapter is drawn from the author's article published in *Environmental Impact Assessment Review* Journal (Purnama, 2003, see Appendix 3). Therefore, cross-referencing will not be made in the text.

The chapter starts with an evaluation of previous policies regarding public involvement and EIA. This is critical since the current and the future implementation of public involvement depends on the previous and current regulations and guidelines. Discussion will continue with an analysis of each EIA stage currently incorporating some elements of public involvement and other stages that might start to incorporate public involvement. Some criteria are used to evaluate the implementation of public participation in the Indonesian EIA. The next section will discuss the role of the EIA institutions and related legislation, which are critical factors influencing the implementation of public involvement. Some broader issues will also be discussed in the last section of this chapter. Drawing on the experience in the EIA systems from other countries and the evidence from the case

studies, the discussion will examine the potential for increased public involvement in the EIA process. The discussion provides directions for improving the current public involvement process in Indonesia's EIA system.

8.2 The Evolution of Public Involvement in the Indonesian EIA System

The development of public involvement policies in Indonesia is influenced by factors such as level of educational, socio-cultural custom, and politics. This includes the increasing awareness of the public about its rights to participate in decision-making. As previously identified in Chapter One, the state of democratic practice is also crucial, especially because Indonesia was governed by an authoritarian regime since 1966 (Potter, 1996). The strong role of government in the past often resulted in repressive actions and constrained the public to get involved in development process. When the government declared involvement in development, it was more often in a manipulative manner (Soetrisno 1995), which perhaps was similar to the first step of Arnstein's ladder of citizen participation (1969).

However, repression and strong resistance in the 1990s created social mass movements, which culminated in political reform '*reformasi*' in 1998, and the changing character of the Indonesian government. The popular demand for participation became stronger. A critical attempt to accommodate this demand appears in the planning policies, especially in the EIA system. While Chapter Four outlined the development of the EIA system in Indonesia since 1982, this section will particularly focus on discussing how public involvement in the Indonesian EIA system has changed.

The period of Act 4/1982 and Regulation 29/1986 was the 'Implementation Phase' for the Indonesian EIA system until 1993 where the implementation was still limited and the government tried to introduce EIA. Next is the 'Developing Phase' between 1993-2000 when the government modified the EIA process by the deregulation process and simplifying the process through Regulation 51/1991. Finally, from 2000 to date is the 'Refinement Phase' for public involvement when the government significantly regulates it through Act 23/1997 and Regulation 27/1999.

In the Implementation Phase during the period of pre-1987 to 1993, public involvement was introduced as part of the ideal EIA system. However, the government faced difficulty to introduce the overall EIA process particularly due to the extensive nature of the EIA screening, the requirement of evaluation for the existing activities, and the new

established EIA institutions. In addition to problems with the implementation of public involvement, many EIA stakeholders were still unfamiliar with the concept of EIA. It was often stated by policy-makers that Indonesia must implement the EIA system while it is being developed. It is perhaps due to that reason if public involvement and broader EIA were not adequately implemented at that phase.

Article 31 of Regulation 29/1986 made clear that the government should ensure a wide public notification, to maximise the opportunity for the public and interest groups to obtain EIA-related information, and allow the general populace to express its views in the EIA review process via written submissions or though NGOs. Notwithstanding the availability of various EIA guidelines, there were no specific guidelines for public involvement in the EIA process. This situation is similar to Thailand's and Malaysia's EIA systems where specific guidelines for public involvement are not yet established, while without clear guidelines the regulation could not be implemented. This is in contrast to the EIA practice in developed countries where specific guidelines are used.

In practice, public involvement was channelled only through NGOs' involvement in the EIA Review Commissions because they could represent the public. While, this reflects the fact that the government welcomes NGOs participation, it in fact reduces the chance for the public to directly have its say. This was perhaps because the government considered that the public would find difficulty in understanding the formal EIA process. Therefore, the government restricted the involvement of the general public to simplify the EIA process. By delegating involvement to NGOs, this regulation limited the ability of the public for meaningful involvement. It is a common practice for developing countries to recognise the role of NGOs and consider them as the representative of the public such as in the Philippines, Thailand, or Malaysian EIA system while NGOs are only one type of stakeholder in developed countries.

Public involvement was weakly implemented in this phase. For example, the notification process has never been widely carried out in the media. The public libraries were rarely available. Some government departments simply put small notifications in their office to fulfil the bureaucratic formality, where the public would find it difficult to access and know what is going on. Similarly, EIA documents were difficult to obtain by the public or NGOs. The lack of an EIA filing system in the ad hoc EIA secretariat of each government department has made disclosure ineffective. The tracking of EIA processes using information technology has been initiated at BAPEDAL (Dick & Bailey 1992) but the public cannot easily access the online information. In reality, the general public could not get

involved at all. NGOs were the only organisations who could effectively get involve because they know the regulations.

Dick & Bailey (1992: 65-66) discuss why EIA has not been open to the public: there was no factual notification procedure; no public libraries and information facilities; NGOs might never be invited; a lack of funding in representing local interests; representatives of local were seldom invited to the review process; and finally there were constraints on public meetings due to administrative and security reasons. Obviously, the adequacy of information is the prerequisite for the public involvement implementation as shown in EIA from developed countries. Public involvement and participation in Indonesia at the time were viewed as a top-down approach and defined by the government. Soetrisno (1995) indicates that public participation meant that the government makes a decision and the public participates to protect this decision.

There were suggestions to improve the involvement process in EIA such as the requirement for a written report of the EIA review on the public record, publication of EIA information in newspapers, opening the facility of public libraries, and setting a tracking system on EIA processes (Dick & Bailey, 1992). However, these suggestions have never been significantly implemented. This was strongly criticised by NGOs (Heroepoetri, 1993) and also from practitioners or EIA experts (Dick & Bailey, 1992; Soemarwoto, 1988; Soeratmo, 1988). While some of those criticisms requested stronger regulations and enforcement, some suggested a more appropriate mechanism for public involvement.

An amendment to the EIA regulation occurred in 1993 leading to the Developing Phase of public involvement. However, the amendment was done to assist developers and businesses rather than in response to improving public involvement. The amendment had a significant involvement from the Coordinator Minister for Industry and Trade and it was a part of the October 1993 Package for Deregulation. The new regulation kept the previous provision for public involvement although there was no significant improvement in the procedure.

The main provision for public involvement was put forward in a specific section of Regulation 51/1993 regarding supervision. In Articles 22 and 23 of the regulation, the public was required to take part in monitoring and supervising EIA implementation (see Appendix 4). There were opportunities for the public to get involved in the EIA process, to obtain notification, and to make submissions. Legal explanations in paragraph (3) of Article 22 explicitly mentioned that the public needs to be encouraged to provide input. In

this way, it seems that the government made a commitment to initiate support for public comment. However, the paragraph also reflected a sense that the expected outcome was input or support from the public, not objections or opposition. With this wording, the public participation process seemed to be a mechanism to reach agreement between all EIA stakeholders. It could be seen as a means for justifying the proposed project, which then could be declared as having public recognition. There was no notion in the provision that any potential dispute among the stakeholders should be anticipated, facilitated or regulated during the public involvement or participation process.

Other provisions about public involvement regulated the involvement of NGOs and other EIA stakeholders in the EIA Review Commission such as in Article 12, 17 and 18. It is clear that NGOs were supposed to represent the aspirations of the public. However, there are some contradictions in the newer regulations. On the one hand, the public was encouraged to provide its input, but on the other hand the opportunity to speak directly in the EIA forum was not available, except by verbal and written submission to the EIA Review Commission prior to the review. In fact, the public has never made any submission to the Commission since there were no guidelines to facilitate such a submission. With limited information the public rarely knows who are the members of the Commission and if they knew the members, there were no further procedures on how to make submission and when the submission can be submitted in. Practically, the regulation remained as a formal document without further specific actions to implement or enforce it.

Experience with the EIA review processes shows that only NGOs had the opportunity to participate in the process, and that NGOs did not always act in the interests of local communities. Some NGOs had their own agenda and some were NGOs in name only. Based on the author's experience, the public interest was barely spelled out by Commission members during the review process. This shows that the "recommendations and opinions orally and/or in writing" from the public as required have never been brought to the surface. Public participation has never been meaningfully carried out.

A study of EIA implementation by NGOs claims that the amendment of the EIA regulations to 51/1993 will not significantly change the rule (Heroepoetri, 1993). It is argued that the changes only covered the parameter of applicability while enforceability and transparency parameters were not improved (Heroepoetri, 1993), whereas the matter of transparency is the most significant in terms of public involvement. NGOs also criticise the government on the EIA procedures for not introducing public involvement at the early stage in the EIA

process and the public is often invited later in the review stage. Public notification is claimed as being vague and without clear mechanisms (Heroepoetri, 1993).

The public involvement process in EIA is ignored by the public and NGOs because they think that they are only needed to justify the proposal. This is possible since Article 22 of Regulation 51/1993 only pointed out general methods for notification without any legal implication if it was not conducted. There were no detailed guidelines to arrange public involvement as well as no effort to distribute related EIA documents in the public domain. NGOs suggested that a detailed law should be formulated in a form of government regulation or at least at the level of presidential decree in order to promote public involvement.

Since the background of the amendment was to deregulate EIA, it might have been assumed that public involvement would not improve significantly. Public involvement was still considered as a barrier for decision-making processes. Experience shows that since the enactment of the new regulations, there were no significant changes in the public involvement process. What can be seen was the effort of related departments to accelerate the EIA review process for any proposal. Public participation still struggled with the representation by NGOs. There were few cases where public representatives attended the review process or if presented, they usually came from the local government claiming to be public representatives. Similarly, there is no example of any member of the EIA Commission expressing any suggestion from a public person or putting forward written submissions.

In terms of notification, there was a lack of significant change except by internal notifications in bulletin boards within department offices that review EIA documents. In this way, it was justified that departments have fulfilled the regulations as specified in Article 22 (1) (see Appendix 4). This in fact did not touch the root problem where the real goal is to reach members of local communities and encourage them to speak out. A wider notification effort via the media has never been carried out during the planning stage except when a proposal becomes a problem. This is coupled with the fear that notification will trigger land speculation in the proposed area. Furthermore, little attention was paid to making EIA documents available. The documents are held in certain departments and local governments but the public finds it difficult to obtain them.

In some cases, NGOs were not invited to the review processes. This was perhaps due to their attitude of frequently opposing proposals and therefore they were considered anti-

business and delaying the overall EIA process, which is in contrast to the basic concept of the amendment in accelerating the process. For example Heroepoetri (1993) ascertains that local people and NGOs did not get information and were not involved in some EIA processes. She even mentions that local policy such as the Governor's Decree tried to reduce the spirit of public participation (Heroepoetri, 1993). In another case, a national NGO was invited to an EIA review but the invitation was not supplemented by EIA documents. This made it difficult for the NGO to comprehend issues for discussion (Heroepoetri, 1993). In many cases, uninformed NGOs requested the Commission to postpone the review process, which would certainly be rejected by most Commission members. This in turn caused negative perceptions among NGOs that the Commission dominates the review process and discourages participation. Furthermore, NGOs may form the opinion that the EIA process is only a rubber stamp for proposals.

It is clear that the Implementation Phase and Developing Phase did not significantly alter public involvement. Perhaps this could not be separated from the objective of the amendment itself, which focused on deregulation rather than improving the EIA process. It stayed until the new Minister for the Environment in 1994 reformed the system leading to the Refinement Phase under Act 23/1997 and Regulation 27/1999.

There are ten specific articles in Act 23/1997 on the implementation of public involvement (see Appendix 4). From those articles, stronger and wider opportunity for public involvement could be expected in the EIA process. The stronger role for the public in environmental legislation was perhaps due to the well-known and global awareness of environmental issues in the 1990s. Issues on public rights would attract immediate attention. Another reason was perhaps due to the effort of government in seeking a wider support from the international communities, especially in an era of large foreign debt. Therefore, international pressures such as from the World Bank will influence government policy. The government seems compelled to follow any direction from such a significant lender.

Along with the Act 23/1997 was the enactment of a new presidential decree on the authority of BAPEDAL in 1998, which assigns more operational power to it. BAPEDAL was requested to make a submission on the draft of the new EIA regulation. Although the State Ministry for the Environment is responsible for initiating the amended EIA process, it was the EIA unit in BAPEDAL that formulated the draft. There was a team appointed by the Deputy Head of BAPEDAL, where the author was personally involved, which triggered larger opportunity for public participation. Two main issues were put forward by the team.

First was the changing authority of BAPEDAL, which centralised the EIA authority in BAPEDAL either at a national, provincial, and local level. By centralising the EIA authority into one agency, it was hoped this would lead to better control. BAPEDAL is sufficiently independent from the conflict of interest on any development project, thus maintaining the integrity of the EIA process.

The second significant issue was the spirit and motivation among young idealistic members of the EIA drafting team to advance the public interest. It was discussed during the preparation of the Regulation 27/1999 that if the previous EIA implementation expected NGOs to speak for the public, the new regulation should provide an opportunity for a meaningful and genuine public participation where the public can directly express its concerns. Problems such as an unfamiliar means of participation, which is often considered inappropriate in Indonesian culture, should be recognised and taken account of. Fears that public forums become an opposition movement to government programs or perceptions that they lead to anarchy could be overcome by clear procedures. Provisions for public involvement in Regulation 27/1999 are outlined in Appendix 4.

It is clear that public involvement during the enactment of Act 4/1982, Regulation 29/1986, and Regulation 51/1993 was constrained by the lack of guidelines and procedures. Since there were no guidelines, the issue of public involvement during the EIA process was often neglected or was not fully considered, for example by the EIA Commission during the EIA assessment process. Therefore, the decision to establish guidelines *KepDal* 08/2000 on public involvement in order to complement the enactment of Regulation 27/1999 was a strategic move in the Indonesian EIA context. The content of the guidelines has been outlined in Chapter Four while the preparation process of the guidelines is outlined in Appendix 4.

At the time, there was a positive political-will from the government which can be seen from several direct endorsements of the Minister for the Environment and the Head of BAPEDAL. Eventually, BAPEDAL took action in preparing the guidelines. It is interesting to note that the concept of public participation from Arnstein (1969) and public participation techniques from Canter (1977) dominated the early seminars and meetings during the preparation of guidelines (BAPEDAL & Cepi, 1999). It is clear that the EIA stakeholders were aware of constraints for the introduction of public involvement in the Indonesian EIA process such as difficulties to determine the appropriate representation of the public, the role of the public in decision-making process, funds for the participating

public, potential conflicts, and public awareness (BAPEDAL & Cepi, 1999). Therefore, they agreed to introduce and implement a staged implementation of public involvement.

Among other issues, two critical subjects were discussed: whether the public is the final decision-maker or the public is a source of information and is only consulted. Both have advantages and disadvantages depending on the nature of the EIA process and the readiness of EIA stakeholders. The final choice of defining the public as an information source and as a stakeholder to be consulted (BAPEDAL, 2000d) is perhaps appropriate, considering the conditions at the time. Public involvement is not intended to obtain popular consent but only to provide information to the public. The public clearly has no bargaining position. However, the guidelines also have provisions to include the public as members of the EIA Review Commission. On the one hand, there is a chance for the public to influence other members of the Commission, especially members from NGOs and experts, for example rejecting a proposal because it is not the public interest. On the other hand, it is less likely for the public to win votes in the EIA Commission's forum since the composition of membership is dominated by government appointees. In addition, it is also apparent from the guidelines that there is no mechanism in the EIA review process for resolving a dispute among Commission members.

The guidelines still consider the application of public involvement in only a few stages of the EIA process. The screening stage was omitted during the preparation of the policy. Moreover, public involvement during the monitoring stage was not considered as a part of decision-making or the EIA process, hence this was also excluded. Another critical issue is the role of each EIA stakeholder which was put forward during the preparation of guidelines but then simplified to the rights of the public, the obligations of the proponent, and the obligations of the EIA administration. There should be a balance between rights and obligations as well as consequences if the obligations are violated. The role of each EIA stakeholder is important and should have been included in the guidelines.

An essential weakness during the preparation of guidelines was the lack of review and comparative studies on public participation in EIA models in other developing and developed countries. With such studies, EIA experience from elsewhere could help in the preparation of Indonesian guidelines. A comparative study was carried out in Canada, specifically the British Columbian model (BAPEDAL, 2000d). Therefore, it is not surprising that the resulting model of public involvement has Canadian characteristics. However, the chosen model for comparison was not due to any similarity between both countries, but

because of financial support from the Canadian aid agency. This could create problems if the Canadian system is not appropriate for Indonesia.

