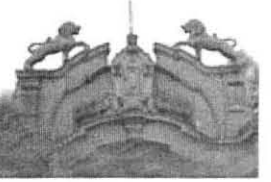


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**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
COLLEGE OF LAW AND GOVERNANCE
SCHOOL OF LAW**

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Development Bank of Ethiopia and their Implementation in
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Plagiarism Declaration

I Taye Tinti Guyassa, do hereby declare that the thesis “The Environmental Impact Assessment Requirements of Development Bank of Ethiopia and their Implementation in Light of Environmental Impact Assessment Laws” is my original work and that it has not been submitted for any degree or examination in any other university. Whenever other sources are used or quoted, they have been duly acknowledged.

Signature:

Taye Tinti Guyassa Date.....

This dissertation has been submitted for examination with my approval as university advisor.

Advisor: Dr. Mellese Damtie

Signature: 

Date: October 19, 2015

ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

FACULTY OF LAW

THE ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS OF
DEVELOPMENT BANK OF ETHIOPIA AND THEIR IMPLEMENTATION IN
LIGHT OF ENVIRONMENTAL IMPACT ASSESSMENT LAWS

BY TAYE TINTI GUYASSA

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List of Abbreviations

DBE	Development Bank of Ethiopia
EIA	Environmental Impact Assessment
USA	United States of America
NEPA	National Environmental Policy Act
OD	Operational Directive
IFOs	International Financial Organizations
MDBs	Multilateral Development Banks
EA	Environmental Assessment
DAAs	Development Assistance Agencies
IFC	International Financial Corporation
US	United States
UNEP	United Nations Environmental Program
EIS	Environmental Impact Statement
IAIA	International Association for Impact Assessment
SEA	Strategic Environmental Assessment
MEIAs	Multilateral Environmental Impact Assessment Agreements
UNCE	United Nations Conference on Environment
ICJ	International Court of Justice
OP	Operational Policy
WB	World Bank
AfDB	African Development Bank
ADB	Asian Development Bank
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
UN	United Nation
UNFCCC	United Nations Framework Convention on Climate Change
FDRE	Federal Democratic Republic of Ethiopia
NGOs	Non Governmental Organizations
EPA	Environmental Protection Authority

DFIs	Development Financial Institutions
PFEA	Public Financial Enterprise Supervising Agency
CPIA	Country Policy and Institutional Assessment
DBSA	Development Bank of Southern Africa
NO	Number
Art	Article
Arts	Articles
LAT	Loan Approval Team
CP	Credit Process
ADFIAP	Association of Development Financing Institutions in Asia and the Pacific
SDD	Sustainable Development Division
EUs	European Unions
MEF	Ministry of Environment and Forest
Pro.	Proclamation
P.	Page
GTP	Growth and Transformation Plan

Abstracts

Environmental Impact Assessment is a tool to promote Sustainable Development. The essence of sustainable development is balancing the need for development and protection of environment.

Nowadays, Development Banks made EIA a precondition to finance projects and International Conventions and Declarations require the use of EIA of development programs and projects. Furthermore, judicial decisions passed by ICJ recognized EIA as Customary International Law status. Therefore, all Countries are obliged to use EIA of projects. As a result Development Bank of Ethiopia concerns and has EIA requirements as basic criteria to finance projects

To this end, the study is aimed to investigate the EIA requirements of DBE and their implementation in light of EIA laws. Accordingly, the study employed quantitative and qualitative research methods and found that even if, DBE has strong concern to implement EIA of DBE financed projects, there are challenges encountered to implement it.

The Thesis came up with the findings that DBE financed projects are harming the environment and so that DBE should pay equal attention to the formulation of Policy and implementation of EIA. In addition, to achieve the common goal of sustainable development, EIA should not be only the concern of DBE but also the concerns of all other private and government Banks in Ethiopia.

CHAPTER ONE

Background to the Research and Literature Review

1.1 Introduction

The urban and industrial explosions of the 18th and 19th Centuries led to an increased damage to the environment.¹ In early 1960s, investors and people realized that the projects they were undertaking were affecting the environment, resources, raw materials and people. As a result of this, USA decided to respond to these issues and established National Environmental Policy Act (NEPA) in 1970.² Since then, EIA became the official tool to be used to protect the environment as a legal regime.

The United Nations Conference on the human environment in Stockholm in 1972 has laid a solid foundation and commitment to integrate environment and development issues to achieve sustainable development. The subsequent Conferences: the United Nations Conference on Environment and Development/UNCED 1992/, and the World Summit on Sustainable Development/WSSD 2002/ were reiterated the integration of environment and development issues and the institutionalization of Environmental Assessment /EA/ as an instrument for integrating environment and development issues at all levels was an integral part of agreements and commitments at these global conferences.³ Most of Multilateral and Bilateral lenders also included EIA requirements in their project eligibility criteria.⁴ Despite, the existence of such EIA regime, there are plenty of environmental damages in the world due to industrial development like global warming and loss of biodiversity Crushing fisheries, ozone depletion, and other recent

¹ Eddie N. Laboy-Nieves and Fred C.Schaffner,Ahmd H. Abdelhadi, Matteus F.A Goosen (editors), (2009),*Environmental Management, Sustainable Development and Human Health*, CRC Press, London, p. 90

² Pacifica F.Achieng Ogola, United Nations University, Geothermal Training Program, Environmental Impact Assessment General Procedure , presented at short course II on surface exploration for Geothermal Resources, organized by UNU-GTP and Kengen, at lake Najuasha,Kenya,2-17 November,2007, available at: <http://www.os.is/gogn/unu-GTP-sc/unu/GP-sc-os-28-pdf>, accessed on : May,28/2015 .

³ Ibid

⁴ Ibid

environmental crises.⁵ Thus, the current pace and manner of economic expansion could be incompatible with environmental protection regimes.⁶

In general, nowadays there is a need to development and an obligation to protect environment. Environmental Impact Assessment is a tool that makes development and environmental protection keep in balance. Thus, to avoid environmental harm the operation of project needs proper implementation of Environmental Impact Assessment Policies and Laws.

From the perspective of developing countries until recently EIA as a new concept was not readily understood and accepted as a tool.⁷ This is because; first developers resisted and argued that it was anti development. In a nutshell, EIA was considered just another bureaucratic stumbling block in the path of development. Secondly, it was conceived as a sinister means by which industrialized nations intended to keep developing countries from breaking the vicious cycle of poverty. Thirdly, the experts in the developing countries were foreigners who were viewed as agents of colonization.⁸ Despite of these arguments, the need for EIA has become increasingly important and is now a statutory requirement in many developing countries.

Historically, the choice of new projects was primarily based on one criterion which is economic viability. Today, a second and a third choice criteria, environmental and social impact have become a strong yardstick, hence the triple bottom line approach (economic, environmental and social) are needed to project viability.⁹

Environmental Impact Assessment describes a process which produces a written statement to be used to guide decision making with several related functions.¹⁰

⁵ Malcolm N.shaw, (1997), *International Law* , 4th edn, Cambridge University press, p.607-610

⁶ James Salzman , Barton H. Thompson, Jr. (2003), *Environmental Law and Policy*, Foundation Press, New York, p. 23

⁷ Lohani, B. , J.W..Evans, H. Ludwig, R.R. Everitt, Richard A. Carpenter, and S.L. Tu. , *Environmental Impact Assessment for Developing Countries in Asia*, (Volume 1, Overview 356 pp, 1997), Introductory Part , available at; www.adb.org/sites/publication/29779/eia-developing-countries-asia.pdf ;visited on May 23,2015

⁸ Ibid

⁹ Ibid; see also: Timothy F. Slaper, *The Triple Bottom line: What Is It and How Does It Work?*, (Indiana Business Review/IBR/), available at: www.ibrc.indiana.edu/ibr/2011/spring/article2.html , visited on, June 6, 2015

¹⁰ Philippe Sands QC,(2003), *Principles of International Environmental Law*, 2nd edn, UK. , Cambridge University Press, p. 799-800

Internationally, it is placed in the requirements of various Multilateral Development Banks, and in various non-binding instruments adopted at the regional and global levels. For instance, Principle 17 of the Rio Declaration states that:

*Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.*¹¹

In 1989, the World Bank adopted Operational Directive (OD) 4:00 Annex A: Environmental Assessment and in 1991 converted to Operational Policy of Environmental Assessment (OP).¹² The Bank requires environmental assessment of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable and thus to improve decision making.¹³ These all show that, the need for EIA of projects has become increasing at the international arena. It is against this background that the study will examine the EIA requirements of DBE and their implementation in light of environmental impact assessment laws.

1.2. Statement of the Problem

EIA is a formal process for studying a major project, program, plan or other action with potentially significant environmental impacts in order to predict and evaluate environmental effects; to examine alternative approaches that may be environmentally preferable; and to plan measures to avoid or mitigate impacts.¹⁴ Development and environmental protection must be integrated, and this process of integration lies at the core of the concept of sustainable development.¹⁵ Sustainable development was defined as development that meets the needs of

¹¹ The Rio Declaration on Environment and Development , adopted by UN Conference on Environment and Development , Rio de Janeiro , 3 to 14 June 1992, Principle 17.

¹² The World Bank, Legal/Policy Base, Environmental Department, Summary of Environmental Assessment Policies and Procedures for Development Assistance Activities, Washington DC. 20433. Available at, [http://www.acdicida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea%20summaries/\\$file/WB.pdf](http://www.acdicida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea%20summaries/$file/WB.pdf), visited on, June 17, 2015

¹³ Ibid

¹⁴ Ved P.Nanda and George (Rock) Pring, (2003), *International Environmental Law, for the 21st Century*, Transnational Publishers, Inc. New York, P. 136-137

¹⁵ Supra Note 6, p.24

the present without compromising the ability of future generation to meet their own needs.¹⁶ As a result, the efforts to realize development and environmental protection must be mutually reinforced. To alleviate poverty, on one hand there is a need to develop and on other hand there is an obligation to protect environmental harm. In this regard, Gandhi is said to have remarked that, “poverty is the greatest threat to the environment.”¹⁷ Therefore, EIA of projects are a tool that used to reconcile such conflicting interests.