The enactment of Regulation 27/1999 and the guidelines *KepDal* 08/2000 were greeted by NGOs after they had waited for almost 18 years since the enactment of Act 4/1982. NGOs sharply criticised the government for inadequate application of public involvement (Heroepoetri, 1993; Heroepoetri & Santosa, 1994; Heroepoetri, 1999) and now they can expect better outcomes. In terms of policy formulation, many efforts have been carried out by NGOs to push the government to consider public participation. However, strong pressure, political will, and initiatives from NGOs alone did not automatically bring the policy into realisation. In this case, it is due more to the internal political will of the EIA administration when the draft of Regulation 27/1999 was prepared by BAPEDAL.

Several stakeholders, especially the proponents and consultants, consider that regulations and guidelines for public involvement are counter-productive in terms of time and money. This will be discussed with reference to the case studies in the next section. However, with the introduction of public participation mechanisms, it is hoped that the accountability of EIA as a decision-making tool will increase. To observe an effective implementation of public participation and information disclosure in the Indonesian EIA system will need further time along with experiential and cultural adaptations. In the next section, discussion will mostly be based on findings from the case studies.

8.3 Evaluation of Public Involvement in the Indonesian EIA Process

Wood suggests that public consultation and participation could be applied in each stage of EIA (Wood, 1995, 1997, 2003; and see Wood & Bailey, 1996). Not every EIA system implements that best practice. In reviewing the implementation of public involvement in the Indonesian context, a set of criteria is needed as a benchmark, where data from case studies can be compared against the criteria to identify the performance of public involvement processes. There are examples of evaluation criteria that can be utilised in evaluating EIA systems, for example in Sadler, Canadian Environmental Assessment Agency, & International Association for Impact Assessment (1996) and Leu et al. (1997). Wood gives a comprehensive example of evaluating EIA performances (Wood, 1995, 1997, 2003; Wood & Bailey, 1996). This research focuses on the evaluation of public participation within a specific EIA system. Therefore, not all criteria are relevant for this research. Nevertheless, some criteria can be utilised with some modification and addition.

Following is a set of criteria chosen from Wood (1995, 2003) and Wood & Bailey (1996) for this discussion:

- Must consultation and participation take place prior to scoping, during scoping, during EIA report preparation, during review and following revision, during decision-making and during monitoring?
- Must a public participation strategy be initiated for each EIA?
- Are copies of EIA documents made public at each stage of the EIA process?
- Can copies of EIA documents be obtained/purchased at a reasonable price?
- Do confidentiality/secrecy restrictions inhibit consultation and participation?
- Are consultation and participation methods appropriate to the stage of the EIA process at which they are employed?
- Is funding for public participants provided?
- Are obligatory consultees specified at various stages of the EIA process?
- Must adjoining authorities/states/countries be consulted?
- Does published guidance on publication and participation exist?
- Must the results of consultation and participation be published?
- Do rights of appeal exist at the various stages of the EIA process?
- Do consultation and participation function efficiently and effectively?

The following sections will review all EIA stages, discuss the implementation of public involvement, and suggest opportunities for further improvements. Discussion will be outlined according to the common sequence of EIA process.

8.3.1 Public Involvement in the Early Stage

There are two activities preceding the EIA process according to Wood's (1995, 2003) EIA iterative steps, which are the consideration of alternatives and action design. In the Indonesian context, those activities are often prepared exclusively and mostly by the proponent. At these stages, considerations are taken starting from economic feasibility studies, engineering planning and design, permit and licensing, as well as getting support from the government to carry out the proposed projects. Whilst consideration for mitigation and consultation should be started earlier, public involvement is not a common practice during the pre-feasibility study in the Indonesian context. There are no specific requirements to carry out such practices and therefore, public involvement relies more on the initiative of the proponent.

Referring back to the section of policy evaluation for public involvement in EIA, it is interesting to note that public involvement in these stages had been considered earlier for

implementation (BAPEDAL, 2000d). The suggested format of public involvement was limited to information dissemination which was finally established in the formal public notice on the EIA preparation, while actually these stages are different. Considering the high level of uncertainty in the early stages of planning, formal information dissemination is difficult. Therefore, informal public involvement initiated by the proponent is perhaps more appropriate in these stages.

Several outcomes could be expected from public involvement. For example, the proponent may obtain better information about alternative locations, appropriate technology for those specific locations, and local potential resources to support the proposed project. At the stage of alternatives consideration and action design, consultation with the public initiated by the proponent could be aimed at the exploration of local information to enrich planning possibilities. At the same time, the proponent could start to introduce its organisation to the public and local government as well as obtaining a good public image. However, considering the nature of early planning stages when project proposals are still uncertain, mistakes in information distribution to the public at alternative locations could create full-expectation and lead to public frustration. During these stages, the proponent as the initiator should provide the public with realistic and achievable plan so there will be no false expectations.

8.3.2 Public Involvement in the Screening Stage

Issues with screening were also raised during the policy-making process of *KepDal* 08/2000 by the participating EIA stakeholders, but the issues were not brought into the final guidelines as a provision. For a long time, the EIA screening process is considered to be the responsibility of the government. Therefore, the issue of public involvement in this stage was considered less important. This was also reflected in suggestions during the policy-making process that appointed National BAPEDAL to initiate the screening process (BAPEDAL, 2000d).

Public involvement in the EIA screening stage is distinctive and needs a careful approach since the screening adopts a prescribed list. In this way, activities requiring the EIA process are determined well in advance while the EIA is actually very site specific. The prescribed list approach has the risk of including too many activities if the screening process is too prescriptive. It could also neglect activities having potentially significant and adverse impact if the screening is too vague. If the screening process was opened to public scrutiny, for example by inviting comments from people on the construction of the

original prescribed lists, this will likely produce a long list. This is because of the uncertainty and less understanding regarding the EIA principles, and anxiety among citizenry members. This would make the implementation of the EIA system difficult since it does not focus on activities with potentially significant impacts.

Public involvement in the screening stage would be different if it adopted the practice of reviewing any activity on a case-by-case basis (such as in Australia), and became discretionary (Harvey, 1998). Each proposed activity is assessed according to its magnitude, location sensitivity, and even the political situation. This screening approach provides a wider opportunity for public involvement since the public is invited to give opinions or submissions according to local knowledge and the specific proposed location. In this way the public will always be better informed. However, this approach could also be seen as inconsistent or biased by several EIA stakeholders, for example if two similar activities have different EIA requirements.

It is important that screening should be carried out based on clear criteria, so each of the EIA stakeholders can follow the screening process and maintain the degree of consistency. The prescribed list approach should be prioritised for activities with significant potential impacts in accordance with EIA principles. The use of a prescribed list in Indonesia should be accompanied by opportunities to review a specific proposed activity on a case-by-case basis whether to include it in or exclude it from the list. By this means, the opportunity for public involvement is higher and the public will be better informed.

8.3.3 Public Involvement prior to Scoping: the Public Notice and Information Disclosure

Public involvement during the scoping stage has been accommodated in guidelines *KepDal* 08/2000 and implemented in practice. This is the most intensive public involvement stage. Opportunities for public involvement exist from the initial process of the public notice leading to the preparation of the specific EIA guidelines (EIA TOR), consultation during the composition of the EIS TOR, and up to the TOR review process where public representatives have seats in the EIA Review Commission.

Scoping takes various forms starting from self-scoping by the EIA preparer (the proponent or its consultants), formulation by the EIA administrator, or by combining both in the formal review process. The Indonesian EIA system adopts the latter where after self-scoping by

the preparer, the Commission along with the proponent and its consultants as well as public representatives and NGOs carry out a formal scoping process for the EIS TOR. According to EIA guidelines, the formal scoping process should be carried out after obtaining input from the general public during the submission period. The quality of self-scoping could always be evaluated against the formal scoping by the Commission. However, the result of scoping is generally still inadequate. This is shown by a study from the national EIA centre that most of the scoping results were inconsistently used during further EIA studies (*Asisten Deputi Kajian Dampak Lingkungan*, 2003). In terms of public input, the scoping process is started when a public notice is announced in the media.

The public notice and media selection

Public involvement in this stage refers to the bigger issue of EIA information disclosure. The public notice requirements play a vital role as a trigger for the commencement of a wide public involvement. This differentiates the current implementation of public involvement from the previous era where the requirement for involvement was neglected by the majority of EIA stakeholders. This was due to the lack of the implementation policies. However, current information disclosure is constrained by many factors such as the cost of the public notice, relevancy of media selection, and the submission procedure.

The government was aware of the cost issue of public notices during the policy-making process. Therefore, it was decided that both the government and proponents should be obligated to publish a public notice in the printed media (BAPEDAL, 2000). However, the government also has an insufficient budget to advertise the public notice as stated by the Head of the national EIA centre (Karliansyah, pers. comm., 2002). In practice, the public notice is mostly paid for by the proponent. Although it may seem a simple issue for the EIA practitioners in more advanced countries, advertisement costs for public notices are still viewed as critical. It is considered to be an additional cost for the EIA process and a burden on the proponent. As a consequence, proponents tend only to fulfil the EIA requirements and public notices tend to be limited. Due to the lack of supervision of the guidelines implementation, the proponent could often choose a newspaper which is not circulated in the area of the proposed site such as in the Landfill case study. This could simply be intended to minimise the cost of publication but could also be a means to avoid conflict with the public.

This cost issue was raised by objections from proponents and consultants to make public notices in an appropriate newspaper, for example in the Landfill case study. As a consequence, notices become ineffective and do not reach the intended stakeholder,

particularly the neighbouring communities. However, it was not a big issue for some proponents such as in the Tangguh case study since the proponent is a multinational company that is already familiar with such public involvement procedures. The Tangguh proponent even published in national and local newspapers. This sort of proponent may view publication and public involvement as public relations and simply fulfilling legal requirements. The public notice procedure should be modified accordingly. It is recognised that the government has a limited budget for financing the public notice process. It has also been a common practice that the proponent initiates the public notice for its proposal. Therefore, if the proponent is more capable than the government of carrying out the public notice process, the guidelines should clearly state this.

The proponent and the responsible agency tend to publish only in the newspaper, ignoring billboards at the proposed site and predetermined strategic locations, and electronic media such as television and radio. While the guidelines only regulate a minimal formal requirement for the public notice in newspapers, the EIA information disclosure expects more than that. Therefore, the proponent should find other means to reach the public. Broadcasting and TV could be more effective since they reach a wider public. While using TV is more expensive, radio would perhaps be cheaper. If the use of the public notice was only to fulfil legal requirements, it will not gain significant input such as in the Landfill case study. In that case the public notice was not carried out adequately in a well-known newspaper at the neighbouring communities. The public in the case studies was more likely to use radio rather than the newspaper but there was no indication to use radio. In this case, the innovation of the initiator of public involvement of using most appropriate media for public notices is important.

In many cases, the public is not ready to be involved. Besides the public's minimal understanding of the procedures, there are some other issues. Although the rate of literacy is not always an issue, low readership of newspapers is still common in Indonesia, for example in the Landfill case study. It is also an issue in remote area such as in the Tangguh case study. In these situations, it could not be expected for the public to spend more time to investigate and find further EIA-related information regarding proposals. The public is also not prepared to bear the costs accrued from the involvement process, especially in remote areas where people do not understand the immediate outcomes of the process.

A 'one stop' public notice in a single newspaper is considered inadequate and more frequent public notices are needed in different media. However, the idea of formal public

notice in the newspaper should be kept until all EIA stakeholders, especially the public became accustomed with the procedure. Meanwhile, public notices in the newspapers will only inform the aware or educated members of the public in bigger areas such as in provincial or national level to get involved in the EIA process. Continuous dissemination should be carried out to educate and inform the public regarding the public involvement procedure.

Other means of public participation should be encouraged. Public notices on billboards at the proposed site have not been widely implemented in the three case studies. There are reasons why this means was not implemented. In the Indonesian context, billboards containing notices about a proposed project will attract property price speculations (Silalahi, 1999). Whilst the legal status of a property should be cleared up first, putting a billboard on the other party's property will create more problems. Therefore, the public notice procedure for billboards should be reviewed, unless the property is owned by the proponent. However, most of the EIA processes are carried out before or during the land acquisition stage and very often this process is used to justify land acquisition.

It is not easy to solve this problem since the issue of land ownership is still a big issue in Indonesia where the laws regarding land – *Undang-undang Peraturan Dasar Pokok-pokok Agraria* 1960 (Act regarding Basic Provision of Agrarian of 1960) – are weak. Problems with land acquisition usually arise out of unclear procedures of land ownership and land acquisition, lack of fair land price, uncertain market value, and very often due to compulsory land acquisitions or clearance in the name of public interest. All these factors provide an opportunity for land price speculation and therefore the proponent which has not yet acquired land for the proposed site will not risk putting the billboard up for public notices. However, other public notice methods were not extensively used (for example, at the office of local government).

There is a larger issue in EIA information disclosure which is not limited to the public notice. Another key factor influencing the effectiveness of public involvement is the availability of information supporting facilities such as public libraries. Regulation 27/1999 states that information should be disclosed and distributed in the public domain (Article 35), but Guidelines *KepDal* 08/2000 does not further describe this matter. There was no case study which utilised a public library to distribute EIA-related information, though this could be due to unavailability of such libraries. An innovation in this issue could be made by starting to use available libraries in universities or schools. Other institutional resources relating to environmental research such as centres at universities and NGOs could also

be used as information centres for the EIA information. The use of those resources should be encouraged and advertised to the public; a public notice should advise the availability of the information in those centres. There is another aspect in the public notice system that is important for discussion and that is the actual content of the public notice. While the notice itself has been constrained, the content of the notice could also play an important role in distribution of EIA related information.

The content of public notices

Public notices in newspapers were not appropriate and therefore the information distribution was not effective. As seen in Chapter Seven, the content of public notices in the case studies did not fulfil legal requirements. Two reasons for that problem are either the legal provisions put too many requirements so it cannot be fulfilled or the initiator of the public notice did not comprehend the guidelines.

As mentioned in the guidelines, public notices in publications should contain certain information in a minimal 5 x 3 cm^2 size which should not be a reason for incomplete information (BAPEDAL, 2000). However, the size indeed is of importance because the minimal size makes it impossible to include all necessary information. On the other hand, information that cannot be included should be put aside (such as the proposed site maps). The guidelines should be reviewed for this issue. Furthermore, other alternatives for financing the notice should be formulated such as collaboration between the government and particular newspapers.

Considering the cost of advertising as discussed previously, the author of the notice can only include minimal information. Therefore, public notices should be accompanied with other means of information distribution. The public notice alone will not provide adequate information to the public. However, some information could be included in public notices such as information relating to planning and where the EIA documentation could be obtained. The Landfill case study indicated that further information about the project could be found from the director of the company, but nowhere else. It would not be easy for the general public to directly contact a company director to get the information.

The next step after the public notice is the submission period where all public input is collected by the EIA administrator and responded to by the proponent. There are some areas in the submission arrangement that could be improved to address public concerns.

8.3.4 Formal Submission

The use of formal submissions in public participation is new in Indonesia's EIA system and was introduced by Guidelines *KepDal* 08/2000. This method has never been institutionalised before though the previous EIA regulations did mention that the affected party could convey its opinion written or verbally to the EIA Review Commission (Article 21 of Regulation 29/1986 and Article 22(3) of Regulation 51/1993). Obviously, the establishment of *KepDal* 08/2000 through the arrangement of the formal public notice triggered the application of formal written submissions. Therefore, a certain amount of time is needed for to comprehend the method and its adequate implementation.

It correlates with the fact that public notices tend to reach communities in bigger cities only. Therefore, submitters generally come from big cities such as in the MRT case study. Although some submissions came from public members with knowledge and expertise in environmental fields, the public notice did not provide sufficient information for the public to respond to the invitation. For this reason, the collected input tended to be broader issues, for example from the issue of land acquisition, local labour, to a broader strategic policy issue rather than the site-specific environmental issues with the project. Whilst supporting documents and related information are limited, the public finally makes submissions based on perceptions, familiarity with the project, and self-observation. Therefore, the public notice should be followed up with information dissemination such as public meetings or public displays so people could offer more focused input. There is a critical need for the public to be more informed before making submissions. Since the public knows their neighbourhood and indeed interacts with the proposed project during the operation stage, a more effective communication and relevant input would result if better information was supplied.

The outcome of public involvement could be reflected by the number of collected written submissions before formal scoping. A small number of submissions could be an indication of a low degree of public involvement, but it could mean that a public notice and other information dissemination are not effectively carried out. The number of submissions for each case study cannot be regarded as the only criterion affecting the quality of public involvement. The involvement method will also influence the submission results. For example, public meetings will produce more information conveyed by the public since the public meets face-to-face with the proponent and carries out an intensive discussion. This will be different if the submission is carried out in writing especially if there is no further information to confirm public perceptions, while submissions also depend on the ability to

use written language. This needs further public education in the formal submission process and the role of NGOs is critical in this sense.

This was shown in the MRT and Landfill case studies which emphasised the use of formal written submissions in contrast to the Tangguh. The Tangguh case study also confirms the previous argument that formal submissions could not be expected from the remote communities and the public notice tends to serve the interests of communities in bigger cities. However, the proponent of the Tangguh case study was aware of the situation and it held a number of public meetings. Certainly, input from the public was massive since many people were involved in the meetings and the input number was bigger compared to the other two case studies. This also shows the innovation of the proponent to obtain real input from the public without relying on formal submissions.

The other two case studies obtained a few submissions. Another factor could be related to the previous experience with the government that making submissions is considered to be showing disagreement. The previous authoritarian government often regarded public opinion as dissent. Therefore, there is a need to support the public and to inform it that making submissions in the current situation is expected. Once more, dissemination of the guidelines should be designed and broadly carried out.

In terms of submission administrative procedure, the public makes a submission to the EIA administrator with a copy to the proponent. This is a good practice since both sides (the administrator and the proponent) could start to consider the issues raised once they get the submission. However, issues raised in submissions could not be seen in the review results. It could be more transparent if the proponent makes a separate document responding to the raised issues. The responses should also indicate a particular section where the issues are addressed in the EIA documentation. Following the formal submission, the proponent incorporates the raised issues in its EIS TOR and prepares for a review (formal scoping) by the EIA Commission.

8.3.5 Public Participation during Scoping

Document preparation (content of the EIS TOR)

There is an interesting issue in the scoping procedure where the guidelines require the preparation of the EIS TOR and self-scoping by the proponent. Although with this scheme the proponent could address input from the public during the preparation of the EIS TOR, not much input could be expected since the public has not obtained sufficient information

to make a submission. Obviously in this scheme, the public is requested to contribute additional information for the proponent but nothing from the proponent to the public. Submissions would be more useful if the draft EIS TOR is prepared before public notices and communities could make more considered responses after reading the draft or obtaining further information. It would be even better if public consultation has been carried out before the submission period. Therefore, having read the proponent's proposal combined with information already owned by the public, a more comprehensive submission could be expected.

Furthermore, the proponent is obliged to have public consultation during the preparation of the EIS TOR as stated in section 2.3 of Guidelines *KepDal* 08/2000. However, in practice it was not always carried out. For example, the MRT and the Landfill case studies did not carry out public meetings or public displays, while the Tangguh case study held extensive consultations. Some proponents are still reluctant to carry out meaningful consultation to obtain popular input, consider public notice and submission as all that is needed, and hence take no further action. On the other hand, there is no follow-up action or enforcement from the EIA administrator if the proponent does not carry out public consultation. Therefore, public consultation should be procedurally improved which can confirm that public consultation is adequate. The EIA administrator could accompany the proponent during the process to ensure that consultation is adequately carried out. The Philippines' provision of public consent is a good example.

If the improved public consultation process is ensured, the proponent and consultant are encouraged to prepare the EIS TOR based on many information sources. This includes opinions from submissions, the result of public consultation, and their investigation about developments in the community. The EIA guidelines should establish a further procedure to ensure that adequate responses are provided either for the submission or for issues raised during public consultations.

Formal scoping process (the review of the EIS TOR)

Public involvement in the Indonesian EIA system continues in the review process of the EIS TOR document to determine the coverage of the EIA study. This is a further scoping formally carried out by the EIA Commission. At this stage, the affected parties participate in the decision-making process by having representatives on the Commission. The notion of involving the public in the process was that the public representatives have more chance to influence decisions made by the Commission since there are other members that could support the public such as NGOs' representatives and individual/independent

experts. However, by analysing the composition of the Commission members, representatives from the public are obviously outnumbered by members from the government, even if they are combined with the representative from NGOs and experts. Therefore, the public interest alone cannot control the decisions and they can only provide additional information to shape the decision.

Although the regulation allows a community to participate in the formal scoping process, it can only be made by a representative. The singular term 'community representative' in the guidelines and regulations is very weak because it could potentially open a new dispute among the community's members to choose their representative. It is unlikely for many members to reach an agreement to assign a single representative while the representation structure hardly exists in most Indonesian communities. However, if it means a plural term then it will create other problems such as no delimitation in terms of the representative number, which also applies to the NGO representative. When it is referred to in the plural sense then every person who claims to be the representative of a community can attend the Commission's meeting. Similarly, this applies to each NGO which can claim that it is a relevant environmental organisation which has related interests to the proposed project.

Moreover, the formal scoping process is apparently not effective since the majority of the EIA Commission members only became aware of the EIA-related information from the EIA TOR draft prepared by the proponent or consultant. There are rarely any members (except from the public) who know the proposed location well. Furthermore, the Commission relies on the information provided during the meeting and this will make the review meeting excessively long. Therefore, it is hard to reach a decision, let alone with the absence of conflict resolution mechanism at the meeting. The formal meeting process for scoping (also for the review assessment process) is criticised for its ineffectiveness in making decisions.

An alternative method should be designed for the formal scoping, for example by assigning an independent team that also makes site visits and investigation. While there is a strong perception that related matters could be discussed thoroughly in the meeting, the nature of the discussion does not allow a complete discussion due to time limitation. The formal meeting does not ensure a good discussion or a complete resolution for different opinions. Therefore, it is suggested that the scoping process is carried out through written submissions from the related agencies for the formulation by the specific EIA review team.

8.3.6 Public Involvement during the EIA Study

To ensure a comprehensive EIA study is carried out and it meets the requirements of the EIS TOR, the study should accommodate all necessary input from the public and relevant agencies provided in the formal scoping process. Once the EIS TOR is reviewed and approved, the EIA process continues with the study and the preparation of EIA documentation. Unlike the previous stage, public involvement in this stage declines. Subsequently, there is no procedure or obligation to carry out further public involvement in this stage. Regulation 27/1999 does not also state any provision for public involvement in this stage (The Government of Indonesia, 1999).

Although it was considered during the policy-making process for guidelines that input from the public will be adequately covered in the early process (scoping), it was better to continue the public consultation process during the preparation stage. At this stage, contact between the proponent (with its consultants) and the public cannot be avoided. Indeed, proponents could use this stage to maintain a good relationship with community groups to gain more detailed information. By close and mutual interaction, it is hoped that both parties will have a mutual understanding, keep each other informed and build up a mutual trust. This is an advantage in public consultation if people consider that the proposed project will have benefits attached.

Some other forms of public involvement could be utilised at this stage such as informal consultations, focus group discussions, and public meetings to enrich the presentation of related EIA information. The local public could also be involved during the data collection process, for example in survey work. All information could be utilised during impact prediction and evaluation to determine impact significance. However, without clear provision in the guidelines and regulations all the above means of public involvement could not be carried out. Therefore, it is suggested to include these forms of public involvement in the guidelines.

A critical aspect of this stage is to improve the public involvement process by making another public notice referring to the prepared draft of EIA documentation and inviting the public to make another submission. It is important for all EIA stakeholders to ensure that public opinions and previous submissions are adequately addressed and included in the EIA documentation. With this public notice, the public is kept informed about the project development and mitigation choices taken by the proponent. Furthermore, the public will

also be aware of the EIA process before it is involved in the EIA report assessment. Therefore, a more objective and comprehensive assessment could be expected.

8.3.7 Public Participation during the Assessment Stage: the EIS and EMPs Review

This stage is the last opportunity for public involvement in the EIA system, while the final decision-making and monitoring of the actual impact after the project execution are not regulated under Guidelines *KepDal* 08/2000. However, public involvement in the decision-making process at least is facilitated in the assessment of EIA documentation. Moreover, matters relating to monitoring are also stated in Act 23/1997 Article 7(2) explaining the response of the community for social monitoring, supplying opinions, providing information, and reporting on environmental issues. However, public involvement in the monitoring stage is not followed up in the level of guidelines.

This is similar to many other EIA systems where monitoring and auditing are still often considered as non-EIA. The EIA process is assumed to be done once the documentation is approved. Therefore, another framework is needed to ensure the implementation of statements and mitigation in the EIA documentation. This could be as a specific mandate or responsibility of any environmental or planning institution. Other frameworks of environmental management could be used such as offered by the ISO 14000 series, especially in the Environmental Management System (EMS) and an auditing scheme. Further guidelines could be established to control the implementation of statements in EIA documents, especially since there are specific documents produced for this need – EMPs.

Issues to be discussed for the assessment stage are similar to the previous scoping stage. These are related to the public and NGOs representation in the EIA Commission, the effectiveness of the Commission in carrying out review meetings, a lack of understanding from the majority of the EIA Commission members, and the lack of EIA documents availability for the public scrutiny. Moreover, there are issues of repetitive meetings for different ad hoc teams, the cost for meetings, and delays related to the proponent's (and therefore its consultant) responses to the correction required by the meetings. Public involvement indeed could be improved at this stage by adding public notices prior to the assessment process, the EIA approval, and an appeal right for the public.

Repetitive meetings often occur where the EIS draft should be reviewed by different teams such as the EIA Technical Team and the EIA Commission. This occurred in the

Tangguh case study where at least four review meetings were conducted. Different tasks between two teams are intended to focus the review. The Technical Team is assigned to review technical specification only while the Commission is responsible for broader issues relating to inter-sectoral policies. However, since the proponent has little time to make responses and corrections according to the results of the technical review prior the review of the EIA draft by the Commission, similar issues and questions are often raised again. Moreover, a technical meeting is intended to obtain input from field experts coming from government departments or agencies, while the Commission is designed to be attended by high-ranking departmental officials who can make a firm and strategic decision. However, since high-ranking officials usually have little time to attend EIA meetings, in many cases they often send staff who previously commented at the technical meetings. Therefore, the meeting procedures should be improved either by conducting an integrated review meeting or other means of review such as establishing a special team that collects and compiles all written input from the public and government departments, communicates with the proponents, and advises the final decision-maker.

The current assessment stage is also noted for the issue of budgets for meetings. Since the meetings are repetitive, their costs are also high. Perhaps it is less relevant for other EIA systems in developed countries to discuss the budget for the EIA meetings, but it is a critical issue in the Indonesian context. Since there is a lack of government finance, all budgets for the EIA meetings are paid for by the proponent. Therefore, repetitive meetings mean the proponent bears high costs. A better budgeting scheme should be established to resolve this issue. Meetings should focus on significant issues and other means of review such as written input from departments could be considered. The issue of EIA Commission members not understanding certain issues could be improved by requiring department personnel to make site. This should be carried out before and during the scoping process. All Commission members should have specific knowledge about a proposed site although requiring them to visit each site is another cost issue.

After the draft EIA documents are reviewed, guidelines should ensure that the proponent and its consultants respond to or make any necessary corrections as soon as possible. Currently, most time of the EIA process is used by proponents and this delays many EIA processes (Pusat Pengembangan dan Penerapan AMDAL, 2001), but not many EIA stakeholders are aware about the issue and blame such delays on the EIA administrator. Regulation 27/1999 and EIA guidelines state that the EIA administrator cannot exceed the required timeframe in approving an EIA, otherwise the EIA is deemed accepted. The proponent or any EIA stakeholder could bring any conflicting EIA process to court.

Public involvement in this stage could be improved in several ways. Firstly, by distributing the draft of EIA documents before the assessment stage and ensuring that all stakeholders obtain the draft with adequate time before making or attending any review. Since the public can also offer input or make submissions to the assessment process, a public notice explaining the assessment time and the availability of the draft for the public scrutiny is critical to obtain effective input. This will also ensure that all previous relevant input from the public has been noted by the proponent. Secondly, a public notice is also needed to disseminate a decision made by the government whether or not the proposal is approved. Finally, to make the EIA process fair, the guidelines could make provisions for the public to appeal an EIA decision.

8.4 Factors Influencing Public Involvement Implementation: the EIA Institution and Over-riding Legislation

During the early Implementation Phase, the administration of EIA was carried out by the State Ministry for Population and the Environment (MNKLH) as the policy-maker as well as the operational institution (see also Appendix 4). As a non-departmental body, this institution had a major drawback in controlling and enforcing the implementation of EIA. MNKLH had an office only at the national level with minor functions at provincial and district levels. Handing over the operational authority to BAPEDAL in 1991 was a move to a better EIA administration, which was supported by 14 EIA Commissions in sectoral departments and 27 EIA Commissions at the provincial level. According to Dick & Bailey (1992: 19), Presidential Decree No. 3 [sic, it was Presidential Decree No. 23] of 1990 gives BAPEDAL the power to veto decisions made by the AMDAL Commissions.

MNKLH, later changed to MNLH (the State Ministry for the Environment), was assigned to make policies on the environment. Specifically regarding EIA, the State Minister for the Environment is responsible for proposing any changes to the legislation, in which BAPEDAL has no legislative authority (Dick & Bailey, 1992: 20). Although the policy was set by MNLH, confusion in the EIA implementation occurred since each department has its own EIA technical guidelines. This led the government to appoint BAPEDAL through Act 23/1997 and Regulation 27/1999 to manage the EIA implementation by annulling those 14 EIA Commissions in departments at the national level. BAPEDAL increasingly developed at the regional, provincial, and district levels. This can be seen as an improvement since EIA-related guidelines were no longer ambiguous and directed by one leading agency.

However, two main legal bases of Act 22/1999 (decentralisation policy) and Regulation 27/1999 affect the EIA institution framework. Both conflictingly place environmental authorities at two different government levels, which are provincial and district. This should not occur because it has confused the institutional arrangements. Legislative bodies should cautiously supervise the process of drafting legislation. Without a good and thorough supervision, the legislative process will lose its credibility. Since Act 22/1999 prevails over Act 23/1997 (which is the basis for Regulation 27/1999) and Act 22/1999 is over-riding to Regulation 27/1999, the arrangement of EIA institution follows Act 22/1999. The Act gives more EIA authority to the district level rather than provincial level as initially intended by Regulation 27/1999.

Furthermore, the decentralisation of EIA authority is not simple since previously the Indonesian EIA system had only 14 EIA Commissions in the central level, which were at sectoral departments and agencies, and 27 Commissions at the provincial level. Now, the decentralisation process directs the EIA process to be handled at the local level consisting of more than 350 districts (The Asian Resource Center for Decentralization (ARCD), 2003; United Nations Development Programme, 2003) and by only one Commission at the national level. This means a massive requirement for capacity building at the local level. If the EIA regulations and guidelines were clear, the EIA stakeholders would not be confused because of the decentralisation policy that created various EIA administrators at the districts, which could differ according to each district's capacity. However, all administrators at the district, provincial, and national levels should look at EIA functions the same way. They should not treat the EIA process as a means for generating direct revenue, nor disregard EIA's role of safeguarding the environment (see Appendix 4).

There is a budget issue to finance the EIA process by the local administration. In many cases, a local EIA administration wishes to send as many representatives as possible to ensure that the EIA process will consider its interests. Sending representatives to the other EIA administration levels would mean spending more money. Therefore, local administrators often insist that EIA in their area should be processed by their institution. One solution to this is to strengthen the financial capacity of the EIA administration. All EIA administrators at different levels should comply with the distribution of EIA authority as set in the EIA legislation since it regulates the opportunity for all interested parties including different EIA administration levels to attend relevant EIA processes.

All EIA stakeholders should comply with the established regulations in the planning process. A development permit should be issued after the accomplishment of the EIA

process and getting EIA approval from the competent authority. Fostering economic development without environmental considerations and overlooking appropriate planning processes will put the environment at risk. The use of EIA without understanding its function will only create unnecessary delays and costs. Information dissemination and forums for sharing experience should be promoted.

The decentralisation process of EIA is illustrated in the three case studies in Appendix 4. The Jakarta provincial EIA administrator disputes the national administration showing a misapprehension by arguing based on incorrect legal justification. However, the case study opened a new approach for the Indonesian EIA where a court process can be used in the EIA process as in the US EIA system. A positive example was shown by the case studies of West Java and West Papua. In the West Java case, the provincial administration took a careful approach in accepting EIA authority. It supports the development of district administration by delegating the EIA authority to districts that are considered capable while at the same time providing necessary technical assistance for district level (Wisandana, pers. comm., 2002). In this way, the district administration became familiar with the distribution of EIA authority and there was no conflict.

The West Papua case also reveals a similar attitude where the provincial administration learned from experience how to handle a large-scale EIA process cooperating with the national administration. Both cases indicate progress toward EIA decentralisation where in the end, EIA authorities at the national, provincial, and district levels work together and support each other without unnecessarily sacrificing the essence of EIA process in terms of overlapping, delays and costs. It cannot be denied that the decentralisation process needs sufficient time to develop at the local level. It should be realised that capacity building for local EIA institutions is very important especially for human and financial resources. The infrastructure of local EIA administration should be built first before it can implement the EIA process, especially for large development projects.