This is why International Financial Organizations/IFOs/, Multilateral Development Banks (MDBs), Bilateral Development Assistance Agencies (DAAs), are increasingly conditioning their aid, loans, under environmental and socio cultural acceptability of the applicants.¹⁸ The International Financial Corporation (IFC) also provides financing for private sector entities engaging in projects in Developing Nations considering EIA of projects as preconditions.¹⁹

Thus, environmentally unacceptable activities can be avoided or abandoned or reconfigured through EIA.²⁰ Therefore, the Bank requires EIA of projects those proposed for financing.²¹ Having the above, background, Development Bank of Ethiopia (DBE) also requires EIA of proposed projects and shall ensure that projects to be financed are environmentally friendly.²²

It is observed by the writer of this thesis that despite DBE’s EIA policy, some projects financed by DBE are causing environmental pollutions which include; terrible smell and local river pollutions. Due to this fact there are grievances from local communities who are living around the areas of those projects.

Therefore, the research is designed to analyze whether the problem is happening because of lack of EIA requirements of DBE or lack of EIA implementation mechanisms in Light of Environmental Impact Assessment Laws.

¹⁶ Ibid

¹⁷ Ibid, p. 23-25: see also Lohani, B., J.W. Evans, H. Ludwig, R.R. Everitt, Richard A. Carpenter, and S.L.Tu., Asian Development Bank; Environmental Impact Assessment for Developing Countries in Asia, (Volume 1 – Overview,1997), P14, available at: <http://www.adb.org/sites/default/files/publication/29779/eia-developing-countries-asia.pdf>, visited on; May 3,2015

¹⁸ Supra Note, 14, p. 124

¹⁹ Ibid

²⁰ Ibid, p. 37

²¹ The World Bank, Operational Manual, Operational Policies Op 4.01 January, 1999, available at; [world bank org. /in forests/ resource/op401.pdf](http://www.worldbank.org/in_forests/resource/op401.pdf), accessed on ,May2,2015

²² Development Bank of Ethiopia, Loan Manual, June 2014, p. 47

1.3. Basic Research Questions

Based on the statement of the problem, the writer has drawn the following basic research questions:

1. What are the essences of EIA requirements of DBE in light of impact assessment laws?
2. How does DBE ensure the projects which are going to be financed by it have to be environmentally friendly?
3. What is the practice of DBE in preventing environmental harm, while the project is operating?
4. Are there any challenges and opportunities to DBE in the application of EIA requirements within DBE financed projects?
5. What is the action of DBE if the operating projects affect the environment?

1.4 Objectives of the study

1.4.1 General objective

The overall objectives of this study is to identify the role of DBE in the application of EIA laws within the projects financed and to provide input in promoting the proper implementation of EIA of projects which encourage the promotion of sustainable development strategy in Ethiopia.

1.4.2 Specific Objectives

- To identify how DBE implements its EIA requirements.
- To evaluate DBE requirements of EIA in light of EIA laws.
- To analyze EIA implementation in relation to DBE financed projects.
- To assess opportunities and challenges of EIA implementation by DBE.
- To propose means of EIA implementation and monitoring methods of DBE financed projects.

1.5 Scope of the Study

The application of EIA is recognized as a duty under international and national EIA laws. Ethiopia has also EIA laws which impose duty on different entities to implement these

laws during their operations. To find out the magnitude of its implementation conducting a wide range of research is essential. However, due to time and financial constraint the study is confined to three DBE financed projects.

1.6 Significances of the Study

The findings of the study would have the following practical significant:

- DBE would identify the challenges and opportunities in EIA application and work accordingly.
- It would help DBE, to develop the mechanisms to ensure whether or not DBE financed projects are environmentally friendly.
- DBE will appreciate its role of EIA application while financing the project.
- It would promote the environmental rights of local people living around the projects.
- It would help as an input for policy and decision makers
- Finally, it helps other researchers as a foot step to conduct further research in the financial institutions.

1.7 Research Methodology

1.7.1 Methods

The study will make use of both quantitative and qualitative methods. The quantitative method is used to analyze the information obtained through the use of questionnaire and the qualitative method is used to analyze the data collected through; interviews, projects and file observations, and personal observation of the writer.

1.7.2 Sources of Data

Both primary and secondary sources of data are used in this study. The primary sources include; DBE Financed Projects, relevant Personnel of DBE, Projects, and Laws. The secondary sources of data include; Relevant Books, Internets, and different pertinent documents, Project Feasibility Study and Loan Documents, Credit Policy and Loan Manual of DBE.

1.7.3 Sample Size and Sampling Techniques

In this study, limited but appropriate numbers of DBE financed projects are selected from Agricultural and Industrial sectors. The purposive sampling technique is employed to select the appropriate DBE personnel, DBE, financed project personnel and the projects under observations.

1.7.4. Instruments of Data Collections

In this study the following instruments are used to gather the data:

- A. Questionnaire:** It contains both close ended and open ended questions to collect data from respondents of the study.
- B. Semi Structured Interview :** It is employed to collect in depth information from personnel those were interviewed
- C. Field visit:** Field visit is also applied by the researcher to observe the EIA implementation within the DBE financed project areas.

1.7.5 Data Collection Procedures

The researcher has prepared questionnaire and interview guides in English. However, the Amharic or English or Afan-Oromo will be used during interviews to advance the communication.

1.8 Limitation of the Study

In the process of the research the researcher may encounter different constraints. It could be lack of sufficient time, or lack of source materials especially, materials on EIA implementation by Development Banks, inconvenience to access to observe project areas and could be the lack of finance.

1.9 Organization of the Thesis

The thesis has five chapters. The first chapter deals with background of the study and literature review; statement of the problem; research questions; objectives of the study; scope of the study; significance of the study; methodology and organization of the paper; and limitation of the research. Chapter two discusses the conceptual framework of EIA;

principles of EIA; practices of Banks under International and National EIA Laws; and EIA requirements under international and national EIA laws. Chapter three highlights Ethiopian EIA laws. Chapter four explores DBE policy on EIA application; DBE EIA requirements in light of EIA laws and procedures; and opportunities and challenges of DBE in the implementation of EIA of projects. Finally, chapter five came up with Conclusions and Recommendations. .

CHAPTER TWO

Conceptual Frameworks of Environmental Impact Assessment

2.1 Introduction

Environmental Impact Assessment is viewed by international communities as a tool to get information about the adverse effects of economic activities on the environment. The goal of the law is to force such advance examination specifically to prevent damage to the environment and biosphere and stimulate the health and welfare of man.²³

To implement this precautionary approach, (NEPA, 1970) requires a "detailed statement" of environmental impacts and alternatives to be prepared at the recommendation (pre decisional) stage by the government official responsible for the action.²⁴ Presently, numerous countries instituted the study procedures and the diffusion of EIA, and now many international instruments and international institutions require EIAs.²⁵ Thus, the need for EIA as a legal regime has increased and became plausible approach from time to time.

Accordingly, this chapter examines the concept and principles of EIA, the legal status of EIA in international law context, the common requirements of EIA and the implementation of EIA in financial institutions.

²³ Economic Commission for Africa, Review of the Application of Environmental Impact Assessment in Selected African Countries, 2005, the Evolution of EIA and SEA, a Report prepared by a task team within the Sustainable Development Division (SDD) of the Economic Commission for Africa, p. 9: available at; <http://www.uncsd2012.org/content/documents/Review%20on%20the%20Application%20of%20Environmental%20Impact%20Assessment.pdf>, visited on, May 23, 2015, see also, Ved.P Nandal and George(Rock) Pring, 2003, *International Environmental Law and Policy for the 21st Century*, , Transnational Publishers, Inc., New York, p. 35

²⁴ Ibid

²⁵ Ibid

2.2 Concepts and Principles of Environmental Impact Assessment

EIA follows some basic concepts and principles to enhance effective decision making and commitments.²⁶ Hence, these basic concepts and principles are discussed under this section.

2.2.1 Concepts of Environmental Impact Assessment

EIA is a systematic process used to identify, evaluate and mitigate the environmental effects of a proposed project prior to major decisions and commitments being made. It usually adopts a broad definition of 'environment' considering socio-economic as well as environmental health effects as an integral part of the process.²⁷

EIA can take many forms as fact gathering exercises invariably do. Its purpose is to collect facts to facilitate good management decision making.²⁸ EIA is the critical appraisal of the likely effects of a policy, plan, program, project activity, on the environment.²⁹ EIA of project extends to the entire process from the inception of a proposal to environmental auditing and post project analysis.³⁰ In short, it is to say that EIA includes any kind of impact that the project may have on the environment through its life time. The general effect of EIA procedures has been to improve the quality proposals, rather than to prohibit development.³¹

The outcome of an EIA is a recommendation to the decision maker to either approve the project in its entirety, subject to a range of recommended statutory conditions or

²⁶ Sabine Lattemann,(author and editor), UNEP, Desalination Resource and Guidance Manual for Environmental Impact Assessments, United Nations Environmental Program, Regional Office for West Asia, Manama, and World Health Organization, Regional Office for the Eastern Mediterranean, Cairo, available at; http://www.google.com.et/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CBwQFjAA&url=http%3A%2F%2Fwww.unep.org%2FThemes%2FFreshwater%2FPDF%2FResource%26GuidanceManualforEIAs.pdf&ei=xkQrVYbOOoPWao6lgeAC&usq=AFQjCNG6C5LiGJ8o4Fx0_x7rS-gN2JAWKg&bvm=bv.90491159,d.d2s, visited, on, June 3,2015

²⁷ Ibid

²⁸ Duard Barnyard, (1999), *Environmental Law for all, A practical Guide for Business Community, The Planning Professions, Environmental Law*, Printed, by Impact Books , Pretoria, p. 179

²⁹ Alan Gilpin, *Dictionary of Environmental Law*,(2000), , Cambridge University press, United Kingdom p. 96-97

³⁰ Ibid; see also; the World Bank Operational Policy (OP. 4.01)1999,Environmental Impact Assessment, p.1: available at; <http://siteresources.worldbank.org/INTFORESTS/Resources/OP401.pdf>, visited on, June 25,2015

³¹ Supra note, 29,p. 97

requirements or reject the proposal, outright and completely outright rejection is rare, but it does occur while some proponents withdraw their applications in the face of growing public objection.³²

Principle 17 of Rio Declaration as well as the convention on Environmental impact assessment in trans-boundary context illustrate that EIAs and the manner in which they are conducted are a matter of concern to the international community, as are transparency public participation, and access to justice.³³ The scope of EIAs, however, is influenced profoundly by sustainable development.³⁴

Thus, International Declarations and Conventions show that the application of EIA is a concern of International Communities. However, its scope of application is determined by sustainable development policy of each Country.