Apart from the effect of decentralisation, Presidential Decree 2/2002 changed the overall arrangement of EIA by merging BAPEDAL back into MNLH in 2002. The merger of BAPEDAL at the national/central level broadly influenced the environmental legislation framework. The EIA institutional development and environmental decentralisation process became unnecessarily difficult with the potential to undermine the entire process in terms of legal accountability where a presidential decree cannot overrule the acts and regulations unless the over-riding legislation is amended. The conflicting legislations have not yet been resolved as of October 2003.

Regulation 27/1999 Article 1(9) states that BAPEDAL has the authority to approve EIA and article 8 (2a) states that the central EIA Review Commission is placed at BAPEDAL. NGOs indicate that the cancellation of BAPEDAL was due to political factors (Kompas, 2002c; Soewarno, 2002) . The merger was confusing since the legislation did not change and still refers to BAPEDAL. For example, Regulation 27/1999 still has BAPEDAL carrying out the EIA mandate. All of the above are arguable, but this issue should be solved soon. Otherwise, it will create a bad precedent in the EIA administration and decentralisation process as disputed by NGOs in the Tangguh case. Indeed, this issue is being used by the Jakarta EIA administration to challenge the legality of the EIA process in another case.

In summary, the institutional and legislative framework for all EIA processes need to be carefully and comprehensively arranged and interlinked. This will improve the legal accountability for the EIA process and avoid unnecessary misunderstanding among EIA stakeholders and institutions. The EIA institutional framework in local government depends on many factors such as administering EIA and available institutional capacity. Decentralising EIA to local administration levels will take time. However, the transitional period should be filled by necessary preconditions such as the dissemination of EIA legislation, building EIA institutional capacity, and sharing EIA skills and experience between EIA administrations.

8.5 Broader Issues in the Implementation of Public Involvement and EIA

Ideally, public involvement can be extended to a two-way communication among EIA stakeholders. It can therefore be seen as a continuum ranging from simple forms of information exchange through to wider degrees of involvement and decision sharing. It correlates with the aims of the EIA process to communicate the whole process to decision-makers, and the decision should also be made after taking community interests into account. In this sense, participation in EIA allows the public to influence decision makers, rather than actively partake in making decisions. Therefore, communication of information about environmental (including social) impacts should be as wide as possible to all stakeholders, including the community.

In the context of the Indonesian EIA, there are EIA stakeholders who consider that regulations for public involvement are counter-productive in terms of time and money. According to the guidelines for public involvement (*KepDal* 08/2000), an EIA proponent has four main obligations. They are: firstly, to announce the project proposal; secondly, to conduct public consultation with affected and interested parties; thirdly, to recognise the

importance of information disclosure; and fourthly, to implement a response mechanism. The consequences of these obligations should not differ too much from previous EIA practice. This is because the earlier regulations (Regulation 29/1986 and Regulation 51/1993) also required a proponent to consider the public interest. However, related EIA guidelines in previous regulations paid little attention to public involvement. Also there were no legal implications when public consultation was ignored in the early EIA system. Therefore, when public involvement becomes considered mandatory, it seems that costs for an EIA study increase significantly.

The view that the public involvement process will incur the additional cost of an EIA study must be carefully studied. There is a general rule that the cost of an EIA study would never exceed one per cent of physical construction value. The World Bank (1999: 8) even claims that the budgets for public involvement processes are various but they range from US $25,000 to 1.5 million or approximately 0.0025 per cent of total project costs. The Jakarta's MRT case study and the Hazardous waste case study in fact did not allocate a specific budget for public involvement. They only categorised the EIA budget into four main components: field surveys and data analyses, report preparations, remuneration for experts, and the EIA review meetings. Public involvement was considered as a part of survey activity. Therefore, the application of it in the two case studies seems to be limited.

In contrast, public involvement was extensively carried out in the third case study of Tangguh LNG, yet the budget allocation only took around 7% from the total EIA budget or 0.0005 per cent from the total contract value. It is true for some extent that EIA places additional cost on the proposed project, especially for small scales developments. However, EIA generally applies only for large-scale projects. Therefore, it is hard to concede that public involvement and EIA will jeopardise the overall project budget. It is true that the new procedure of public involvement will add some costs to the EIA process, but this is because public involvement was not carried out previously.

However, the EIA budget on the proponent's side often includes costs irrelevant to the EIA study such as for lobbying and promotions or public relations. Additional costs for an EIA study could occur due to over-estimation and excessive expenditure which in fact should not be spent from the EIA study budget. Most importantly, public involvement cannot be used for over-budgeting such as a mark-up practice, which in turn will create more negative perceptions of EIA. Therefore, irrelevant costs to EIA budgets such as extra expenses for government staff resulting from lobbying should be detached. It is common for some proponents to use the EIA as an opportunity for proposing additional costs and

include them as EIA budget components. The latter is crucial since there is a lack of financial administration in the government's side and this puts the burden on the proponent during an EIA process. This becomes an additional 'obligation' for the proponents whereas in fact they have the right to reject it.

For the Indonesian context, the lack of EIA budget still a critical issue both for the government as the EIA administrator and for the proponent. Let alone to provide a participation funding as in the Canadian EIA system, the Indonesian government should put greater political-will in the environmental management by providing an adequate budget for the EIA process. Without a sufficient financial scheme, it would be difficult to improve and to achieve the effective implementation of EIA. Furthermore, resistance or negative reactions from the public during initial announcements are not always negative indicators. Therefore, the proponent does not need to immediately cancel the EIA process or the project proposal and must view this from many perspectives. The reasons for negative reactions should be studied: whether the reactions represent an absolute rejection because of social and cultural values or whether they can have a potential impact which can be mitigated or resolved by all EIA stakeholders.

To the proponent, public resistance can be viewed as a challenge to be resolved in order to fulfil one's investment needs. Obtaining feedback from the public to improve a project proposal is important. If public involvement is adequately addressed, the proponent can build trust and establish a positive partnership. This can be utilised as a means of empowering the public. In this way, any proponent will not immediately discontinue a plan just because of negative public responses at the early announcement stage. Environmental news tends to be negative and alarming, so it will be hard to gain spontaneous positive feedback from the public. It will require an effort to approach the public through the process itself.

Conflict of interests in the relationship of the EIA stakeholders could occur in the EIA process as previously identified in Chapter Five, for example when the government act as proponent that at the same time should act as the EIA administrator. Although such interest could exist in the case studies, there was no specific occurrence affecting the overall outcome of the EIA process. However, there were interesting findings regarding NGOs. They are often considered as a stumbling block by the proponent or even by the government due to their critical opinions that often delay the EIA process and they often have their own agenda and do not act on behalf of the public. NGOs should be viewed as a particular entity that has specific characteristics and are different from the public

although they are more capable in apprehending growing interests in the community. Therefore, they should be treated as resources in the public involvement process, either in supporting, encouraging, and advising the public to speak its interests or providing critical opinions toward the government policies and development plans. It should not be a surprise if NGOs encourage the public to critically voice its own opinion and at the same time put forward a slightly different agenda.

In the MRT case study, a NGO activist joined the government and influenced the decision-maker and in the Tangguh case study, a prominent activist joined the proponent as a vice president. NGOs are often used as a training field for future career prospects. The prominent NGO activist who joined the Tangguh team could be viewed from several perspectives. The proponent might think that it succeeded to recruit a NGO activist and used him to describe it development plans using "NGOs' language" or even to defend their plans and deflect criticism from other NGOs. The activist could have the agenda of "greening from inside". On the other hand, other NGOs and the public could view it as an effort to weaken their critics. Many perceptions could occur but it is the reality of NGOs. Most important is the fact that all EIA stakeholders have opportunities to get involved in the process. To some extent, individual actions could influence the overall outcome of public participation or the EIA process. However, NGOs as institutions should always consistently play their role as the provider of critical opinions toward the government and the proponent as well as support the public. Therefore, it is important to formulate certain criteria outlining the role of each EIA stakeholder.

In the context of government guidelines, an interesting issue arises in *KepDal* 08/2000. The guidelines only specify the rights of a community without outlining its obligations. Yet for the responsible agency and proponent only their obligations are stipulated and no clarification of their rights in the implementation of this public involvement. There should be a balance between rights and obligations as well as consequences if the obligations are breached. In a more advanced community, the third obligation for the proponent as listed in the guidelines to distribute EIA information can be shared, even becomes the obligation of the interested public. This can be carried out for example by making it compulsory for the proponent to provide copies of an EIA document and share the responsibility of buying the document with the public. Although this may seem a little tenuous in Western eyes, this is a big issue in Indonesia and other developing countries since public libraries are limited.

Obviously in a broader context, the public has certain obligations to take care of the environment besides certain rights of involving itself in environmental management aspects as outlined in the Act 23/1999. However, this will be difficult to apply without clear practical guidelines. In terms of effectiveness and to achieve the right level of public involvement, it is important to that guidelines provide people with the freedom to get involved when they wish and delegate the government to make decisions on their behalf. Environmental awareness and low-level education of the general public are constraints for effective public involvement.

An intensive dissemination program of the guidelines can function as a short-term solution for the above constraints. Evaluating the implementation of public involvement procedures is also needed to anticipate malpractice and corrective measures. Supervision and technical assistance during the EIA study from administration (liaison) are also essential. The proponent's innovation and that of the EIA consultant are also necessary in implementing public involvement since each location and community is specific. The proponent cannot strictly rely on the guidelines; some improvisation is valuable to achieve the right level of involvement. The desirability of using various methods to achieve meaningful public involvement and information disclosure is indisputable.

Efforts to improve public participation in EIA must continue in Indonesia. The National EIA Centre is continuously developing guidelines. Recently, the Ministry of the Environment in conjunction with the World Bank started to develop a guidebook on public consultation, as well as an information booklet on how the public can be involved effectively. The evaluation of public involvement in the EIA process has been initiated, however it has not yet been comprehensive given that the guidelines are relatively new and other results or findings are still emerging. The implementation of regulation, development of guidelines, and information distribution regarding public involvement and information disclosure in Indonesia's EIA will take time, as well as experiential and cultural adoptions, to be most effectively realised.

Nevertheless, the challenges faced in implementing public involvement in EIA are not specific to Indonesia. They are commonly experienced in consultations conducted elsewhere around the world. Efforts to embrace the public in the participation process during development activities are important. In a broader context, the necessity of public participation was also endorsed by the United Nations Conference on the Environment and Development (UNCED) in Agenda 21. It emphasises that the role of public participation in environmental decision-making is crucial for sustainable development.

CHAPTER 9 – PROSPECTS FOR IMPROVING PUBLIC INVOLVEMENT

In conclusion, it is clear that the implementation of public involvement in the Indonesian EIA system is still developing. The process which has been in practice since 2000 will need more experience and practical exercise. It is apparent that public involvement in the Indonesian EIA system has focused on two stages: in scoping and assessment of the EIA report. Public involvement in the process is partial and incorporates only two of the eight ideal stages suggested by Wood (1995, 2003). Table 9.1 summarises the current state of public involvement in Indonesia and its constraints. Possible improvements are also provided, as are the outcomes of the discussions. Furthermore, evaluating the implementation of public involvement according to the set criteria of Wood (1995, 2003) is provided in Table 9.2.

Theoretically, Indonesia now has adequate EIA procedures through the enactment of Guidelines *KepDal* 08/2000. The process of public involvement in the guidelines reflects positively on democratisation. It is still at a very early stage and therefore, it is normal that the guidelines will be inadequately implemented. However, it is hoped that the accountability of EIA as a decision-making tool is improved with the introduction of public involvement mechanisms.

To ensure that the functions of *KepDal* 08/2000 are sufficiently implemented, evaluating their implementation is necessary. It includes reconsidering the balance between obligations and rights of each stakeholder and the consequences if or when they are breached. The dissemination of the guidelines is necessary and spreading the positive results of the public involvement process will be beneficial.

Negative reaction from the general public should be conceived as something which needs to be resolved in accordance with the interests of all EIA stakeholders. Likewise, the implications of high EIA study costs should be carefully evaluated, especially through the isolation of each EIA budget element. Irrelevant cost items should be removed from the EIA budget, so that the EIA cost only reflects the real expenditure for an EIA study.

Table 9.1 Current Practices of Public Involvement, Constraints, and Suggested Improvements

EIA Stages	Current practices	Constraints	Suggested improvements
Alternative consideration	• Public involvement in this stage is at proponent's discretion • Pre-feasibility is commonly carried out but not for a structured public involvement	• No provision in guidelines • Project uncertainty • Rely on proponent's initiative	• Informal approach initiated by proponents • Information dissemination • Initial gathering of local information
Action design			
Screening	• Public involvement is not applied in this stage since screening is government's responsibility	• Usage of prescribed list • Public involvement tends to have a long screening list	• Initiating the public notice on prescribed list and inviting input before it is decided
Scoping	• This stage has a most intensive procedure for public involvement starting from the public notice to review process • The public is involved in the decision-making process in terms of EIA Review Commission membership	• Less information before submission period • Lack of information facilities • Cost of public notice • Relevancy and coverage of media selection • Lack of public representative structure • Low readership of newspapers • Land speculation at the proposed site • No participation fund • Lack of environmental awareness among the public • Minor role of public representatives in the Commission • Reluctance and lack of public consultation in preparation • Lack of actual or local information among the Commission members • Ineffective review meetings	• Altering the procedure sequences especially to require the EIS TOR document before notice • Public consultation required before and during the submission period • Utilisation of existing information centres such as libraries in schools, universities, and NGOs • Cooperation with publisher on the public notice • Strengthening regulations on land ownership • Utilisation of other means of publication • Continuous dissemination and educating of the general public on guidelines • Starting a fund scheme to support participants • Consider establishing a new independent team • Requiring site visits for the EIA team before review
Preparation of the EIA documentation	• Public involvement is not specifically required at this stage • It is limited to involving the public in gathering field data • Public involvement is at proponent's discretion	• No provision in the guidelines • No public notice inviting public input after the draft of EIA documents is prepared • Public involvement is made according to the proponent's needs and in many cases the proponent is reluctant	• Promotion and support for further public involvement during the stage • Introduction and dissemination of public involvement methods • Additional provision in guidelines • Additional public notice leading to submission
Assessment of the EIA report	• It is the last opportunity for public involvement to offer input into the assessment process • It is carried out by the involvement of public representatives on the EIA Review Commission	• No provision in the guidelines for a public notice and submission though stated that the public could give input • The Commission is dominated by government reps • Lack of budget for meetings • Repetitive and ineffective meetings	• Additional provision in guidelines related to the public notice and submission • Improvement of review mechanism • Consider establishing a new independent team • Provision of budgets for EIA meetings
Decision-making	• The public is partially involved in the decision-making process through its representatives on the EIA Commission	• No right of appeal to the EIA decision • No further public notice outlining the result of decision	• Additional public notice for the EIA decision • Exercising rights of appeal for the EIA decision
Monitoring the actual impacts	• There is no provision in the guidelines though Act 23/1997 makes provision that the public can be involved in environmental monitoring	• Monitoring and auditing are still considered as non-EIA application or are the responsibilities of the environmental agency	• Need to be addressed in the guidelines

Table 9.2 Evaluation of Public Involvement in the Indonesian EIA according to the Set Criteria of Wood

No	Criteria	Evaluation	Comments
1	Must consultation and participation take place prior to scoping, during scoping, during EIA report preparation, during review and following revision, during decision-making and during monitoring?	• Public involvement is only applied for some stages especially for scoping and the EIA report assessment, while public involvement is not specifically required during the report preparation • There is no provision for further public involvement after revision and decision-making as well as rights to appeal over the EIA decision • Act 23/1997 outlines public involvement in monitoring stage but it is not addressed in guidelines • Proponents are required to respond on raised issues in the EIA documents but not in a specific report	• Need improvement • Rearrange public involvement in the EIA stages • Rearrange the procedure of public involvement
2	Must a public participation strategy be initiated for each EIA?	• All project proposals subject to EIA should initiate public involvement during the EIA process	• This could be expanded to other decision-makings
3	Are copies of EIA documents made public at each stage of the EIA process?	• Theoretically and partially yes but limited. The public notice before scoping does not refer to the EIA documents since public involvement is initiated before the document preparation • Copies of EIA documents are distributed before and during the assessment stage but limited to the invitees	• Draft of document should be prepared before public involvement is initiated
4	Can copies of EIA documents be obtained/purchased at a reasonable price?	• The EIA documents are not specifically provided for sale though they are possible for copying • The EIA documents are distributed to the EIA Commission members • There is no mechanism to sell the EIA documents to the public, even for public involvement purpose	• Utilisation of libraries, environmental centres, and NGOs
5	Do confidentiality/secrecy restrictions inhibit consultation and participation?	• Except for security and defence sectors, the issue of confidentiality is not apparent • Confidentiality is at the proponent's discretion though the EIA Commission could request further information	• Public involvement is not affected by this issue
6	Are consultation and participation methods appropriate to the stage of the EIA process at which they are employed?	• Consultation and participation methods vary depending on the innovation of proponents. For example, two EIA case studies carried out inappropriate public involvement while the Tangguh case study used various methods intensively	• Need to introduce and publish common practices, methods
7	Is funding for public participants provided?	• There is no provision for budgeting this funding. It is common for proponents to pay for the public involvement process	• For further consideration
8	Are obligatory consultees specified at various stages of the EIA process?	• It is not specified in guidelines. Consultations are directly carried out with government departments in accordance with the needs of proponents • Guidelines only specify the public as a mandatory consultee and specify three different categories	• It is not hard to introduce direction for obligatory consultees
9	Must adjoining authorities/states/countries be consulted?	• There is a broad provision for transboundary EIA to consult other relevant countries or states • In terms of local authorities and departments, proponents usually consult those authorities	• Need to be explicitly stated in the guidelines
10	Does published guidance on publication and participation exist?	• Yes, through Guidelines *KepDal* 08/2000 • Pamphlets and brochures were also prepared to disseminate guidance to the general public	• Need wide distribution to the general public
11	Must the results of consultation and participation be published?	• There is no provision for this but it is required to compile all public involvement reports as an EIA attachment	• Included in the public notice
12	Do rights of appeal exist at the various stages of the EIA process?	• There was a right of appeal at the final EIA decision but not in the current guidelines. Appeals occur in the court system	• Provision in guidelines is vital for clear implementation
13	Do consultation and participation function efficiently and effectively?	• It is not efficient and effective since some stakeholders still carry out public involvement as tokenism, for justifying the proposed project, and only to fulfil legal requirements	• Need support, practices, supervision, evaluation

In public involvement, the stakeholders' initiative and innovation are critical. This is very important since participation in theory is very different from practice. Specific approaches are necessary to obtain a "correct" level of involvement appropriate to each situation. The role of government is necessary in assisting and ensuring that cooperative and conducive circumstances are encouraged in a public involvement process. The government can play a role as 'referee' where it can mitigate conflicts of interest amongst EIA stakeholders.