2.2.2 Principles of Environmental Impact Assessment

According to the International Association for Impact Assessment (IAIA), there are two tiers of EIA principles known as: basic and operating principles.³⁵

2.2.2.1 Basic Principles

Basic principles apply to all stages of EIA, and to strategic environmental assessment (SEA) of policies, plans and programs.

The list of basic principles should be applied as a single package, recognizing that the principles included are interdependent. The lists of these basic principles are; Purposive, Rigorous, Practical, Relevant, Cost-effective, Efficient, Focused, Adaptive, Participative, Interdisciplinary, Credible, Integrated, Transparent, and Systematic.³⁶ Hence, these basic principles of EIA should be considered together in EIA application.

³² Ibid

³³ D.Bodansky T. Brunne and E. Hey, (2007), *The Oxford Hand Book of International Environmental Law*, Oxford University Press, p.635

³⁴ Ibid

³⁵ International Association for Impact Assessment in cooperation with Institute of Environmental Assessment, *Principles of Environmental Impact Assessment Best Practices*, January 1999, available at: https://www.iaia.org/publicdocuments/specialpublications/Principles%20of%20IA_web.pdf?AspxAutoDetectCookieSupport=1, accessed on, May 6,2015

³⁶ Ibid

2.2.2.2 Operating Principles

Operating principles describe how the basic principles should be applied to the main steps and specific activities of the EIA process. These principles emphasize that the EIA process should be applied:³⁷

- As early as possible in decision-making and throughout the life cycle of the proposed activity;
- To all development proposals that may cause potentially significant effects;
- To bio physical impacts and relevant socio-economic factors, including health, culture, gender, lifestyle, age, and cumulative effects consistent with the concept and principles of sustainable development;
- To provide for the involvement and impute of communities and industries affected by a proposal, as well as the interested public;

These all have to be applied in accordance with internationally agreed measures and activities.³⁸ Therefore, to achieve its purpose EIA has to base on these principles.

2.3 Common Requirements of Environmental Impact Assessments

Majority of EIA requirements appear in national laws. They are also emerging in international law; both in a number of international treaties and in the conditions of International Financial Organizations (IFOs), like the World Bank.³⁹

EIAs are conducted in order to: predict and evaluate economic impacts; examine alternative approaches that may be environmentally preferable; and to plan measures to avoid or mitigate impacts.⁴⁰ The goal of EIA process is to ensure that problems are foreseen, alternatives considered and environmentally informed decisions and plans result.⁴¹ The general goal is to promote the implementation of sustainable development that is development with the greatest short and long term environmental, social, cultural and economic benefits and the least detriments.⁴²

³⁷ Ibid

³⁸ Ibid

³⁹ Supra Note, 29, p. 136

⁴⁰ Ibid, p. 136-137

⁴¹ Ibid

⁴² Ibid

In short, EIA requirements in national or international laws, or even the EIA requirements of financial institution are similar in that, their purposes are to balance the needs of present and future generations

2.4 Legal Status of Environmental Impact Assessment Laws

It is imperative to examine how environmental impact assessment is influencing and improving decision making. EIA has now become institutionalized in many Countries and is standard practice.⁴³Therefore, the status of EIA at international level will be highlighted under this section.

2.4.1 Environmental Impact Assessment in International Environmental Law Context

There are some key Multilateral Environmental Impact Assessment Agreements (MEAs). Those pertinent agreements are discussed below.

a. Convention on Environmental Impact Assessment in a Trans-Boundary Context (Espoo-1991)

This is the first multilateral EIA treaty. It looks at EIA in a trans-boundary context and entered into force in 1997.⁴⁴ It is known as Espoo convention which sets out the obligations of parts to assess the environmental impact of certain activities at an early stage of planning. It also lays down the general obligation of states to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across borders.⁴⁵

Apart from stipulating responsibility for signatory countries with regards to proposals that have trans-boundary impacts, it describes the principles, provisions, procedures to be

⁴³ Barry Sadler, Final Report, International Study of the Effectiveness of Environmental Assessment, Environmental Assessment in Changing World: Evaluating Practice to Improve Performance, 1996, p.12, available at: <http://www.iaia.org/publicdocuments/EIA/EAE/EAE10E.PDF?AspxAutoDetectCookieSupport=1>, accessed on, last visited, July 7, 2015

⁴⁴ Supra Note, 10, p.814, see also, Pacific F. Achienga Ogola, Environmental Impact Assessment General Procedures, Presented at Short Course IV on Exploration for Geothermal Resources, organized by UNU-GTP and GDC at Lake Naivasha, Kenya, 1-22 November, 2009. Available at; www.os.is/gogn/unu-gtp-sc/UNU-GTP-sc-10-0801.pdf, Accessed on, July 7, 2015

⁴⁵ Ibid

followed and list of activities, contents, of documentation and criteria of significance that apply.⁴⁶

According to this Convention, the parties have a duty to conduct EIA of projects at initial phase of the project, and have the duty to consult each other. Moreover, the party is obliged to have detailed impact mitigation measures. Therefore, the convention has created detailed legal foundation for EIA implementation.

b. Rio Declaration (1992)

Principle 17 of Rio Declaration on Environment and Development calls for the use of EIA as a national decision making instrument to be used in assessing whether proposed activities are likely to have significant adverse impact on the environment. It also emphasized the role of competent national authority in the decision making process. The other principle 15 of this declaration is that its relevant to EIA practices that the application of the precautionary principle.⁴⁷ These are the first key international instruments those considered EIA at international level.

c. Agenda 21

Agenda 21 is a dynamic program, which will be carried out by the various actors according to the different situations, capacities and priorities of countries and regions in full respect of all the principles contained in the Rio- declaration on environment and development.⁴⁸

Therefore, Agenda 21 is a program of action which should be carried out by different organs based on different realities existing in the state or region. For example, it calls for the use of EIA as a tool for decision making to know the adverse effects of proposed projects. Accordingly, it proposed that the governments should apply the following conditions:

⁴⁶ Ibid

⁴⁷ The Rio Declaration on Environment and Development , adopted by UN Conference on Environment and Development, Rio Dejanerio, 3 to 14 June, 1992, Principle ,15: available at: www.unep.org/documentsmultilingual/Default.asp?documentid.78&articleid=1163 , visited on, September 01,2015

⁴⁸ Agenda 21, Adopted by UN Conference on Environment and Development, UN Sustainable Development, Rio- De janerio, Brazil, 13 June 1992, UN Doc. A/Conf. 151/26 (vols. I, II, III, (1992)., available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> , last visited, September 26,2015.

- Promote the development of appropriate methodologies for making integrated energy, environment and economic policy decisions for sustainable development, inter alia through environmental impact assessment.
- Develop, improve and apply environmental impact assessment to foster sustainable industrial development
- Carry out investment analysis and feasibility studies including environmental assessments for establishing forest based processing enterprises.
- Introduce appropriate EIA procedures for proposed projects likely to have significant impacts up on biological diversity, providing for suitable information to be made widely available and for public participation, appropriate, and encourage the assessment of impact of relevant policies and programs on biological diversity.⁴⁹

This program encourages and imposes an obligation on countries to conduct EIA up on proposed projects to promote sustainable development.

Agenda 21 also sets the framework within which countries can establish their national environmental laws. It includes:

- UN Convention on Climate Change and Biological Diversity (1992) cited EIA as an implementing mechanism of this convention.
- Doha Ministerial Declaration encourages the cooperation of WTO members with UNEP and other inter-governmental environmental organizations to promote sustainable development and environmental protection. The WTO members also take note of the efforts of the member states to conduct national EIA of trade policies.
- UNCE (Aarhus 1998) Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters concerns the decisions at the level of projects, plans, programs and policies by extension, applies to EIA.

⁴⁹ Supra Note,4

Agenda 21 is not only imposing an obligation to assess environmental impact of projects, but also, put a framework on which the States can promulgate their national EIA laws.⁵⁰

In short, paragraph 1.3 of Agenda 21 talks about the need for cooperation on environmental protection which is the concern of Doha Ministerial Declaration under paragraph 6 and the Agenda also describes the need for public participation in decision making under the same paragraph. In the same way public participation in environmental decision making is the central theme of Aarhus convention. Therefore, Agenda 21 pave the way to implement the above conventions and Declaration those call for cooperation and public participation in decision making respectively in integrating environmental issue to development programs.

2.4.2. Environmental Impact Assessment as Customary International Law

The question of whether a customary international rule exists is indeed very much linked with the question how the principle was first launched and then actually approved.⁵¹ In other words the customary law status of a rule depends on whether the principle is invoked by a majority of states, comprising both developed and developing countries, by a regional group of state or even by the international community including international civil society. In addition, it depends on whether the principle has been referred to, or put into operation, in a treaty, in soft law instruments, in judicial or semi judicial decisions or in other expressions of state practice.⁵² As a result judicial decisions, multilateral environmental agreements, and the work of international law commission can be regarded as customary international law.⁵³

EIA is as a legal rule is the duty of states to undertake an EIA for any proposed national activity that risks causing serious environmental damage.⁵⁴ The EIA norm not only may be binding as a matter of a treaty law but also as customary international Law.⁵⁵

⁵⁰ Ibid

⁵¹ Supra Note 34, p. 451

⁵² Ibid

⁵³ Paricia Birnie, Alan Boyle, Catherine Redgwell, (2009), *International Law and the Environment*, (3rd edn,), Oxford University Press, p.137

⁵⁴ supra Note,52, p. 439

⁵⁵ Cletienne, Marie , “International Court of Justice on Potential Trans-boundary Damage and its Consequences in Nuclear Law”, 2011,(*Nuclear Law Bulletin*, Vol. 2010/2), available at: http://dx.doi.org/10.1787/nuclear_law-2010-5kg0m112t66k , Visited on, May,11,2015

In this regard in the case concerning pulps mill on the river Uruguay (Argentina V Uruguay) Judgment, the International Court of Justice (ICJ) has recognized that: trans-boundary EIA is a requirement of Customary International Law.⁵⁶ The court stated that:

*In order for the parties properly to comply with their obligations they must, for the purposes of protecting and preserving the aquatic environment with respect to activities which may be liable to cause trans-boundary harm carry out an environmental impact assessment.*⁵⁷

Thus, all states have an obligation to carry out EIA of projects that has significant trans-boundary effect on environment as an obligation of Customary International law norm.