There is a distinctive procedure in that community representatives and stakeholder groups can sit as members on the EIA Review Commission. Although the community does not directly make a final decision, its involvement in the EIA review process has considerable influence. This direct community involvement provides an opportunity for people to recognise and understand the critical issues discussed during the review process. The community also learns about and experiences the EIA process and in particular the process of involvement and participation.

General processes of public involvement and participation in Indonesia are still weak. A critical constraint is the lack of a formal involvement or participation culture and clear representational structure in the community. The EIA is currently the only formal process in Indonesia which implements the public involvement procedure. Due to recently introduced, public involvement in the EIA process will have to be continually evaluated to see whether the procedure is sufficiently clear and well understood. Moreover, a culture of formal participation needs to be developed, for example being applied to the process of deciding spatial zoning plans and permission processes. There are other acts and regulations related to the participation process but they are yet to be implemented in practice.

From the above tables, it is obvious that the implementation of public involvement in Indonesia's EIA system is still constrained by many factors. This is most likely due to the relatively new form of public involvement in the system developed since 2000. Historically, EIA stakeholders have had little experience in practising public involvement or commenting on development projects. A summary of constraints on the implementation of public involvement is as follows:

- The EIA guidelines for public involvement are still limited to a few EIA stages. The implementation of public involvement is often constrained by the lack of provisions in the guidelines though it also depends on the clear stipulation of higher legislation. Provisions for the public notice, submission, and consultation processes are limited.

- Due to the lack of provision in the guidelines, public involvement in some EIA stages mostly relies on proponents' initiative such as in the early stage of planning, alternative considerations, and action design. Similarly, lack of provision causes public involvement to be made according to the proponent's needs and in many cases the proponent is reluctant to carry out open consultation.
- The usage of prescribed lists in the EIA screening stage restrains public involvement in the establishment of the list. If the screening stage was based on a discretionary principle and decided on a case-by-case basis, public involvement would be likely to produce a long screening list.
- The effectiveness of an input or submission process is constrained by a lack of information before and during the submission period. The EIA reports such as the EIS TOR, EIS, EMPs are not widely distributed and are not freely available in the public domain. This is aggravated by the low use of potential information facilities such as libraries, environmental centres, and NGOs.
- Cost of public involvement is considered to be a major constraint, especially by proponents. This includes the public notice in newspapers, public meetings, and repetitive assessment processes. Furthermore, there is no reasonable financial support to encourage the public to be involved.
- The cost issue affects the media selection for the public notice and leads to an ineffective notice being produced. This is amplified by low readership of newspapers, especially in remote areas and therefore many people are uninformed. A lack of environmental awareness among the public is another constraint discouraging their involvement.
- In terms of public participation in decision-making, the lack of a public representation structure complicates the election of representatives from the public to sit in the EIA Commission. Furthermore, public representatives only play a minor role in the EIA Commission since it is dominated by government delegates.
- The public participates in the decision-making process in a minor way. It has no right of appeal regarding an EIA decision.
- Public involvement during the monitoring stage is not provided in the guidelines though it is stipulated in Act 23/1997. Monitoring is still considered to be a non-EIA application and is the responsibility of the environmental agency.

There are also other issues that are not directly related to public involvement but substantially affect its application. Land speculation is a critical issue rising from the lack of landownership management and legislation. This issue influences the implementation of public involvement in the Indonesian EIA system since any information on proposals would spontaneously attract land speculation. However, this issue cannot be solved by regulations in the EIA system. Another essential issue is related to the performance of the EIA Commission in carrying out the assessment process, either during scoping or report review. Some issues are attributable to repetitive meetings and ineffective reviews. Another issue is the lack of actual or local information among Commission members since they rarely make site visits before making any assessments.

The above constraints demonstrate that the implementation of public involvement in the Indonesian EIA system must be improved. It is possible to propose various models of public involvement for improvement. Before doing that, the investigations conducted for this research show that public involvement in the Indonesian EIA system is a very complex process which has revealed a number of avenues for further research. Although these are outside the scope of this thesis, it is important to recognise the potential for further study.

9.1 Further Research

The research in this thesis shows a tendency for demands from some EIA stakeholders who have been previously marginalised to become involved in the decision-making process. This ranges from information distribution, consultation, and directly participating in a decision. Improvements in procedures should be continuously made. The research also reveals that in fact there are many problems in the implementation of EIA in Indonesia. It is not only the implementation of public involvement but also other problems emerge such as: the procedure of the EIA review; institutional framework for EIA and broader environmental management; budgeting; and the efficiency and effectiveness of the EIA system as an environmental management tool in safeguarding the environment. Another critical factor is that politics always plays a part in the decision-making process. While many EIA practitioners are already aware that the EIA process is very political, this is rarely discussed in much detail during the evaluation of the EIA performance. Researching the roles of each EIA stakeholder in more detail will always be an interesting topic.

Perhaps further research could elaborate on issues such as:

- Institutional frameworks along with the finance and budgeting for the EIA process in developing countries. This would reveal and answer the popular but erroneous opinion that the EIA process is expensive. A broader research in the budgeting for environmental management in developing countries could provide an idea about the adequate resources needed for meaningful environmental management. This could also answer whether environmental management is intended to deflect international pressures or to safeguard a country's environmental resources.
- Since there are many constraints in the implementation of the EIA process, research could focus on the availability of EIA infrastructure. This includes institutional and legal arrangements, budgeting, public education on environmental awareness, or integrated planning by responsible agencies.
- Public involvement should be implemented not only in the EIA process but also in other planning actions and decision-making processes. The culture of public involvement should be developed in many aspects of Indonesian social life.

While there is scope for further research, it is possible to develop models based on the research in this thesis in order to improve public involvement. Some issues could be solved in the short term since they need minor modifications and additions, but some are more difficult and need a longer time to be improved due to the need of additional supporting facilities or major institutional procedures. The following section outlines alternative models based on the suggested improvements from the previous discussions.

9.2 Alternative Models for Public Involvement in the Indonesian EIA

Alternative models of public involvement need to be explored in order to improve the Indonesian EIA system. Many models can be advanced, but considering the practice of public involvement in Indonesia, three particular models are offered. The main flow of the EIA process will be kept as it is, or slightly changed to facilitate the current understanding of the whole process. In addition, these models are developed based on technical consideration but exclude political determinants. These three models are illustrated in Figures 9.1– 9.3. Adjustments and additional features are aimed at the most practical changes in the short or medium term. However, an ideal model is also offered to illustrate the possibility for a best practice model for public involvement.

Model 1 keeps the main flow of public involvement in the current EIA process except where it changes (dashed lines and shaded box indicate some modifications) the order of the public notice and the preparation of the EIA Terms of Reference (EIA TOR). While the current procedure has a public notice before a preparation of any document, the model suggests that the TOR draft is prepared by the proponent prior to the notice. The preparation of the TOR is carried out soon after the proponent advises the responsible agency so the latter can start arranging the schedule for the EIA process.

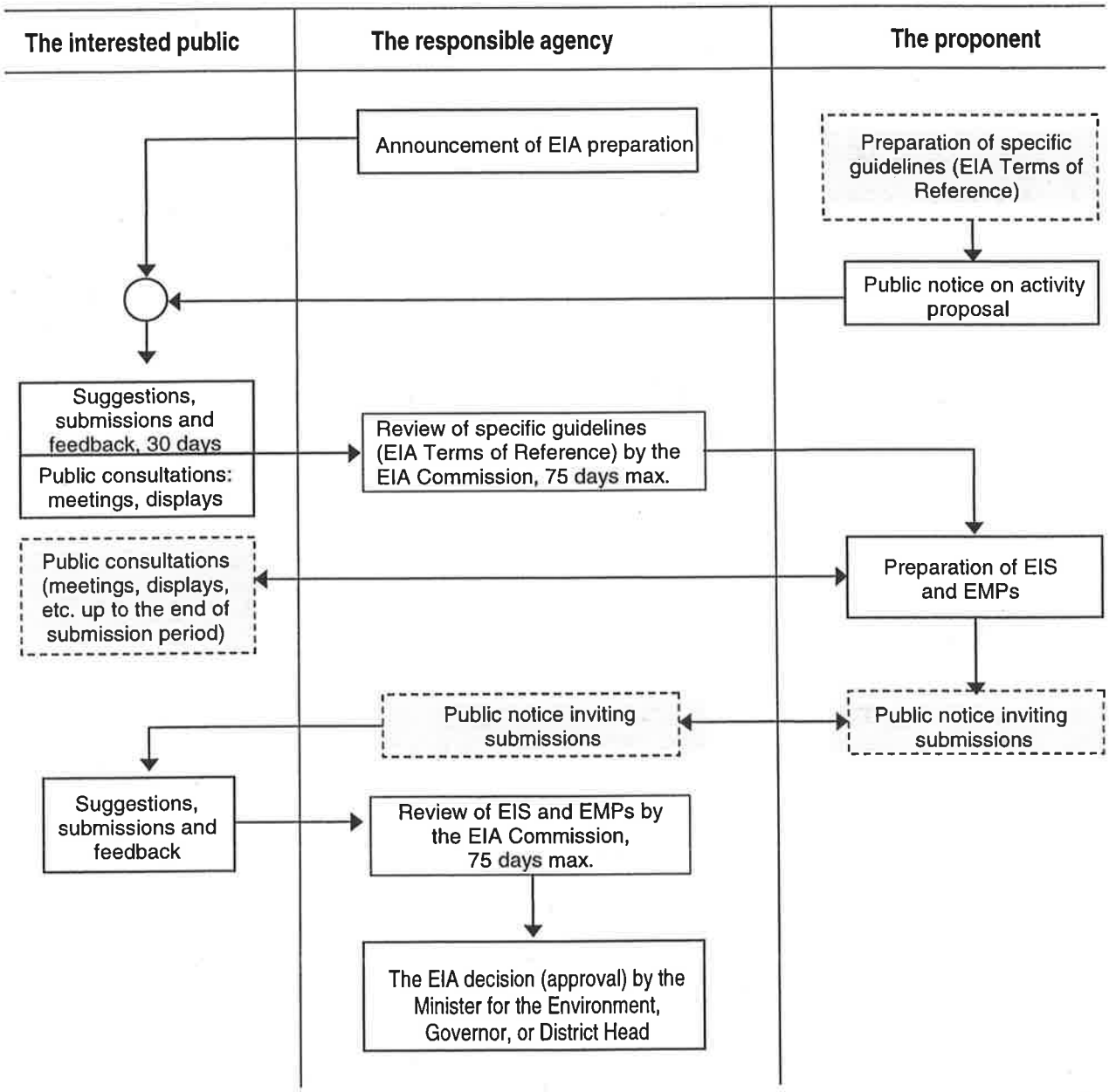
The notice inviting submissions is carried out after the proponent is ready with the EIS TOR. The modification changes the current procedure where the public is only requested to respond to the notice without having detailed information about the proposed project. In this way, the public could be expected to make a more considered response after reading the EIS TOR draft and understanding the proposal. Therefore, submissions become more specific and are in accordance with focusing the scope of the planned EIA study. The modification also emphasises that the delivery of public input and submissions should be initiated by public consultation and will be included in the EIS TOR assessment. In the assessment stage, all submissions and the result of consultations are addressed along with input and analyses from other EIA stakeholders in the EIA Commission. In this way, the EIA process will open up all issues. Up to this stage, there will be no change in terms of cost since the modification does not add any new procedures.

Following the agreement on the depth or scope of the EIA study in the TOR, the EIA process continues with the EIA study and the preparation of relevant documentation (EIS and EMPs). A key procedure for public involvement is added in this stage where the proponent is required to continue public consultations. The consultation process will maintain adequate communication between the EIA preparer and the public. Any changes in planning will be continuously brought to the public's attention through meetings or displays. Therefore, the public will not be surprised if there are any new plans or decisions taken by the proponent.

Another critical aspect of the first model is the additional procedure for a public notice after the proponent is ready with the EIA documentation. This procedure requires the government and the proponent to announce the availability of EIA draft documents for public inspection and to invite feedback from people. In this way, input from the earlier EIA stage will not stop without further public supervision for implementation, which occurs in the current procedure.

Triggered by the public notice, input and written submissions will be considered during the formal assessment stage by the EIA Commission. This will strengthen the direct input of public representatives as members of the Commission. The additional procedure will reach out to the broader community and provide wide opportunities for popular involvement in the process.

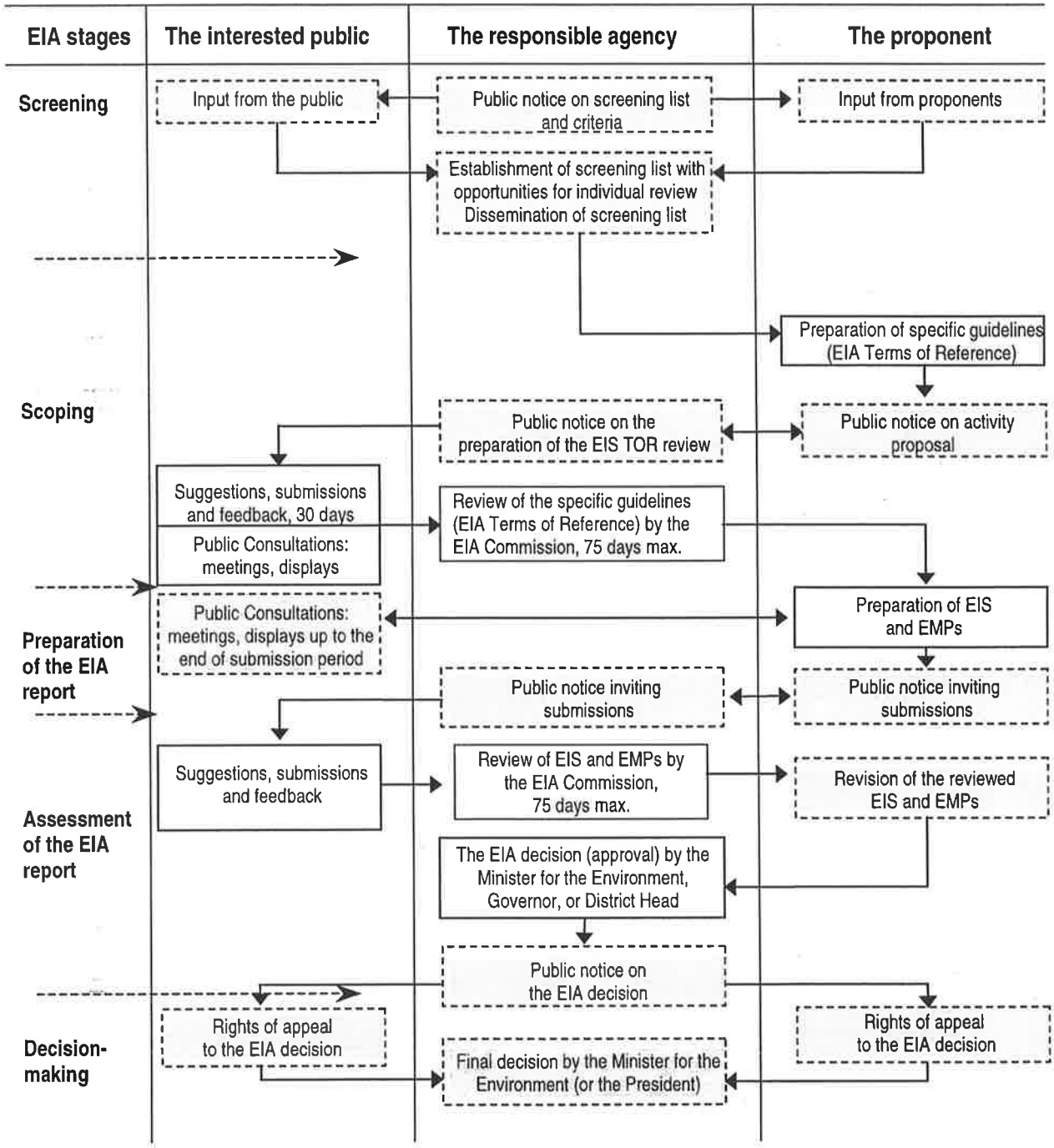
Figure 9.1 Model 1 for Short-Term Improvement



Note:

Changed or additional procedure

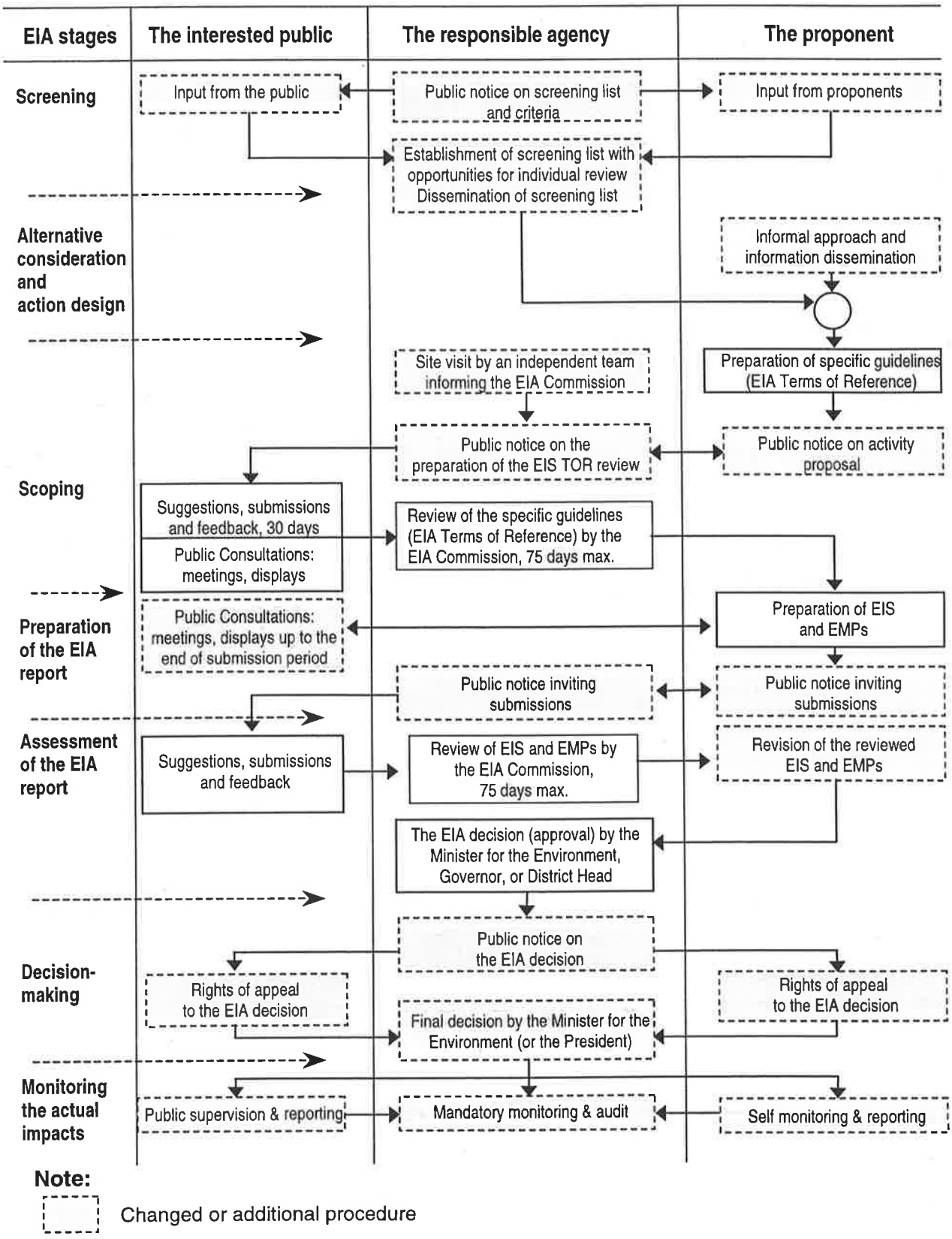
Figure 9.2 Model 2 for Longer-Term Improvement



Note:

Changed or additional procedure

Figure 9.3 Model 3 of an Ideal Public Involvement System



The modification of the EIA process in Model 1 will have cost and time implications, especially since advertising in newspapers will still be expensive. Costs for public notices will double. So, alternatives should be explored. For example, the responsible agency could establish press releases using other media such as the Internet. In terms of the required time for EIA document preparation, conducting public consultations could also slow down the process. However, the consultation is already required in the current procedure and the model only further emphasises this. In this case, the proponent will need to be innovative.

Model 2 is a broader improvement with more public involvement in the screening and decision-making stages. If modification staging in Model 1 has been well implemented, public involvement in other stages could be added in the longer term. Since the Indonesian EIA system adopts a screening stage using a prescribed list, the government should initiate the screening process. Screening starts with the preparation of the prescribed list draft with the input of EIA stakeholders. Following the drafting, public involvement is carried out through the announcement of the prescribed list draft in the national media. To obtain more responses from EIA stakeholders, a submission period can be set. The produced input is then considered by the government for a final decision by the Minister for the Environment. Guidelines consisting of the prescribed list are then announced in the government gazette and most importantly in national media followed by wide dissemination to the public and other EIA stakeholders.

The prescribed list in the current screening process was also formulated by staff in government departments. However, this was very limited and did not involve the public or NGOs. Slight modifications such as the alternative offered by Model 2 will accommodate the interests of other EIA stakeholders. The main interests of EIA stakeholders would possibly be reconsidered by such public involvement and they would be better informed about the list and its background.

Moreover, the current EIA guidelines on screening provide for opportunities to review individual project proposals for inclusion in the screening list. Guideline No. 17 of 2001 states that the Regent/Major or Governor and the public could provide suggestions in writing to the Minister for the Environment to require an EIA process for a particular proposal in addition to the established screening list (*Asisten Deputi Urusan Kajian Dampak Lingkungan*, 2002). However, there is no further direction for the public to make written suggestions. The suggested improvement in Model 2 to include opportunities for the review of individual proposals could be a starting point to enhance public involvement.

When the screening list focuses on proposals with significant impacts, individual reviews could be carried out with the assistance of an independent expert team to decide whether a particular proposal requires an EIA process.

The improvement in Model 2 concludes with an additional procedure in decision-making. Following approval given by the responsible agencies – the Minister for the Environment, governor, and district administrator – the decision must be announced. The announcement procedure should come with a provision for rights of appeal for EIA stakeholders, especially for the public. For a certain period of time, set in the guidelines, an appeal should be accommodated for further consideration. This is critical since the courts outside the EIA process will perhaps need a longer time and this will cause a delay in the development process. The EIA process had a similar procedure during the operation of Regulation 51/1993 and this can be readopted. While it was the President who made the final decision in the previous regulation, Model 2 suggests the Minister for the Environment carry out this task.

Model 3 is a further improvement to the previous models in that the modification or addition of public involvement is in three EIA stages: during the alternative consideration, action design, and monitoring stages. These improvements will make the EIA system fully equipped to handle public involvement. Therefore, Model 3 is an ideal model for Indonesia. Alternative consideration and action design stages are at a very early point in the planning process for each project. There are many alternatives for broad consideration at these stages and generally considered as the pre-feasibility study. Given the atmosphere of high uncertainty, these stages will require the innovation of the proponent in initiating public involvement. The proponent at these stages could start informal public involvement in order to introduce its organisation to the local neighbouring communities.

The distribution of initial project information could be carried out along with getting local information to find out possibilities about local resources to support the planned project. These could enrich the alternatives being considered with necessary information. Local potential resources could affect action design prior the confirmation of the actual design in the early planning process. However, action design could still change according to technical or economic requirements. At least then the proponent has a good relationship with local people and obtained local information to support its proposal.

Another improvement suggested by Model 3 is public involvement in the post-EIA decision, specifically in monitoring the actual impact. This includes the implementation of

statements and mitigation action promised in the EIA documents. The neighbouring public at the project site is already aware of the availability of EIA documents and understood their content. Moreover, the public will also immediately experience any impact resulting from project implementation if mitigation action and environmental management are inadequately carried out. Therefore, the role of the public becomes critical in supervising the implementation and report to the responsible agencies.

Similarly, the proponent is also required to carry out self-monitoring in environmental management in accordance with the EIA documents, especially in the EMPs. The proponent is required to update its work on environmental management activities according to the actual development since the proponent is mostly knowledgeable about its plans and their management. Mitigation actions that are considered inappropriate for implementation in the field should be adjusted and updated. If there is any unpredicted actual impact previously missed during the impact prediction, the proponent should address and handle it. Generally, for the public, responsible agencies and the proponent, there should be adequate and clear guidelines outlining their roles and obligations at the monitoring stage.

Model 3 is clearly a very ambitious version for public participation in the Indonesian EIA system. Therefore, it will not be a simple task to implement it. As long as the cost for public involvement is considered as the main obstacle, implementation will always be difficult. However, with the staging implementation as suggested from Models 1 to 3, public involvement will make progress. Step-by-step improvement could be initiated, implemented, and managed until EIA stakeholders become accustomed to it. This depends on the roles played by each EIA stakeholder, particularly the government, proponent, and local people. Others such as consultants and NGOs could also take part in assisting this process. The following table summarises the discussions on the possible role of each EIA stakeholder.

Table 9.3 Principles for Public Involvement in the Indonesian EIA System

Assessing authorities and Govt.	The public	NGOs	Proponents	Consultants
• Provide clear guidance on public involvement procedures (1) (2). • Collect and publish examples of public involvement from previous and other EIA system experience. • Provide publication of possible techniques or methods for public consultation. • Provide simple guidelines for the general public. • Seek and promote public participation throughout the process, with techniques and mechanisms tailored appropriately to specific proposals and specific publics (1). • Assess the prepared EIA documents objectively, taking appropriate considerations raised by the public • Report publicly on the assessment proposals (1). • Act as facilitator and mediator among the EIA stakeholders in the public involvement activities (2). • Initiate and facilitate financial support for participators. • Act as decision-maker (2). • Supervise the implementation of public involvement (2).	• Participate in the evaluation of proposals through offering advice, expressing opinions, providing local knowledge, proposing alternatives, and commenting on how a proposal might be changed to better protect the environment (1) (2). • Become involved in the early stage of the process, as that is the most effective and efficient time to raise concerns; participate in associated (and earlier) policy, planning, and program activities as appropriate, since these influence the development and evaluation of proposals (1) (2). • Become informed and involved in the administration and outcomes of the EIA process, the assessing authority, policies determined, approvals given and condition set, monitoring and compliance audit-activities, environmental advice, and reasons for acceptance or rejection by decision makers (1). • Take a responsible approach to opportunities for public participation in the EIA process, including the seeking out of objective information about issues of concerns (1) (2). • Participate in the assessment and decision-making processes (2).	• Seek and promote public involvement throughout the process by actively participating and informing the likely affected public. • Cooperate with and encourage the public to get involve in the process according to guidelines set by assessing authorities. • Liaise to the public and other EIA stakeholders. • Educate the public on procedures to participate in the process. • Assist the authority to disseminate the concept and procedure of public involvement. • Assist the public to convey its interests. They need to act for the best interest of the public and all EIA stakeholders. • Evaluate the public involvement process and provide suggestions to the EIA authorities for further improvement. • Seek best solution for all stakeholders, promote win-win situation, and avoid hostile conflicts between stakeholders.	• Consult the assessing authority and the community as early as possible (1). • Provide appropriate information on the proposal for the public (2). • Initiate the mitigation for environmental impacts and has responsibility to implement the management plan (2). • Work with the public to implement the management plan and provide adequate information on the implementation of environmental management. • Carry out the EIA study and prepare objectively the EIA documentation (2). • Take the opportunity, offered by the EIA process, to initiate and promote public involvement. • Make commitments to involve the public as much as possible in the EIA process.	• Assist proponents to carry out the EIA study and prepare objectively the EIA documentation (2). • Provide expertise on the conduct of public involvement during the EIA process. • Have appropriate qualification through consultant accreditation (registered consultants). They should have expertise in specific EIA project. • Carry out consultancy (and public involvement) according to code of practice or self-regulation standards by consultants' association. They should be reputable in carrying out public involvements. • Liaise to proponents and the EIA assessing authority and other stakeholders. • Prepare EIA documents as clear as possible by avoiding technical jargon to ease the public. • Since consultants work on behalf of proponents, principles for proponents also apply to them.

Notes: (1) adapted from ANZECC (1991)
(2) adapted from policy-making on public involvement in the Indonesian EIA system (BAPEDAL, 2000d)

9.3 Prospects for Public Involvement in the Indonesian EIA

Research shows that after the Implementation and Development Phases of the EIA system, the Indonesian authorities finally incorporated a better system of public involvement in the Refinement Phase. The three case studies have demonstrated different levels and degrees of effectiveness of public involvement. Developing a better system is not simple for Indonesia given that the guidelines have only recently been introduced. Various levels of implementation are influenced by technical factors resulting in ineffective practices and procedures. These include poorly laid out and misleading public notices, a lack of an information infrastructure, the absence of a public representation structure, lack of awareness and knowledge of involvement procedures, and the lack of a traditional means for participation. These problems are similar to other developing countries which are starting to implement public involvement.

In comparison to other developing countries' public involvement in the region, the Indonesian EIA system shows a clear direction. The Thailand EIA system has no specific guidelines yet for public involvement despite recognising NGOs in encouraging the public and promoting involvement. The opportunity for public involvement in the Indonesian EIA is greater than in Malaysia. This is because all projects subject to EIA in the screening list have to include public involvement in Indonesia while only a few projects categorised as detailed assessment involve NGOs in their EIA review in Malaysia. The Philippine EIA system is perhaps more advanced than the Indonesian system since it has had guidelines for public involvement through the introduction of social acceptability criteria in 1992. The Philippine system also has provisions for the endorsement of local community acceptance to ensure the implementation of public involvement. In terms of public participation in EIA decision-making, all systems recognise NGOs in their EIA review panel or commission. In the Indonesian context, the uniqueness of political reform affected the implementation of public involvement in EIA. The decentralisation policy and EIA institutional changes have complicated the implementation process because numerous EIA institutions at the local level need immediate EIA capacity buildings and organisational arrangements before handling adequate EIA processes.

The case studies reveal that the attitudes of proponents in undertaking public involvement are a significant factor. In contrast to the initial research expectations, the MRT case study in Jakarta, despite having a well-informed public and NGOs, in fact had an ineffective public involvement process. Politics surrounding the project undermined the process. In the Landfill case study, public involvement was ineffective due to the proponent's

unwillingness to communicate honestly with the public, evidenced in poor public notification. Land speculation complicated the process as the proponent became less transparent in communicating its project and even created delays in the EIA preparation. In contrast to these case studies, the Tangguh case study showed intense public involvement. This was influenced by the previous experience of a multinational corporation in undertaking EIA and public involvement. This is contrary to the initial assumption that public involvement will be at a minimal level in remote communities where there are communication constraints. Pressure from local communities and NGOs and the need to maintain a good corporate image increased the willingness of the proponent to involve the public.