2.4.3 Environmental Impact Assessment as General Principle of International Law

A broad range of international instruments now established general obligations requiring prior environmental assessment of projects which may cause environmental harm.⁵⁸ ICJ also in its 2010 judgment in pulp mills on the river Uruguay held that prior assessment of trans-boundary impacts is not merely a treaty based obligation but a requirement of general international law.⁵⁹ Hence, the implementation of EIA laws has attained the status of general principles of law.

2.5 Implementation of Environmental Impact Assessment in Financial Institutions

Project finance is a method of financing in which the lender looks primarily to the revenues generated by a single project both as the source of repayment and as security for the exposure.⁶⁰ Many international organizations including Multilateral Development

⁵⁶ Donald K. Antion, Case Concerning Pulp Mills on the River Uruguay (Argentina V Uruguay), Judgment 2010, ICJ, Rep, 20 April 2010, available at: www.austlii.edu.au/au/other/au/other/au-ila/journals/Auintlaws/2010/13.pdf accessed on, May 10,2015

⁵⁷ McIntyre, O. The World Courts ongoing contribution to International Water Law, the Pulp Mills case between Argentina and Uruguay, 2011, Water Alternatives, 4(2): 24-144, available at: www.wateralternatives.org; visited on, may 10,2015

⁵⁸ Philippe Sands Qc,(2003), *Principle of International Environmental Law* (2nd edn), Cambridge university press, p. 824

⁵⁹ Alan Boyle, Developments in International Law of EIA and Their Relation to the ESPOO Convention, available at: <http://www.unece.org/fileadmin/OAM/env/eia/daumentg/mops/semtner,Ygyle.pdf>, visited on ,May 2,2015

⁶⁰ The Equator Principles, June 2006, A Financial Industry Benchmark for Determining, Assessing and

Banks have developed their own environmental impact assessment procedure of which the most widely studied is that adopted by the World Bank in 1989.⁶¹ Its objective being to ensure that the development options adopted were sound and enduring from an environmental prospective and that environmental consequences were recognized at an early stage in the project cycle and include in the project scheme.⁶²

By OP 4.01 the World Bank (WB) requires Environmental Assessment (EA) of projects proposed for Bank financing to ensure that they are environmentally sound and sustainable, thereby improving decision making.⁶³ It is promised on the Bank's preference for preventive measures over mitigation or compensatory measures whenever feasible.⁶⁴ The Bank is responsible for environmental screening of each proposed project to determine the appropriate extent and type of EA, and classifies the proposed project into one of four categories as: 'A', 'B', 'C', or 'FI' depending on the magnitude of their environmental impacts.⁶⁵

The greening of international financial organizations is one of the major new trends of International Environmental Law.⁶⁶ Multilateral Development Banks (MDBs) and Bilateral Development Assistance Agencies; are increasingly conditioning their aid loans under writing and other support or involvement on the environmental and socio cultural acceptability of the applicants and enterprises⁶⁷

In general International Financial Institutions shall not lend money without integrating environmental protection mechanism with planned projects.

Regional Development Banks are also conditioning EIA. Investment Banks like African Development Bank (AfDB); Asian Development Bank (ADB); European Bank for Reconstruction and Development (EBRD); European Investment Bank(EIB) have environmental safeguards to ensure that financing of projects is not only based on the

Managing Social and Environmental Risk in Project Financing, Preamble:available at:
<http://www.equastorprinciples.com>, accessed on,May6,2015

⁶¹ Supra Note 58, p. 821

⁶² Ibid

⁶³ Ibid

⁶⁴ Ibid p. 822

⁶⁵ Ibid

⁶⁶ Supra Note, 2, p.124

⁶⁷ Ibid

precautionary principle, preventative action rather than curative treatment but sustainable development.⁶⁸

Although their operational policies and requirements vary in certain respect, that the Development Banks follow a relatively standard procedure for the preparation and approval of an EIA report.⁶⁹ The EIA should examine project alternatives and identify ways of improving project selections; planning, design and implementation by preventing minimizing, mitigating and compensating for adverse environmental impacts. International EIA laws are most likely to be implemented through the incorporation of international requirements directly into national EIA procedures. In other words, individual states have a duty to enforce international EIA laws by trans-planting it into their national EIA laws.

2.6 Concluding Remarks

Chapter two explores the conceptual frameworks and principles of EIA which are recognized by pertinent international environmental conventions and declarations. Accordingly, EIA is a tool used to identify the overall impacts of development projects on the environment and considers alternatives and mitigation measures. As illustrated in the chapter EIA principles are classified into two parts known as Basic and Operating principles. The basic one is those important elements which should be considered in the process of EIA implementation.

For example, Participative Principle requires the provision of appropriate opportunities to inform and involve the interested local communities in the documentation and decision making. While, the Operating Principles concerned with the methods of EIA application. In addition common requirements and the current status of EIA are revealed in the chapter. The requirements would be verified by sustainable development agenda. As evidenced in the chapter, EIA has attained the customary international law status that all states are obliged to carry out EIA of development projects in accordance with these concepts and principles.

⁶⁸ Supra Note, 46

⁶⁹ Ibid

Therefore, environmental impact assessment is an international customary norm which enhances sustainable development agenda of international community. Having this background, Ethiopian EIA management will be illuminated under the next chapter three.

CHAPTER THREE

Overview of Ethiopian Legal and Institutional Frameworks of Environmental Impact Assessment

3.1 Introduction

This chapter highlights the Ethiopian environmental impact assessment policies, laws and regulations as well as institutional set up. Ethiopia has signed and /or ratified many of international environmental Conventions and Protocols which include: the UN Framework Convention on Climate Change (UNFCCC-1994); the Convention on Biological Diversity (1994); the Desertification Convention-adopted in 1994; the Cartagena Protocol on Bio-safety to the Convention of Biological Diversity adopted in 2000; and the Stockholm Convention on Persistent Organic Pollutants-adopted on 2001.⁷⁰ The International Conventions are concerned with environmental protection which Ethiopia has an obligation to comply with and to implement it. The directives and procedural guidelines of Multilateral Development Banks and other non binding instruments adopted at global and regional level also necessitated the use of EIA of projects.

In addition, the government of Ethiopia has constitutional obligation to promote the right to sustainable development of the people, ensure the environmental right, and to encourage the implementation of environmental objective under articles 43, 44 and 92 of the constitutional provisions respectively. For instance, article 43(1) of the FDRE constitution is read as:

*The peoples of Ethiopia as a whole and each nation, nationality and people in particular have the right to improved living standards and to sustainable development.*⁷¹

⁷⁰ EPA, National Report of Ethiopia, the United Nations Conference on “Sustainable Development”, (Rio+20). Federal Democratic Republic of Ethiopia, 2012, Addis Ababa: available at, <http://www.os.is/gogn/unu-gtp-sc/UNU-GTP-SC-05-28.pdf>: visited on; July 15,2015

⁷¹ FDRE, Constitution, 1995, Art. 43(1), (44), and, (92), see also: EPA, National Report of Ethiopia, the UN Conference on Sustainable Development (Rio+20), 2012, in this report Ethiopia included

This shows that, the government has constitutional responsibility to enforce the citizens' rights to live in an improved way of life. Sustainable development is also realized only when the environment is saved from harm through EIA of projects as a tool. Therefore, Ethiopia has enacted the following EIA legal regimes.

3.2 Legal Frameworks of Environmental Impact Assessment in Ethiopia .

Developing countries came to use the environmental impact assessment because of the requirements of the World Bank, and other Development Banks and Donors as well as capacity building activities initiated in the wake of the Rio Declaration.⁷²

In other words, the World Bank and other lending Banks forced developing Countries to use EIA laws at national level. Hence, EIA Legal Framework of Ethiopia will be discussed bellow.

3.2.1 Primary Legislations

a. The 1995 FDRE Constitution

The 1995 FDRE Constitution is a basic legal foundation for the promulgation of EIA laws in Ethiopia. As clearly expressed under article 92(3) of the Constitution, the design and implementation of programs and projects of development shall not damage or destroy the environment.⁷³ This means any project going to be undertaken should not damage the environment. By virtue of the 1995 FDRE Constitution, the government and the citizens have the duty to protect the environment.⁷⁴ Therefore, it is not only the duty of government, but also individual or group or private or government organizations or even NGOs have a duty to protect the environment.

environmental policy as one of a means of Sustainable Development.