In this way, the willingness of a proponent and government support are important factors for creating an effective public involvement process. The research shows that when a proponent wishes to encourage the public, the involvement process is better carried out. The discussion in this thesis produced suggestions for improving the Indonesian EIA process. Model 3 is an ambitious option with long-term possibilities. This aspires to an ideal level of public involvement in the EIA system. Model 2 is more realistic for a medium term improvement by offering public involvement in the EIA screening stage and participation in the final decision-making phase: right of appeal. However, implementing Model 1 would ease the adoption of Model 2 in the shorter term. In this way, all stakeholders could understand and participate in a gradual change toward longer-term objectives.

The complexity of implementing public involvement in Indonesia depends on stakeholders' attitudes. To provide a better direction, it is necessary to adopt certain principles that will assist stakeholders. For Indonesia, the public involvement process has specific characteristics:

- EIA is the only legislation in the country which incorporates public involvement and has been implemented while public involvement should be available in many other decision-making processes.
- Political reform, decentralisation policy, and institutional arrangements significantly affect the implementation of public involvement in EIA.
- EIA proponents as the initiators of public involvement play a crucial role for effective involvement given that different characteristics of the local communities in terms of a lack of information infrastructure in remote areas, the level of public awareness or knowledge of formal EIA process and public involvement procedures.

Comparing the practices of Indonesian EIA to other developing countries shows some similarities in public involvement processes. However, the Indonesian context is quite unique because of political factors, particularly the 'reformasi', decentralisation and legislative arrangements which complicate the implementation of public involvement. The complex implementation of public involvement in Indonesia provides a significant case study of EIA in a major developing country, which makes an important contribution to the international EIA literature.

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APPENDICES

Appendix 1 US NEPA 1969, CEQ Regulations for Implementation Section 1506.6 regarding Public Involvement

Agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the *Federal Register* and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the 102 Monitor. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and area-wide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

Appendix 2 Requirement for Public Involvement Set by Intergovernment Agencies

Intergovernment Agency	Requirement for Public Involvement
World Bank	EIS publicly available (categories A and B)
African Development Bank	No provision
Asian Development Bank	EIS publicly available if not confidential
European Bank for Reconstruction and Dev't	Guidance, EIS publicly available if not confidential
Inter-American Dev't Bank	-
Australia AUSAID	Report available to the public
Canada CIDA	-
Denmark DANIDA	No provision
European Commission DGIA/IB/8	Broad guidance
Finland FINNIDA	-
Germany GTZ and KfW	-
Japan JICA	-
Netherlands DGIDC	Formal requirements for consultation and public meetings
Norway NORAD	Detailed guidance
United kingdom DFID	Provision for public consultation and hearing
USA USAID	-

Source: George (2000: 55-67)

Appendix 3 Publication in *Environmental Impact Assessment Review*

Purnama, D. 2003. Reform of the EIA Process in Indonesia: Improving the Role of Public Involvement. *Environmental Impact Assessment Review, 23*(4), 415-439.

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Environmental Impact Assessment Review, v. 23 (4), pp. 415-439, July 2003

Appendix 4 The Institutional Framework and Policy-Making of Public Involvement in the Indonesian EIA system

Introduction

There are two significant events influencing the implementation of public involvement in the Indonesian EIA process. First, the implementation plan was introduced at the same time as other over-riding legislation, i.e. the Indonesian decentralisation process resulting in the transfer of the EIA administration authority to local governments. Second, the move toward better public involvement in EIA came at the same time as the EIA institutional changes resulted in the cancellation of BAPEDAL, the main institution administering EIA. These developments made the implementation more complex. This paper discusses the decentralisation process relating to the distribution of EIA authority and changes in the EIA institutional framework. It will also outline political processes during the preparation of the public involvement policy.

The EIA institutional and legislative framework

EIA in Indonesia was initially administered by the Ministry for Population and the Environment (*Menteri Negara Kependudukan dan Lingkungan Hidup, MNKLH*) and sectoral departments though the Act 4 of 1982 (4/1982). Following the enactment of Regulation 29 of 1986 (29/1986), the EIA administration was handed over to the newly established BAPEDAL in the early 1990s. Furthermore, the EIA authority was distributed to 14 departments and 27 provincial governments during the tenure of Regulation 29/1986 and Regulation 51/1993.

However, the distribution of EIA authority among departments demonstrated only a few improvements due to the complexities, confusion and ambiguity. These were particularly due to the government's conflict of interest (sectoral departments) in implementing EIA. By the enactment of Act 23 of 1997 (23/1997), BAPEDAL was expected to handle the overall EIA authority after the cancellation of 14 EIA Commissions in departments.

By centralising the EIA authority in one agency, either at the national or provincial level, it was hoped to supervise matters more easy and to avoid any suspected deviation from the EIA implementation. It was suggested that BAPEDAL is sufficiently free from conflict of interest on any development project and therefore its integrity can be expected. The EIA

stakeholders expect to have simpler and more accurate EIA procedures from BAPEDAL. Even NGOs, which are considered as being opposed to the government, expressed their hope to BAPEDAL as ascertained by Heroepoetri (1993: 42): "Expectation for improvement can only rest on policies stipulated by BAPEDAL or the Minister of Environment in order to make EIA a public process".

Following the enactment of new Act 23/1997, regulations pertaining to EIA were also amended. By the enactment of Regulation 27 of 1999 (27/1999), BAPEDAL held a full authority concerning the EIA process from 1999. At that same year the government of Indonesia introduced its decentralisation policy through Act 22 of 1999 (22/1999) soon after the political reforms (*reformasi*). Whilst Regulation 27/1999 and Act 22/1999 both provide opportunities for a more democratic atmosphere, both laws came from different backgrounds. Act 22/1999 resulted from a government political struggle, which gained momentum soon after the fall of the previous administration, while Regulation 27/1999 emanated from Act 23/1997 regarding Environmental Management (Purnama, 2003).

There are three government tiers in Indonesia: central or national, provincial, and district or local level. Decentralisation is directly implemented from the central government to *daerah* or local level excluding the provincial level. However, the term 'local' is often interchangeably used both for provincial and district levels (*daerah propinsi* and *daerah kabupaten/kota*). This is reflected in Act 22/1999 regarding Local Government as a regulator of both government tiers. However, the term local is more akin to district level which applies to a *kota* or *kotamadya* (city, town or municipality) led by a *walikota* or mayor, and to *kabupaten* (district, often named as 'regency' as used by United Nations Development Programme, 2003) led by a *bupati* or regent.

Act 22/1999 presents a new spirit for the changing relationship between central government and local administrations, providing a more extensive authority for the district level. Similarly, Regulation 27/1999 distributes authority to carry out the EIA process to lower level administration, but emphasising the provincial level. The difference between both is that Act 22/1999 demands an immediate and direct distribution of broad roles and responsibilities to the district level while Regulation 27/1999 (and Act 23/1997) devolves the EIA process step by step through provincial then to the district level. However, in the Indonesian legal framework, Act 22 /1999 prevails over Act 23 /1997 since Act 22/1999 came out after Act 23/1997 and Act 22/1999 overrules Regulation 27/1999. Therefore, the EIA legislation should give a higher authority and more roles in the EIA process to the district level rather than the provincial level.

Regulation 27/1999 focuses the EIA process on the implementation of public involvement, which is further supported by directions from the Head of BAPEDAL. The directions are intended to support a bottom up decision-making process by providing broad opportunities to the general public to give opinions on development planning. These directions also give local EIA administrations the power to arrange the public involvement process according to local traditions with the expectation that decision-making will be more publicly accountable (BAPEDAL, 2000a: 2). Administering EIA at the local government is considered better since the district administrations is believed to have more knowledge and comprehensive understanding about their locality. Furthermore, it is expected that the monitoring of project implementation and the application of EIA statements could be better carried out.

However, amid the environmental institutional changes due to the decentralisation process, something happened to complicate this institutional arrangement. The enactment of Presidential Decree No. 2 of 2002 regarding the task of the State Ministry for the Environment significantly influenced the EIA institution. BAPEDAL was no longer responsible for coordinating EIA and it was dissolved. The Ministry for the Environment took over its function in mid-2002.

The Presidential Decree was resisted by NGOs, which opposed the abolition of BAPEDAL. A coalition of NGOs demanded a judicial review by the Supreme Court but the court decision has not yet been made. By this decree, the EIA authority returned to the State Minister for Environment and BAPEDAL's work finished. However, there is confusion over the EIA legislation since Regulation 27/1999 is not amended and still appoints BAPEDAL to undertake the operative mandate while previously, the Minister for the Environment was responsible for proposing any changes to the AMDAL legislation including:

- Developing AMDAL policies, procedures and general guidelines.
- Coordinating, monitoring and enforcing AMDAL process implementation.
- Participating as a permanent member of the Central AMDAL Commissions.
- Coordinating AMDAL training.
- Where requested, coordinating AMDAL reviews of projects involving two or more departments.
- Establishing the qualifications of experts in environmental impact analysis (Dick & Bailey, 1992: 20).

The previous Presidential Decree 3 [sic, it was Presidential Decree No 23] of 1990 gave BAPEDAL the power to veto a decision made by the EIA Commissions (Dick & Bailey, 1992: 19). Similarly, Presidential Decree 10 of 2000 pertaining to BAPEDAL and Presidential Decree 163 of 2000 concerning the Ministry for the Environment differentiated the function of both institutions. The enactment of Presidential Decree 2 of 2002 confused those typical institutional arrangements.

The complex nature of the EIA institution framework along with the apparent hasty nature of the decentralisation process without a sufficient transition period produced some constraints in the EIA process. These included unprepared human resources for institutional arrangements as well as misinterpretation of the devolvement process and its supporting legal basis. A study by the Asian Development Bank confirms that the institutional capacity at district level has not been developed sufficiently (Research Triangle Institute & PT Intersys Kelola Maju, 2001). The following evidence from field observation and in-depth interviews will explain this situation in the three case studies.

EIA in Jakarta Province

Jakarta's case is mainly based on interviews with Jakarta's provincial EIA administration in April 2002 (pers. comm., 2002a). The effect of government decentralisation is not felt since it is a special province where the autonomous authority is at the provincial level according to Article 117 of Act 22/1999 (The Government of Indonesia, 1999b). Another key factor is that the area is not as large as other provinces and its urban district administrations are relatively similar in terms of EIA experience. According to the Head of Jakarta's provincial EIA sub section, decentralisation is rather different in the Jakarta Province due to its special status in Act 22 (pers. comm. with Eman, 2002a). The abolishment of Central BAPEDAL in 2002 changed the previously provincial BAPEDAL in Jakarta to *Badan Pengelolaan Lingkungan Hidup Daerah, BPLHD* (the Local Environmental Management Agency) that is followed by all districts in Jakarta Province.

Whilst almost all authorities for environmental management are at the provincial BPLHD, the provincial EIA administration still considers that the central government is still reluctant to involve BPLHD in reviewing other environmental documents such as UKL/UPL. It is a specific Standard Operating Procedure (SOP) set by the departments for other activities which are not subject to EIA but are obliged to minimise their negative environmental impacts. In terms of public involvement in the EIA process according to *KepDal* 08/2000, the administration believes that guidelines should be modified. It seems that sufficient

time is still required by local government to prepare for the implementation of public involvement in EIA.

There was no big issue in terms of competition for EIA authority between provincial and district level. However, there is now a dispute concerning the EIA process between Jakarta's province administration and the national government involving a proposal called Northern Coast *Pantura* Reclamation. While the EIA process for the proposal has been processed by the EIA Regional Commission in the Central BAPEDAL since 1996 (BAPEDAL, 1999), there was a transition to decentralisation starting in 2000. After the transition period of decentralisation, the EIA for the proposal was finally decided through a decree of the Environment Minister No. 14 of 2003 that the proposal was not environmentally feasible. However, the Head of BPLHD challenged the decision (Kompas, 2003e) by stating that the central government via the State Ministry for the Environment has no authority to carry out the EIA process for that project in accordance to Regulation 27/1999. The Head of BPLHD also stated that the proposal has a strong supporting legal basis, which is Presidential Decree No. 52 of 1995 regarding *Pantura* Reclamation.

The dispute is continuing to put pressure on the Environment Minister to request the President to abolish Presidential Decree 52 (Kompas, 2003a). According to the Head of the National EIA Centre, Decree 52 of 1995 only gives a provisional site but all development proposals should be based on environmental feasibility study. Similarly, a prominent NGO in environmental law, the ICEL (Indonesian Center for Environmental Law) advocates the Minister's decision, stating that Regulation 27/1999 Article 11 (d) determines that the authority to carry out the EIA process for reclamation project comes from the central government (Kompas, 2003b; The Government of Indonesia, 1999a). Recent information from the national EIA administration indicates that the dispute is now before the court. Currently, the Indonesian EIA system is starting to exercise its procedures through the court process.

EIA in West Java Province

Government decentralisation and the changed EIA institution altered the relationship between the provincial level and districts (towns and municipalities) in West Java, which were previously under the province's direction. Act 22/1999 states that all are equal and there is no more hierarchy. Therefore, districts are no longer directly accountable to the province. Encouraged by the abolishment of national BAPEDAL, previously provincial and district BAPEDAL changed their institutional frameworks. The following description is

largely drawn from an interview with EIA officers in the West Java Provincial office (pers. comm., 2002b). The provincial administration took the position as 'consultant', which provides advice, skills and experience in handling the EIA process to the district administrators. Whilst there was confusion in terms of EIA administration at the local government, there was no competition to carry out the EIA process between two different levels of local administration. The provincial level wisely delegates all the EIA administration authorities to districts when they are able to handle them and it also gives necessary assistance to the districts when required.

Whilst it is preferable that the EIA institution in every administration level is similar to a certain degree, the decentralisation policy cannot prevent diversity in many districts. This could sometimes create a potential confusion. Key factors such as human resources, the number of development proposals, institutional capacities, and local priorities influenced the formation of these institutions. For example, the previously provincial BAPEDAL chose a new name for its agency as *Badan Pengendalian Lingkungan Hidup Daerah Propinsi Jawa Barat, BPLHD* (the Local Environmental Control Agency, West Java Province). Districts chose various names for their environmental institution: Bandung and Subang regencies used a similar name BPLHD; Sukabumi chose Environmental Agency *BLH*; Bekasi town integrated its institution into Urban Town Planning; and some districts such as Purwakarta, Bekasi regency and Indramayu placed their environmental institution in the Mines sectoral agency. An interesting decision was even taken by Cianjur to name its institution the EIS office (*kantor ANDAL*), which is perhaps an erroneous perception that environmental management is only about EIA studies.

EIA in West Papua Province

The decentralisation of the EIA process and public involvement in West Papua is relatively advanced since most of those issues have been directly experienced by the province. In addition to Act 22/1999, the province also obtained a special autonomy by putting into effect a specific legislation, Act 21/2001 regarding Special Autonomy for Papua Province. The province still keeps its environmental institution as Local BAPEDAL or BAPEDALDA. Furthermore, in handling the EIA process, the role of the provincial government is still major. This is reflected in the Tangguh case study. A key factor that made the provincial BAPEDALDA important is perhaps the limited capacity of the district level.

Referring to the Tangguh case study, the EIA process was handled by central BAPEDAL cooperating with the provincial and district levels. All relevant agencies undertook

planning fulfilled legal mandates and involved the public. The central government realised that the role of local administrations is essential during the implementation and monitoring of the development since they know better the area. On the other hand, local governments are also aware of their lack of EIA experience since the previous EIA application has always been carried out by departments of the central government. Decentralisation was used by the provincial EIA administration to learn from the EIA experience of central government in how to conduct a large-scale process. In this case, central BAPEDAL also has an interest and needs assistance from the Papuan BAPEDALDA to ensure the successful implementation of public involvement.

The Papuan district environmental agencies also supported the process by providing necessary and relevant information. Similarly, the provincial agency facilitated the process by issuing some directions for public involvement in the local language, for example a guide to elect community representatives. Whilst all institutions understood that the project is categorised under the authority of central EIA administration by Regulation 27/1999, local administrations (provincial and districts) recognised their limited capacity to handle such a proposal. Therefore, local administrations provided full support to the provincial and central administration without disputing the legal framework of EIA's authority.

The decentralisation policy immediately shows its impact at the local government especially at the district level. While this might be expected to occur, this will potentially vary the EIA process from one district to another. This is reflected by the institutional arrangement at the local level, which took on a variety forms, while to a certain degree the EIA process needs to have a standard of certainty. Apart from the case studies, several EIA district administrations consider that EIA is an administrative procedure to create revenue for the districts. In this way, they request a long EIA process and repetitive meetings and charges (pers. comm. with an EIA consultant, 2003). This will continue the abuse of EIA processes as has happened in the past (Research Triangle Institute & PT Intersys Kelola Maju, 2001).

There are also some local district level EIA administrators which insist that all EIA proposals in their area should be reviewed by their administration (pers. comm. with an EIA consultant, 2003), claiming that local government knows its locality better and has sole authority. Therefore, if they could not review the EIA proposal, for example because its category is under the national authority, they will not support the development or investment with the necessary local permits. On the other hand, there are also some district administrations which often provide investment approval or local permits for

developments without waiting for the EIA process (pers. comm. with an EIA consultant, 2003). They do not pay attention to environmental considerations but only wish to foster economic development in their area.