⁷² Haramaya University College of Law, Haramaya Law Review, (Vol.1, No.1, Sprong 12, Iss, N 2227-2178), p.104

⁷³ Supra Note 71, Art, 92(2)

⁷⁴ Ibid, Art, 92 (4)

b. Environmental Policy of Ethiopia

Before 1997, Ethiopia had no comprehensive environmental policy as a legal ground to protect environment. In 1997 the first environmental policy was formulated to provide general guidance to protect or conserve the environment and to promote sustainable utilization of natural resources of the country.⁷⁵ Thus, the policy laid down the legal basis for the enactment of independent EIA laws in Ethiopia. The overall goal of the policy is to improve and enhance the health and quality of life of all Ethiopians and to promote sustainable social and economic development. These would be achieved through the sound management and use of natural resources and the environment as a whole.⁷⁶

Thus, the policy is the legal ground to protect and promote sustainable agriculture, forest wood land and tree resources, species and ecosystem biodiversity, water resource, energy and mineral resources of Ethiopia.

c. The Environmental Impact Assessment Proclamation No. 299 of 2002

Subordinate to the FDRE Constitution basic laws are in place to require and regulate EIA practices. The EIA Proclamation No.299/2002 states that:

*Any project which deserves EIA should not be implemented before the preparation of EIA and licensing organs are required to ensure its execution.*⁷⁷

This means EIA must be done for projects that have adverse impact on the environment. According to the proclamation the project proponents who have failed to prepare or misleadingly prepared an EIA are also criminalized. The impact of the project shall be assessed on the basis of the size, location, nature, commutative effective with other

⁷⁵ Mellese Damtie and Mesfin Bayou, Overview of Environmental Impact Assessment in Ethiopia; /Gaps, and Challenges, MCICA Mahiber, 2008, available at: http://www.Melcaethiopia.Org/images/stories/publication/overview_r20_of_%20EIA_book.pdf, visited ,May 13, 2015, see also; Sida's help Desk for Environment and Climate Change, Ethiopia's Environmental and Climate Change Policy Brief Section 4, 2013, available at: [http://sida.environment.help.desk.Se/word press 3/ wp-content/up loads /2013/05/Ethiopia environment](http://sida.environment.help.desk.Se/word%20press%203/wp-content/uploads/2013/05/Ethiopia_environment) , Accessed on, May 9,2015

⁷⁶ A Proclamation No.299/2002, Environmental Impact Assessment Proclamation of Ethiopia, Art. 3. (Note that, EIA Pro. No.295/2002 of Ethiopia is amended by Pro. No.803/2013, by this proclamation, Ministry of Environment and Forest /MEF/ is established and the rights and obligations of EPA re-established under Pro. .No.295/2002 is transferred to MEF).

⁷⁷ Ibid

concurrent impacts or phenomena, trans-regional effect, duration, reversibility or irreversibility or other related effects of the project.⁷⁸

In other words, different projects have different environmental impacts due to different factors of the project. Therefore, even for similar projects, EIA of the projects has to be carried out independently. The proclamation also justify the need for EIA as it is needed to predict and manage the environmental effects, it harmonizes and integrate environmental protection to economic, cultural and social consideration into decision making process in a manner that encourage sustainable development; realizes constitutional environmental rights and help to promote government transparency.⁷⁹

As a result, the implementation of EIA is not only a tool to promote sustainable development, but also it is an enforcement mechanism of environmental rights enshrined in the FDRE constitution. Moreover, it is the way of compliance with international environmental commitments. According to the proclamation the Environmental Protection Authority (EPA) has to determine the lists of public instruments: (Policy, strategy, program, a law or international agreements) that should pass through environmental impact assessments.⁸⁰ This is to say EPA has an obligation to list projects and programs those need EIA.

The proclamation imposes the duty to implement EIA on the proponent of the project.⁸¹ It also gives the power of decision making to EPA or the relevant regional environmental agencies.⁸² As it reveals, despite the obligation to conduct EIA for those EIA required projects, the decision makers can decide not to carry out EIA on the ground that if they believe that the impact of the project is insignificant.⁸³ But it is not defined what changes to the environment are to be considered as “insignificant impact” is left to the decision makers. Therefore, in the writer’s view point, it depends on the will or believes of decision makers, which can be abused.

⁷⁸ Ibid, Preamble

⁷⁹ Ibid, preamble

⁸⁰ Ibid, Art. 13(1)

⁸¹ Ibid Art. 7

⁸² Ibid Art. 2(4)

⁸³ Ibid Art.3/2/

d. Sect oral EIA Laws

In addition to EIA laws other sect oral laws are very important to protect environment. For instance, the investment Proclamation imposes duty on investors to protect environment⁸⁴. Even if it did not mention the EIA requirement it prohibits the environmental damage by investment activities.

Especially the mining operations proclamation No 678/2010 requires submitting environmental impact assessment together with the application to obtain business license.⁸⁵ This proclamation directly requires the application of EIA laws in this business sector. The Environmental Pollution Control Proclamation also imposes the duty to protect environment on the community.⁸⁶

Therefore, other sect oral laws are also important to protect environment.

3.2.2 Subordinate Laws

a. Environmental Impact Assessment Directive

There is also EIA directive document that is aimed to ensure effective environmental assessment and management practice in Ethiopia.⁸⁷ According to Art.20 of proc.No.299/2002, the Authority /EPA/ has the power to issue Directive to encourage effective implementation of EIA of projects. As a result Directive No. 1/2008 has been issued by the Authority. The directive lists project types those require environmental impact assessment. At the same time the Directive permits to the regional environmental agency to formulate EIA directive. Therefore, if the proposed project is categorized into the listed projects EIA of the project should be carried out.

b. Environmental Impact Assessment Guideline

The guideline document provides the background of EIA management in Ethiopia. The purpose of the document is to ensure effective environmental assessment and management practices. It also describes some principles and requirements those should

⁸⁴ Proclamation, No. 769/2012, Investment Proclamation , of Ethiopia, Art.38

⁸⁵ Proclamation, No. 678/2010, Mining Operations Proclamation, Arts. 60, 62

⁸⁶ Proclamation No.300/2002, Environmental Pollution Control Proclamation, preamble, Art. 3(1)

⁸⁷ The Federal Democratic of Ethiopia Environmental Protection Authority, Guideline Series Documents for Reviewing Environmental Impact Study Reports, January,2003, Addis Ababa, July2000, EPA, see also , E.P.A. Directive No.1/2008, A Directive issued to determine Projects subject to EIA.

be considered in the EIA implementation process. The principle includes; Early EIA application, public participation, issue based, alternatives and accountability and also provides the detailed processes of screening, scoping of projects and decision making process.⁸⁸

Broadly speaking, EIA legal Frameworks of Ethiopia enables the effective implementation of EIA. To this end the Directive and Guideline documents filled the gaps of EIA proclamation to encourage full application of environmental impact assessment processes in Ethiopia.

3.3 Institutional Frameworks of Environmental Impact Assessment

To implement EIA effectively institutional framework should be well established. In this way, Ethiopia has the following EIA institutions.

a. Ministry of Environment and Forest and Regional Environmental Agencies

EIA is a process where the interaction and cooperation of many institutions is required. The close reading of EIA laws make MEF, the guardian of national environment, and most empowered organ to promote the environmental rights of the people, the right to clean and healthy environment. MEF has the power to propose environment related policies, laws, regulations and issue directives and guide lines⁸⁹

As provided under proclamation No 299/2002, the main objective of MEF is to prepare environmental protection policy and laws, directives and systems for the assessment of the impacts of social and economic development projects on the environment and follow up their implementation, enhance environmental awareness and provide support to the regions.⁹⁰ In addition the ministry has the duty to define standards for the protection of soil, water, air and to combat desertification. Specific responsibility of MEF comprises reviewing, decision making on EIS reports and implementing follow up processes in making sure that EIA audits are conducted at different stages of the EIA process and life cycle of the project.⁹¹ Thus, MEF would manage the implementation of EIA of projects.

⁸⁸ Environmental Protection Authority, July, 2000, Environmental Impact Assessment Guideline Document

⁸⁹ Supra Note 83, Art. 20, see also, pro. No. 803/2013, definition of powers and duties of the executive organs of the FDRE amendment proclamation

⁹⁰ Supra Note 84, Arts, 12(1), 13(2), and 14(1)

⁹¹ Supra Note 89, Arts.12, 14

The proclamation stipulates the mandatory need for the establishment of environmental bodies of regions.⁹² The mandates of those regional environmental organs are to enable regions to coordinate environmental activities and improve the dissemination of environmental information. There is also Sectoral Environmental unit which shall be established by EPA or by Regional Environmental Agencies. Art 14 of the proclamation reads as:

*Every competent agency shall establish or designate an environmental unit that shall be responsible for coordination and follow up so that the activities of the competent agency are in harmony with this proclamation and with other environmental protection requirements*⁹³

In other words, it is to mean that, competent organs as defined in the proclamation, is EPA or regional governmental agencies, those who have a capacity to delegate another environmental units. In this context EPA has delegated other sectors with the power of conducting EIA processes.⁹⁴ Therefore, various sectors would be involved in implementation of EIA.

According to the proclamation EPA is accountable to the prime minister.⁹⁵ But, now it is up graded to ministerial status. This shows that Ethiopian government has paid great attention to the protection of the environment.

b. Environmental Impact Assessment Implementing Unities

As per the environmental impact assessment proclamation, agencies those are authorized by the concerned organ or by regional environmental agencies have the power to implement the EIA process of projects.⁹⁶ Different government sectors like; mining operation, investment, water resource and management, commercial registration and business licensing, rural land administration and land use have also legal obligation to

⁹² Ibid Art. 15

⁹³ Ibid, Art ,14

⁹⁴ The letter written by EPA, No. 3/3-12/33, date 11-03 – (by this letter EPA has delegated other government sectors to conduct environmental impact assessments of projects concerned with their duties.)

⁹⁵ The Proclamation No. 295/2002, Environmental Protection Organs, Establishment Proclamation, Art. 3 (2), (This Proclamation is amended by Proclamation .No. 803/2013. The Proclamation has transferred the rights and duties of EPA detailed in this Proclamation to Ministry Environment and Forest.)

⁹⁶ Ibid, Arts 6 (24), 14

contribute to the management of EIA of projects in one or another.⁹⁷ Therefore, the implementation of EIA needs cooperation of all relevant institutions.

c. Horticultural Producers and Exporters Association

Ethiopian Horticultural Producers and Exporters Association have been established in 2002. The basic purpose of the association is to represent farms' interest in different forums; it gives capacity building trainings to its member; to encourage good agricultural practice; and protection of the environment.⁹⁸ As can be presently observed in Ethiopia, there are many flower-farms which can negatively contribute to environmental harms. Therefore, this association is important to help ensure the application of environmental protection measures.

3.4 Concluding Remarks

This chapter reacts on the EIA requirements of Ethiopia legal and Institutional Frameworks. The reasons having such legal frameworks are generalized as: because of obligations imposed by international conventions and international EIA norms. Furthermore, it is needed to enforce environmental rights of the people enshrined in the FDRE Constitution.

As discussed in the chapter, Ethiopia has institutionalized EIA implementation by enacting EIA laws and regulations which established EIA institution and created all other appropriate sectors cooperation in EIA application. The primary laws, Directives and Guidelines have incorporated the principles of EIA (basic and operating), and basic requirements of EIA process which would made Ethiopian EIA laws, competent with international EIA law requirements.