In summary, there are three main legal bases influencing the EIA administration in Indonesia. These are Act 22/1999, Regulation 27/1999, and Presidential Decree 2 of 2002. The first two guide the establishment of EIA institution in local government and the third is a substantial change in environmental institutions at the national level influencing the local level. The merger of BAPEDAL at the national level widely influenced the ensuing environmental legislation framework.

Apart from the EIA institutional and legislative framework affecting the implementation of EIA and public involvement, the EIA policy-making process is also vital. In order to comprehend the public involvement policy in the EIA process, it is important to understand its background and the political process during the preparation of the policy. The following section is mostly drawn from an analysis of the legal documentation. Comments taken from in-depth interviews will also be presented where relevant.

The policy-making process of public involvement in EIA

Public involvement in Indonesia is based on the state ideology of *Pancasila*, the five basic principles of the Republic of Indonesia.

> *Kerakyatan yang dipimpin oleh hikmah kebijaksanaan dalam permusyawaratan perwakilan*
>
> Democracy guided by the inner wisdom of deliberations of representatives (the fourth principle of *Pancasila*)

It shows that deliberations and representatives are critical for public involvement. Furthermore, the State Constitution "*Undang Undang Dasar 1945*" or *UUD 45* assures the right of public involvement:

> *Kemerdekaan berserikat dan berkumpul, mengeluarkan pikiran dengan lisan dan tulisan dan sebagainya ditetapkan dengan undang-undang.*
>
> Freedom to unite and assemble, to express verbally and written is affirmed and regulated by acts (Article 28 of *UUD 45*)

In Indonesia, the constitution is explained in lower legal documents such as acts, government regulations, presidential decrees, and ministerial decrees (guidelines). Public involvement policies relating to environmental management can be traced back to the

enactment of Environmental Act No. 4 of 1982 (4/1982). The basis for public involvement is stated in Article 6 of the act:

> *Pasal 6: Setiap orang mempunyai hak dan kewajiban untuk berperan serta dalam rangka pengelolaan lingkungan hidup.*
>
> Each individual has the right and obligation to participate in environmental management (Article 6 of Act 4/1982).

It explicitly provided opportunities for the public to participate in environmental management. While the obligation was about how the public follows relevant regulations in expressing its participation, it also meant that the public was requested to actively participate in controlling and supervision of environmental management that had been agreed upon in environmental impact statements.

The provision of EIA in Article 16 of Act 4/1982 was further explained in Government Regulation 29/1986. There were three main articles in Regulation 29/1986 relating to public participation: Articles 23, 25 and 31. Articles 23 and 25 regulated the involvement of NGOs in the EIA Review Commissions. This provided opportunities for NGOs to represent the public interest before the EIA process. Article 31 was the fundamental regulation for public involvement which specified the obligation of: government departments to publish project proposals subject to the EIA process; to allow the public in giving verbal or written comment prior to a decision on project approval; to notify the approvement of proposals, and to make available relevant documentation for public inspection. This article also required government departments to keep EIA documents in the public domain.

The EIA regulations were amended in 1993 by Government Regulation 51/1993. Provisions about public involvement found in Articles 22 and 23 of Regulation 51/1993 are as follows:

> Article 22
>
> (1) All proposed businesses or activities, for which an environmental impact analysis must be carried out, shall be disclosed to the public by the authorised government agency.
>
> (2) The environmental impact assessment documents for all proposed businesses or activities and the approvals shall be opened to the public.
>
> (3) The openness referred to in paragraph (1) shall be implemented in the form of the participation of the public, which may offer recommendations and opinions orally and/or in writing to the central or the provincial environmental impact assessment commission referred to in Articles 17 and 18 before the issuance of the decision on the approval of the environmental impact analysis for a proposed business or activity.

> Article 23
>
> The provisions of Article 22 shall not apply in the case of proposed businesses or activities concerning state confidentiality (The Government of Indonesia, 1997b).

Furthermore, legal explanations of Article 22 were as follows:

> Paragraph (1)
>
> Proposed businesses or activities can be publicised, among other means through the mass media and/or through bulletin boards available within the authorised government agency, for the purpose of enabling the public to offer its recommendations and opinions.
>
> The submission of such recommendations and opinions to the central and provincial environmental impact assessment commissions constitutes public participation in the framework of environmental management, as stipulated in Article 6 Act No. 4 of 1982 pertaining to Basic Provisions for the Management of the Living Environment.
>
> Paragraph (2)
>
> Being open to the public shall mean that any person can obtain information and/or a copy of the environmental impact statement, environmental management plan and environmental monitoring plan as well as the decisions issued on these three documents. These documents shall be available from the authorised government agencies.
>
> Paragraph (3)
>
> Those members of the public having such interests will need to be encouraged and given the opportunity to provide their input regarding the proposed business or activity to the relevant environmental impact assessment commission, so that the decision of the commission can take account of the views of the concerned community before the environmental impact assessment documents are approved (adapted from the Government of Indonesia, 1997b).

Paragraph (1) of Article 22 provided opportunities for the public to know any particular on-going EIA process so it could directly involve itself in the process. The legal explanation described some methods that could be used for notification. Furthermore, paragraph (2) declared the principle of information disclosure and assured the rights of the public toward access of environmental information. This was an effort to supply the public and other stakeholders with the EIA information that the public could confidently voice its opinions as provided in paragraph (3). There were other provisions which particularly regulated the involvement of NGOs and other EIA stakeholders in the EIA Review Commission such as in Articles 12, 17 and 18 of Regulation 51/1993.

A study of EIA implementation by NGOs claims that the amendment of Regulation 29/1986 to Regulation 51/1993 will not significantly change the EIA implementation (Heroepoetri, 1993). It is argued that the changes only covered applicability while the enforceability and transparency parameters were not improved; the matter of

transparency is the most significant in terms of public participation. NGOs also state that the participation process is not carried out from the early stage of EIA and the public is often invited later in the review process. Public notification is claimed as being vague and without clear mechanisms (Heroepoetri, 1993). There were no detailed guidelines for the implementation of public involvement as well as no effort to distribute EIA documents in the public domain.

In terms of public involvement, NGOs suggest some improvements:

- Provide a specific unit in each department to supply required EIA information and set a more permanent unit dealing with EIA rather than on an ad hoc basis.
- Set a firmer mechanism for notification and obligate proponents to use printed and electronic media that can be widely accessed by the public. Land speculation, a negative consequence of notification, should be overcome by specific legal tools.
- Require involvement of the public and interest groups as early as the scoping process.
- Provide appeal procedure for the public against an EIA approval and so the decision-maker will seriously consider the public's input.
- Reserve an intervenor funding (referring to the Canadian EIA system) (Heroepoetri, 1993).

In 1994, the Minister for the Environment introduced a series of reforms, in particular two programs, to strengthen BAPEDAL and amend the Act 4/1982 to Act 23/1997. The new act clearly mentions that environmental management should always take into account the level of public awareness, the development of global issues, and international legal frameworks (The Government of Indonesia, 1997a). In terms of EIA and public involvement, ten articles focus on EIA: two main articles (15 and 18) stipulate the requirement of EIA; a specific chapter on the public rights, obligations and roles (articles 5, 6, 7); and other five related articles (9, 10, 19, 37, 39). The act also recognises traditional communities and the right of the public in environmental lawsuits.

Article 15 stipulates that each proposal having the potential for significant environmental impact has to carry out an EIA investigation which will then be regulated by Regulation 27/1999. Article 18 requires EIA approval for permit and licensing processes. This is critical for the enforcement of EIA and therefore a particular proposal cannot proceed without an EIA approval. Public involvement is regulated under chapter three regarding "Rights, Obligations, and the Roles of the Public". Article 5 stipulates the rights of the public are as follows:

(1) Each individual has the right to a good and healthy environment.

(2) Each individual has the right to access information regarding the environment and matters relating to his/her role in environmental management.

(3) Each individual has the right to participate in environmental management in accordance with applicable legislation (adapted from the Government of Indonesia, 1997a: 6).

Article 5 clearly states the rights for Indonesian people to have equal rights in obtaining a healthy environment, while access to environmental information and involvement are also assured by the act. Article 6 of the act specifies the obligation of each person to maintain sustainable environmental functions, prevent and manage pollution and environmental degradation. The article specifically obliges the proponent to provide valid and accurate information about its environmental management. Furthermore, Article 7 provides the opportunity for public participation:

(1) The public has an equal and wide opportunity to participate in environmental management.

(2) To implement the above paragraph (1), it is carried out by:

  (a) increasing self-reliance, public empowerment and partnership;

  (b) developing capability and public pioneering;

  (c) developing public responsiveness for social supervision;

  (d) offering suggestions;

  (e) communicating information and/or reporting (adapted from the Government of Indonesia, 1997a: 7).

Articles 9 and 10 concern the authority of environmental management, where the government recognises religious values, traditions and community values. This is followed by the government's obligation to improve public awareness, partnership between environmental stakeholders and delivering environmental information. Moreover, Article 19 explicitly states that in the process of permit and license approval, public opinion should be considered and the decision should be published. Articles 37 and 38 outline the right of the public and NGOs in environmental lawsuits.

Act 23/1997 is explained further in Regulation 27/1999 amending the previous Regulation 51/1993. The suggested draft of regulation from BAPEDAL became a basis for the amendment with a strong leaning toward public involvement. The amendment process was signed as Regulation 27 on May 7, 1999 (The Government of Indonesia, 1999a). In comparison to the previous regulations that had only one main article on public involvement, the new regulation set a wider consideration in Chapter Six: "Information Disclosure and the Role of the Public" (The Government of Indonesia, 1999a). There are

three main articles relating to public involvement and other three articles stipulate the participation of public representatives on the EIA Review Commission.

The participation of public representatives is regulated in article 9 for the national level and article 10 for the local (provincial) level. It is explicitly mentioned in both articles that the representatives of the affected public are members of the EIA Review Commission at either level. Paragraph (3) of article 19 confirms the role of public participation by stating that the approval of environmental feasibility issued by the responsible agency shall ascertain the reasons for the approval according to public participation process stated in Article 34 of the regulation.

> Article 33
>
> (1) Each business and/or activity as in Article 3 paragraph (2) is obliged to notify the public before the proponent prepares EIA.
>
> (2) Notification as in paragraph (1) is carried out by the responsible agency and the proponent.
>
> (3) Within 30 (thirty) working days of the notification of business and/or activity proposal as outlined in paragraph (1), members of the interested community have the right to submit suggestions, opinions and responses about the proposal.
>
> (4) Suggestions, opinions and responses as outlined in paragraph (3) are submitted in writing to the responsible agency.
>
> (5) Suggestions, opinions and responses as outlined in paragraph (3) are mandatory considered and assessed in EIA.
>
> (6) Procedure and format of notification as in paragraph (1) and procedure of submission as in paragraph (3) is decided by the Head of the agency, which is appointed to manage environmental impacts (adapted from the Government of Indonesia, 1999a: 21).

Article 33 stipulates the notification process prior to the EIA process and the obligation of government and proponent to notify the public. Similar to paragraph (3) of article 19, Article 33 confirms that EIA shall consider all written submissions. There is a critical aspect in paragraph (6) of article 33, which appoints the Head of BAPEDAL to create a specific guideline on the procedure of notification and submission. This was accomplished later on by the establishment of the decree No. *KepDal* 08/2000 from the Head of BAPEDAL. Article 34 describes the obligation to involve a community in each stage of the EIA process, while the procedure for public involvement is determined by the Head of BAPEDAL. Article 35 confirms the transparency of EIA documents and the obligation to preserve these documents:

Article 34

(1) Members of the affected community are mandatorily involved in the process of the preparation of the 'Terms of Reference' (TOR), in reviewing the TOR, EIS, environmental management plan and environmental monitoring plan.

(2) Procedure for public involvement as outlined in paragraph (1) is decided by the Head of the agency, which is appointed to manage environmental impacts.

Article 35

(1) All EIA documents, suggestions, opinions and responses from the affected public, conclusion of the Review Commission and the decision of environmental feasibility from the proposal are disclosed to the public.

(2) The responsible agency submits documents as outlined in paragraph (1) to a documentation and/or archives institution (adapted from the Government of Indonesia, 1999a: 21).

There was a crucial event when guidelines for public involvement were prepared in line with the preparation of Regulation 27/1999. After more than a year's preparation, the Head of BAPEDAL signed the guidelines on February 17, 2000 and enacted them on November 7, 2000. The preparation process was intense and involved a comparative study and seminars (BAPEDAL, 2000d).

The preparation of the public involvement guidelines

The preparation of the guidelines triggered by the enactment of Act 23/1997 strongly emphasised on public involvement. Moreover, political reform "*reformasi*" and political euphoria in 1998 sent a strong message to the government that it should provide the opportunity for public involvement in decision-making processes to create government accountability. The Ministry for the Environment initiated the preparation by holding a seminar on public involvement in EIA with a mining association given that mining activities were often blamed for their massive environmental impacts. The Minister stated that:

> We need to formulate whether public participation in environmental management is a right or obligation. If public participation contains the right aspect, it needs to be formulated on how that right is delivered to the public... (Speech of the Minister for the Environment, August 19, 1998, author's translation).

He also emphasised that public participation is a main requirement for successful environmental management. Furthermore, the seminar indicated that public participation is affected by the role of EIA stakeholders such as the EIA Commissions, consultants, NGOs, and local governments. It concluded that those stakeholders should facilitate the

role of the public. In another seminar, the Minister referred to the need for the guidelines to support the amendment of EIA regulations:

> As we know, Government Regulation 51 of 1993 regarding EIA is now in the revision process. One important issue for the revision is the public participation concept in the EIA process where the draft of new regulations emphasises the need for active public participation along with fully open information (Speech of the Minister for the Environment, February 3, BAPEDAL & Cepi, 1999, author's translation).

The seminar also presented the views of a peak NGO – WALHI – stimulating EIA stakeholders' awareness. A follow-up seminar was carried out by BAPEDAL and a mining foundation called Ecomine on February 1999 involving large mining companies, experts, and bureaucrats to identify models for public participation and to find alternatives to resolve disputes between companies and local people. Finally, BAPEDAL took the initiative by establishing a working group to prepare the guidelines in February 1999. It is interesting to note that the working group chose Canada for the comparative study.

There were eight drafts before a final draft was approved by the Head of BAPEDAL. The first draft was started by the discussion of the public position, whether as a final decision-maker or as information sources determining the decision-making process (BAPEDAL, 2000d). Some constraints were identified during the drafting of guidelines such as:

- There will be some implications to the working procedure of the EIA Commissions if every formal review meeting should be opened to the general public. These include providing a formal conflict resolution procedure, budgeting, and processing timeframe.
- There will be consequences for large budgets, time, and effort in introducing public hearings while some advanced countries use hearings only for selected cases (author's translation from BAPEDAL, 2000d).

Many issues on the concept of public involvement during the preparation process emerged, such as:

- who in the public will be involved in the decision-making process,
- the concern over inadequate consideration towards various public points of view,
- the scope of the directly affected community and the interested public,
- format of the guidelines,
- public involvement out of the formal review process,
- determining public representatives and how many,
- hierarchies regarding public participation,

- the binding nature of the public's submissions,
- financial sources for public notifications,
- procedures for public notices and media,
- the authority of local government to describe the guidelines further,
- terminology, i.e. whether using the terms 'public participation' or 'public involvement' and the implications therein.

The guidelines contain three clauses and the attachment contain specific procedures. The first clause is a reference to the attachment regarding procedures for public involvement and information disclosure. The second is a provision for governors as decision-makers in local government to adjust the guidelines according to specific local values. This includes the determination of public representatives on the EIA Review Commission and detailed procedure for public involvement, notification and the submission of suggestions, opinions and responses. The third specifies the effective commencement of the guidelines.

Following an intensive dissemination campaign supported by the Collaborative Environmental Project in Indonesia or CEPI (a Canadian aid program), the Indonesian EIA started to implement the guidelines. Support also came from other international bodies such as the World Bank and the Asian Development Bank, which offered some financial and technical assistance to improve and promote the new guidelines. The Asian Development Bank gave technical assistance to disseminate the guidelines and to strengthen the technical capacity of local governments. The World Bank offered to facilitate the guidelines by formulating guides and a booklet. The World Bank has similar policies about public consultation (Operational Policy/Operational Directives) and hopes that the Indonesian guidelines (*KepDal* 08/2000) and World Bank policies are compatible. This guide is to be generically used by the proponents and consultants to obtain a 'right level' of involvement and participation. An information booklet with simple information for the general public was also developed.