⁹⁷ Ibid, Arts. 6 (24), 14

⁹⁸ Proclamation No. 678/2010, mining Operations Proclamation, A Proclamation to Promote Sustainable Development of Mineral Resources, Art 60, see also, Proclamation No 769/20012, Investment Proclamation, Art. 38, Proclamation No. 197/2000, Ethiopian Water Resource Management Proclamation, Art. 26, Proclamation No. 456/2005, FDRE Rural Land Administration and Land Use Proclamation, Art.10, Proclamation No. 686/2010, Commercial Registration and Business Licensing Proclamation, Art. 37

CHAPTER FOUR

Policy Frameworks and Practice of Development Bank of Ethiopia in Environmental Impact Assessment Requirements Implementation

4.1 Introduction

The purpose of environmental assessment /EA/ is to recognize any environmental consequences early in project design.⁹⁹ In this regard, to understand the EIA role of DBE the conceptual Frameworks of Development Banks will be discussed. Basically, the chapter analyzes DBE Policy Frameworks and Practices of EIA implementation as the main themes of the study.

4.2 Concept and Background of Development Banks in General

Development banking means different to different people, in different places and at different times. This only goes to show that development banking has evolved since it was first conceptualized as an instrument of development. It is a type of financial intermediation to help the country reach a higher and sustainable level of development.¹⁰⁰

Development banking therefore can also be defined as a form of financial intermediation that provides financing to high priority investment projects in a developing economy.¹⁰¹

Development Bank is a 'bank' established for the purpose of financing development. A traditional definition of development bank is one which is a national or regional financial institution designed to provide medium and long term capital for productive investment, after accompanied by technical assistance, in a less developed areas.¹⁰² Development Banks fill a gap left by undeveloped capital markets and the reluctance of other Banks to offer long term financing.

The numbers of development banks have increased rapidly after the 1950s, having been encouraged by the International Bank for Reconstruction and Development (the World

⁹⁹ Environmental Assessment Sourcebook 1999, The Environmental Review Process, available at <http://siteresources.worldbank.org/INTSAFEPOL/11429471116495579739/20507372/Chapter1TheEnvironmentalReviewProcess.pdf>, accessed on ,May 22, 2015

¹⁰⁰ ADFIAP, Primer on Development Banking, available at: <http://www.adfiap.org/wp-content/uploads/2009/10/development-bankingprimer.pdf>, accessed on, June 15,2015

¹⁰¹ Ibid

¹⁰² Ibid

Bank), many national Development Finance Institutions (DFIS) as Development Banks were established in many Countries¹⁰³

For instance; Islamic Development Bank in 1975, the International Bank for Economic Cooperation in 163 Countries to make loan for economic development.¹⁰⁴ As one can understand from the above background Development Banks are first established at International and Regional levels. There are three models of development banking ongoing into the future, which are:¹⁰⁵

- The policy banking model: which provides directed finance through government supported and whose capital is sourced from government as can be found in Japan, China, Korea and Malaysia;
- The universal banking model: those provide long term finance plus advisory services through investment and whose capital is sourced from the international financial markets and from their own financial instrument offerings as can be found in Singapore, India, Sri Lanka, the Philippines;
- The standard banking model: this is another model which provides development finance through independent development banks whose capital is sourced on their own with little or no support from government, as can be found in Thailand, Indonesia;

The classification is mainly based on the source of capital to the banks which could be from government budget or from international market or from their own sources.

Accordingly, when we consider Development Bank of Ethiopia (DBE); it is lending to manufacture, agro processing, industries, mining or extractive industries and commercial agricultural projects constitute the major sources of its income.¹⁰⁶ Due to this, DBE can be classified as the standard banking model.

The other characteristic of Development Bank is that it employs project appraisal as a means to determine the viability of the project submitted for financing. Project appraisal looks at the technical, financial, marketing, management, environmental and economic

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Development Bank of Ethiopia, Loan Manual, June 2014, Introductory part

aspects of the projects.¹⁰⁷ Thus, among other Banks in Ethiopia, DBE has special concern to environmental protection

4.3 Description of Structure and Operation of Development Bank of Ethiopia

The Development Bank of Ethiopia is one of the financial institutions engaged in providing short, medium and long term development credits.¹⁰⁸

The history of Development Bank of Ethiopia goes back to 1909 when the first attempts of its kind known as the “Societe Narion d.Ethiopie pourle development del’ agriculture et de commerce” (The society for the promotion of Agriculture and Trade) was established in the “Menilike II” era.¹⁰⁹

In other words it has been long since the establishment of DBE with the purpose to promote the national development program. The Bank’s area of focus is lending to viable projects in line with government priority areas.¹¹⁰ The very purpose of Development Bank of Ethiopia is not for profit making, but to promote the national development agenda. However, it collects money from loan interests and by mobilizing fund from internal and external sources.

Another important behavior of the Bank is that, it strongly believes its national objectives can only be achieved through environmental protection and overall socio economic development.¹¹¹ This shows that, the mission of DBE is equally applied to environmental protection and socio economic development of the country.

4.3.1 Structure of Development Bank of Ethiopia

The Development Bank of Ethiopia is state owned development finance institution.¹¹² It is also supervised by the Public Financial Enterprises Supervising Agency (PFEA) which is a directorate under the prime minister’s office.¹¹³ The president is the official

¹⁰⁷ Supra Note, 105

¹⁰⁸ Development Bank of Ethiopia, May, 2012, available at: http://www.et.emb-japan.go.jp/comp_phot%20of%20onews%20articles/053.pdf, visited on, June 4,2015

¹⁰⁹ Ibid

¹¹⁰ Development Bank of Ethiopia, Credit Policy, March 26,2008,Introductory part

¹¹¹ Ibid

¹¹² Supra Note, 106

¹¹³ Ibid

representative of the Bank.¹¹⁴ The Bank extends its credit service through the head office and five regional offices and thirty two branch offices.¹¹⁵

In its long standing service, DBE has established recognition at national and international levels. Nationally, it is the sole Bank with reputable experience in long term investment financing.¹¹⁶ Internationally, it is recognized as an important on lending channel for development programs financed by bilateral and/or multilateral sources.¹¹⁷ Thus, DBE is functioning in all nine regional states of Federal Democratic Republic of Ethiopia.

4.3.2 Operational Process of DBE in General

The Bank accepts all kinds of commercial agriculture (farming), agro processing and manufacturing and extractive industries loan applications from both walk in and sourced customer.¹¹⁸ The Bank also undertakes the necessary investigation on the proposed projects and borrowers.¹¹⁹ DBE is also a financial institution for large projects; for industry sectors; with the aim of promoting development; such as job creation, domestic resource mobilizations are the goals of the Bank.

4.4 The Purpose of DBE to Implement Environmental Impact Assessment

EIA helps to enforce environmental standards which can potentially induce promoters of the project to apply environmentally friendly production methods and practices. This is why lending Banks and bilateral aid agencies have made environmental impact assessment requirements as preconditions.

For instance, Barclays has strong and long standing commitment to manage the environmental and social risks associated with commercial lending.¹²⁰ It recognizes that a bank's major environmental impacts tend to be indirect arising from the provision of

¹¹⁴ Ibid

¹¹⁵ Ibid

¹¹⁶ Development Bank of Ethiopia, A Short Guide to Access DBE's Loan, available at: http://www.dbe/.com.et/home/Business_promotion/Bank_Brochure/English%20Banks_%20Brochure%202014pdf, accessed on ;May 24,2015

¹¹⁷ Ibid

¹¹⁸ Supra Note, 115

¹¹⁹ Ibid

¹²⁰ Barchlays, Environmental and Social Risk Assessment in Lending, available at: http://www.barclays.com/contet nt daul/barclays_publicl_docs/citizenship/ policy_positions/environmental_and_social_risk_assessment_in_lending.pdf, visited on; May 5,2015

financial services to business customers operating in sensitive sectors.¹²¹ It also believe that taking due account of its environmental and social impacts is not only the right thing to do but also makes good business sense.¹²² It is to mean, the Bank carries out the environmental impact assessment for the purpose of making the business itself the better production. In 1989 the World Bank adopted Operational Directive (OD) 4:00 Annex A: environmental assessment and EA became standard procedure for Bank financed investment projects.¹²³ The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making.¹²⁴

Hence, the purpose of World Bank in making EIA of project as a requirement of lending is to guarantee the proposed activities have no negative effect on the environment.

The African Development Bank /AfDB/ has a strong influence on the allocation of resources, and governance is an important factor in the assessment of country performance.¹²⁵ The AfDB uses a tool called the Country Policy and Institutional Assessment (CPIA) designed to assess the quality of a country's policy and institutional framework.¹²⁶

As it is possible to understand from the above, to lend money, African Development Bank used different requirements from the previous Banks. That is, it assesses the policy of that credit seeking country, its governance and its institutional set up. Hence, it seems that the purpose of the requirement of impact assessment for AfDB is to ensure and promote good governance in the African countries.

The Development Bank of Southern Africa/DBSA/ also has an environmental impact assessment policy and procedure. The purpose of the Bank in this regard is early

¹²¹ Ibid

¹²² Canadian International Development Agency, Summary of Environmental Assessment Policies And Procedures For Development Assistance Activities, France, available at ; [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea%20summaries/\\$file/Fra_pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea%20summaries/$file/Fra_pdf), accessed on May,18,2015

¹²³ Ibid

¹²⁴ The African Development Bank, the Water and Sanitation Sector, available at: <http://www.google.com.et/vrl?sa=...> (xopy it). Visited on. June 6,2015

¹²⁵ Ibid

¹²⁶ Development Bank of Southern Africa, Environmental Assessment Policy and Procedure, available at: http://www.saiea.com/dbsa_hand_book_update_09/pdf/2dbsa_chapter_of on June6,2015 pdf ,accessed

identification of environmental issues, and early incorporation of these environmental considerations into the project in the design phase.¹²⁷

The objective of EIA policy, of DBE is to enforce the environmental policy of Ethiopia. This is because environmental sustainability is recognized in the FDRE Constitution. The FDRE constitution says that the design and implementation of programs and projects of development shall not damage or destroy environment.¹²⁸ Thus, the main purpose of DBE to conduct EIA of projects financed by the Bank is to protect the harming effects of those projects.

The overall goal of environmental policy of Ethiopia is to enhance the environment as a whole to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.¹²⁹

Since, DBE is Development Bank; it should implement the Environmental Policy of Ethiopia on its part which has the goal to improve the health and quality life of all Ethiopian and to promote sustainable social and economic development. Therefore, DBE itself should serve Government as a means of promoting sustainable development.

The other point is that, DBE finances agricultural and industrial sectors as priority areas of financing. As discussed under section 4.7.1 Table 3 below, by their nature these economic sector projects have negative and positive impact on the environment. Consequently, to protect environmental harms DBE has a concern and responsibility to implement EIA of projects proposed for its financing.

4.5 Environmental Impact Assessment Policy Frameworks of Development

Bank of Ethiopia

4.5.1 The Credit Policy

The Credit Policy of Development Bank of Ethiopia is issued by the board of management of the bank based on the duties and authorities vested in it by Public Enterprises Proclamation No.25 of 1992: and the Public Financial Enterprises Agency

¹²⁷ Ibid

¹²⁸ Proclamation No.1/1995, A Proclamation to Pronounce the Coming into effect of the Constitution of the Federal Democratic Republic of Ethiopia, Art 92 (2)

¹²⁹ FDRE, Environmental policy, April 2, 1997, Environmental Protection Authority, in Collaboration with the Ministry of Economic Development and Cooperation

Council of Ministers Regulation No 98/2004.¹³⁰ The Bank shall extend investment credit to credit worthy borrowers and projects that have received a thorough appraisal and found to be financially and economically viable and socially desirable.¹³¹

This is to say, to be financed by Development Bank of Ethiopia, the project should not be harm the interest of society. The bank has a responsibility to check whether or not the project benefits the society.

4.5.2 The Credit Policy Procedure

Procedural rules are the main instrument to implement laws, and regulations. Accordingly, in order to achieve its business objectives and execute its strategies successfully DBE established a procedural manual which provides for the application of its credit policy.¹³² This procedure manual is, therefore, developed to provide guidance, consistency and uniformity in the application of the credit policy.¹³³

The credit policy procedure of the Bank is also stated that DBE financed project should be found to be financially and economically viable and socially desirable.¹³⁴ According to the procedure of the Bank, DBE is obliged to provide technical assistance to its customer in environmental protection as the project eligibility. The procedure states that "... production process, environmental impact assessment and project implementation schedule ..." should be technically studied in the checklists for customer requirements as eligibility criteria.¹³⁵ Hence, the EIA of project is one of the procedural requirements of borrowing.

Once loan applications for financing of projects are received the project appraisal sub process appraises the project. However, it needs to be decided by the Loan Approval Team (LAT). In this process the Loan Approval Team deliberates and decides on the loan approval document to accept or reject the loan proposal.¹³⁶

¹³⁰ Development Bank of Ethiopia, Credit Policy, September, 29,2009

¹³¹ Ibid, Art. 2.1

¹³² Development Bank of Ethiopia, Revised Procedure ,on Credit Policy,2009

¹³³ Ibid

¹³⁴ Ibid No 2.1 p.2

¹³⁵ Ibid,No.4.5 ,p.44 (d)

¹³⁶ Ibid. No. 4.5, p. 44.

Hence, the team has the duty to ensure, the decisions of the Bank is in full compliance with Bank's Credit Policy and Procedure. That is, one of the major objectives of the Bank is to ensure and promote the purpose of sustainable development of the country through the implementation of EIA. As a result, the Loan Approval Team (LAT) of DBE has an obligation to ensure the proper implementation of EIA of DBE financed projects.

4.5.3 Credit Policy Manual

The Credit Policy of the Bank needs to be supported by an equally well crafted and clear manual. Hence, the Manual, which follows the form and content of a loan manual, is designed by chief management body of DBE, to provide detailed explanations on major credit policies and procedures so as to promote the objectives of transparency and accountability and ensure uniformity and consistence of application throughout the Bank.¹³⁷ Hence, the Policy Manual of DBE is placed for the detailed clarification and implementation of Credit Policy and Procedure of the Bank. The EIA contents of the Manual are discussed in the following section.

4.6 Environmental Impact Assessment Requirements of Development Bank of Ethiopia

To ensure the implementation of environmental impact assessments of projects DBE has devised EIA requirements as borrowing criteria in its EIA policy frameworks. The following EIA requirements are extracted from the policy and analyzed bellow.

4.6.1 Applicant Should Submit Environmental Impact Assessment Report

DBE policy manual of EIA states that the applicants should submit EIA report for proposed projects in 'A' and 'B' categories which is conducted by licensed environmental consultants and approved by concerned government organ as per the environmental assessment policy of the Bank.¹³⁸ The EIA of project is among the requirements expected by DBE to be fulfilled by the applicants at the beginning of application for loan processing.¹³⁹ Thus, for the purpose of EIA, DBE has to be involved

¹³⁷ Development Bank of Ethiopia, Loan Manual, June, 2014,, Introductory part.

¹³⁸ Ibid, No. 2.9 18.1, pp. 44

¹³⁹ Ibid, No. 2.9.2 , pp. 34

at the stage of project design. It shows that DBE is concerned not only to finance government priority area of projects, but also it cares for the protection of environment.

Financial institutions were instrumental not only as a means to infuse long term capital in the industry, but also as a mechanism to screen good private projects, establish well defined performance targets, and monitor the execution of investments.¹⁴⁰

Hence, unless otherwise good projects are selected at the design stage, both objectives that is the objectives of DBE to protect environment and to make the project productive and the objective of the project established by the promoter cannot be achieved.

Consequently, the World Bank is the first financial institution to adopt environmental impact assessment procedures. Therefore, environmental impact assessment procedures enhance the protection of environmental harm, by interfering, in project implementation at early stage, which is recognized by World Bank as an international concern.

The environmental impact assessment procedure is a requirement for a multilateral financial institution which include: the World Bank; the African Development Bank (AfDB); the Asian Development Bank (AsDB); The European Bank for Reconstruction and Development (EBRD); and the Inter-American Development Bank. In all financial intuitions the preparation of EIA reports is a borrower's responsibility.¹⁴¹ But the Bank determines what type of EIA, if any, is required for each project they support.¹⁴²

However, in the case of DBE, there is no procedural guideline to determine the type of EIA to be carried out for the project that DBE is required to finance.

From the researcher's view point, the experiences of the International Financial Institutions, beyond the EIA requirement of projects at the design stage, determining or guiding the promoter of the project what type of EIA has to be conducted for each project is a good mechanism to realize the purposes of EIA of projects financed by those financial institutions.

¹⁴⁰ Sergio G.Lazzarini, Aldo Musacchio, Rodrigo Banderia-De-Mallo,, Rosilene Marcon, 2002-2009, Working Paper, 12-047, December 08, 2011, What Do Development Banks Do? Evidence from Brazil, available at; [http://www.hbs.edu/faculty/publication% 20 files/12-047.pdf](http://www.hbs.edu/faculty/publication%20files/12-047.pdf), visted on may 27,,2015

¹⁴¹ Ibid

¹⁴² Ibid

The application of environmental impact assessment procedures is considered as basic requirement of EIA at regional multilateral financial institutions. For example, African Development Bank groups approach to environmental management and sustainable development will be the use of procedures to assess the environmental impacts of Bank lending programs and projects.¹⁴³ These procedures will enable the integration of environmental safeguards in projects and environmental considerations, wherever essential, will become an integral part of loan agreements and binding documents.¹⁴⁴

To elaborate this, the AfDB has given more emphasis to the use of EIA procedures. Because, the approach of AfDB is not only use the EIA procedures to integrate the mechanisms of environmental protection with the implementation of programs and projects, but also it includes the method of environmental protections in the documents of loan contract to impose the environmental safeguards as contractual obligation on the borrower. As the writer's view, this mechanism is the best solution to enforce the implementation of the recommended measures of EIA of Bank financed projects.

The justification is that, the rights and obligations of the lending Bank and the borrower is finally depend on the terms and conditions expressed by the parties in the loan contract documents. Hence, unless the obligation to implement EIA measures is included in the contract, the lending bank cannot take any action based on the contract.

According to the EIA law of Ethiopia, the EIA of projects is mandatory and follows the following procedures.

- Projects shall need EIA and their implementation is subjected to an environmental clearance from the EPA or the regional government environmental agency as applies:
- EPA or the regional environmental agency depending on the magnitude of expected impacts may waive the requirement of an EIA

¹⁴³ Ibid

¹⁴⁴ Ibid

• As the writer of the study is staff and attorney of DBE, he realized that, there is no practice of incorporating recommended EIA mitigation measures in the Loan Contract of DBE as an obligation and no one can change the prepared standard loan agreement formats except revised by the concerned Department.

- All other licensing shall, prior of license issuing ensure that either EPA or the regional Environmental agency has authorized the implementation of the project.
- A licensing agency shall either suspend or cancel a license that has already been issued in case that EPA or the regional environmental agency suspends or cancels the environmental authorization.¹⁴⁵In this case other Development Banks require EIA as mandatory by their own needs.

When we come to DBE's EIA policy requirements, in practice DBE receives approved EIA certificate from promoter and based on the certificate considers the project as environmentally sound. The problem here is that, in the process, what if the EIA authorized organ wave or suspend the authorized EIA after DBE has financed the project is the point to be entertained. In this matter it is important to see the experiences of some Development Banks. For instance, in the EIA policy of Development Bank of Southern Africa (DBSA), programs and projects in the high risk category which have likely significant adverse environmental impacts are required an EIA process to be under taken regardless of EIA legislative and regulatory requirements of the country.¹⁴⁶ In other words, notwithstanding the national legislation and regulation of EIA, DBSA requires by its own policy the EIA for high risk categorized projects.

In the same way, World Bank reviews EIA proposals and undertake project classification based on its own EIA policy. This includes a comprehensive review of the technical, economic, financial, environmental and institutional aspects of the proposal and is conducted by Bank staff. Sometimes it is supplemented by outside consultant. The Bank staff also review the EIA finding and prepare a draft Staff Appraisal Report /SAR/ that discusses how the borrower will address social, environmental and other issues.¹⁴⁷ However, DBE's EIA policy framework does not reflect such issue.

As could be observed from the practices of the above mentioned Development Banks, to protect environmental harm effectively Development Banks have to classify projects

¹⁴⁵ Supra No. 83,Art.3

¹⁴⁶ Development Bank of Southern Africa, Environmental Assessment Policy and Procedure, p. 7, available at: [http://www.saiea.com/dbsa handbook update 09/pdf/2 dbsa chapter 09 pdf](http://www.saiea.com/dbsa%20handbook%20update%2009/pdf/2%20dbsa%20chapter%2009%20pdf), visited on June 6,2015.

¹⁴⁷ The world Bank, Summary of Environmental Assessment Policies and Procedures for Development Assistance Activities, available at: <http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/VLULimages/ea%20summaries/sfile/WB.Pdf>, accessed, on,; 18-07-2015

financed by them based on their own EIA Policy Framework procedures. Therefore, Development Banks should set their own policy to classify projects according to their potential environmental impact regardless of the national environmental impact assessment laws.

4.6.2 Projects those may not need Environmental Impact Assessment Report

For projects categorized as C or D, that means if the potential of the project to harm the environment is less than those of the projects classified as A or B, it is optional for the applicant to submit EIA report in order to access DBE loan. However, the Bank has the duty, to conduct internal environmental due diligence assessment to assist the decision making process of the Bank.¹⁴⁸ Thus, DBE has a responsibility to carry out the EIA of such projects.

4.6.3 Screening of Projects

According to the policy requirement of the Bank, DBE working units (CP and branches) must screen and classify all projects early in the application process based on the review of EIA reports of the proposed activities.¹⁴⁹ In addition, DBE has to review the EIA reports submitted to the Bank by the owner of the proposed project, and then DBE's officer has the duty to inspect the proposed activity in order to identify the negative or positive impacts of the project. After these requirements have been fulfilled, DBE is supposed to screen the projects according to their potential environmental impact as A, B, C or D, which facilitate the decision making process of the bank. The EIA proclamation of Ethiopia also states that a directive shall determine categories of projects those need EIA and those which do not need EIA¹⁵⁰

The World Bank also under takes the screening of the proposed project into one of four categories, depending on the types, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts.¹⁵¹

¹⁴⁸ Supra Note, 106, No. 2.9.18.3

¹⁴⁹ Ibid

¹⁵⁰ Supra Note, 145, Art..5, see also, EPA, A Directive No. 1/2008, Directive issued to determine Projects subject to Environmental Impact Assessment

¹⁵¹ Ibid

In the researcher's view, to be able to effectively mainstream environmental sustainability issues in the Bank's operations, it is necessary to develop environmental management mechanisms. The main EIA task in Bank lending operations is the screening of projects to be determined to which environmental category a project shall be assigned.

Thus, the procedural policy obligation to screen projects to be financed by DBE is appropriate at international and national level. Hence; the screening process for each proposed project as early as possible helps to determine the appropriate extent and type of EIA to be undertaken.

4.6.4 Projects are Required to be Environmentally Friendly

Projects to be financed by DBE are required to be environmentally friendly. It is a minimum requirement to access the loan from the Bank. The responsibility to ensure that the proposed projects are environmentally friendly is imposed on the Bank itself. This is why the Credit Process (CP) and branches of the Bank have the obligation to categorize those projects to be financed by DBE.¹⁵² The Credit Policy Manual of the Bank also defined the meaning of environmentally friendly projects. It states that:

*projects those do not add to existing pollution of the environment to; air, soil and water to the extent that exceed the minimum authorized concentration limits set by Ministry of Environment and Forest, and favor the use of cleaner technologies, renewable resources, waste reduction, and resource recovery and recycling methods.*¹⁵³

Hence, as DBE's loan requirement policy; the project should not add pollution to air, soil, and water beyond the standard limit of Ministry of Environment and Forest requirements.

4.6.5 Production of Radioactive Materials

DBE understands that radioactive materials have high potential to harm the environment. Consequently, if the projects have a radioactive effect on the environment DBE rejects

¹⁵² Supra Note, 139, No. 2.9.18.5

¹⁵³ Ibid

the application without consideration.¹⁵⁴ Therefore, to be financed by DBE, projects should not be produce radioactive materials.

4.6.6 Requirements of Environmental Laws

DBE takes the environmental laws and regulations of the country to be respected as a requirement of loan processing. If the promoter designs the proposed project against the environmental laws of the country, DBE shall not finance the project.¹⁵⁵

That is when the proposed project is submitted to DBE, the Bank has to ensure that, the project comply with all environmental laws and regulations including the constitutional environmental rights of the people. But, as to the writer's view, this requirement is important but not practical in the DBE. Because, to ensure that all proposed projects are cop up with the laws and regulations of the country, it needs adequate man power and professional arrangements within DBE. For instance, a lawyer alone cannot decide that a chemical drop harms an environment and is violating the environmental laws and regulations. Therefore, it needs the combination of different professionals like environmentalist and chemist.

4.6.7 Requirements for Agricultural Projects

Different projects have different environmental harm. Hence, if, the proposed project is agricultural project, DBE requests the applicant to submit additional EIA requirements, which include: rain fall data; soil test; topography survey and farm design.¹⁵⁶

In short, the above listed EIA requirements of DBE are formerly guidance statements that are issued and expected from the borrower to apply the financing of proposed projects.

4.7 Analysis of Environmental Impact Assessment Implementation by Development Bank of Ethiopia

The analysis was conducted through desk interviews of EIA practice in DBE with the relevant officials and managers of the Bank, as well as it is enhanced by distributing questionnaires to the credit process appraisals and branches officers of EIA concerned

¹⁵⁴ Ibid No 29.18.8

¹⁵⁵ Ibid No 2.9.18.10

¹⁵⁶ Ibid

working units of DBE. Furthermore, the analysis is also conducted based on project and document observations by the writer of this thesis. Finally, the working opportunity of the writer's experience in DBE is also a great input for this study. .

4.7.1 Data presentation, Analysis and Interpretation

Under this section attempts were made to investigate the extent to which EIA requirements of DBE financed projects are implemented by DBE in Light of international and national EIA laws. To show the main findings of the research, data is collected through, questionnaires, interview, document and project observation by the researcher. Thus, information in this chapter is presented according to the objective of the study.

A. Back ground Information of Respondents

In this study the respondents were; employees of the Bank, managers of the bank and some managers of the projects.

Table 1: Background Characteristics of Employees Who Filled the Questionnaires.

Characteristics	Category	Frequency
Sex	Female	4
	Male	18
	Total	22
Age group	25 – 35	19
	36 – 45	2
	46 and above	1
	total	22
Educational level	Degree and above	22
Working unit (Department)	corporate	8
	Region	5
	Branch	9
	Total	22
Work experience in DBE /Year/	2 - 5	6
	5 and above	16
	Total	22

The researcher has distributed 16 questionnaires to personnel who are working at Addis Ababa /head office/ of DBE and 6 questionnaires for DBE personnel those are working at Adama branch. Generally, 22 questionnaires are distributed to DBE EIA concerned personnel. All questionnaires are appropriately filled and returned to the writer.

As described in the table 1, male respondents are 73% while female respondents are 27% of the total respondents. With regard to age most of the respondents are between the age of 25 and 35 concerning the work experience in the DBE the majority have worked for more than 5 years and have B.A degree and above concerning their educational levels. Therefore, it is possible to induce that the employees with adequate level of education and experience have responded to the questionnaires distributed by the researcher.

Table 2: Background Characteristics of Managers /Personnel Who Responded to the Interview

Characteristics	Category	Frequency
Sex	Female	1
	Male	9
	Total	10
Age group	35 -45	5
	46 and above	5
	total	10
Educational level	Degree and above	10
working unit (Department)	Manager(DBE/project/)	6
	LAT leader	1
	LAT member	1
	Process owner	1
	Audit officer	1
	Total	10

As illustrated above, there were more male respondents 90% interviewed than females (10%), this is because, the managers, process owners of the bank/projects those assigned with the position of decision making, managing and leading about project appraisal and follow up which in turn concerned with EIA implementations are males.

B. The Top ten Projects Financed by DBE

Table 3: The top ten DBE financed projects active at July 2015

Sector	Commodity Description (sub sections)	Number of projects (frequency)	Amount of loan financed (in birr)
Agriculture	cotton production	131	1,461,594,758.73
	Oil seeds	213	1,218,158,016.20
	Floriculture	33	619,351,306.41
	Cereals production	33	261,520,442.62
	vegetables production	39	204,221,168.79
	Coffee plantation development	24	99,282,388.48
	crop marketing	17	61,974,268.02
	Fruits production	6	53,342,402.78
	Sisal production	5	34,622,351.85
	Agricultural input	1	6,335,587.37
	Sub total	502	4,020,402,691.25
Manufacturing	Cement and lime manifesting	6	2,768,852,747.85
	spinning and wearing textiles	9	2,663,037,090.99
	Sugar cane prod and sensor processing	1	2,318,607,023.62
	Textile package materials	6	2,198,288,804.89
	fabrics and articles	3	1,344,991,872.02
	Appliances and electrical equipment	2	1,943,983,107.24
	Garment apparels	25	687,047,417.80
	Malt processing	2	528,247,717.66
	Pharmaceuticals and botanic product	6	510,152,342.43
	Bakery and pastry products	12	490,122,098.92
	Sub total	72	18,968,356,528.97
Both Sectors	Grand Total	574	22,988,758,220.22

Source: DBE data base

As shown in table 3 above, the top ten agricultural and manufacturing sector projects are projects currently considered by DBE as government priority area. The agricultural sectors contain 502 projects, which DBE has provided more than 4 billion birr to finance them. Similarly for industrial sector, which comprises 72 projects, DBE has also expended more than 18 billion birr to finance these projects. In general DBE has invested about 23 billion birr on these projects in the form of Loan. It is also important to note that, these projects are not the only projects funded by DBE. The Bank has invested more money on industrial sector than agricultural sector. This is because; according to the Growth and Transformation Plan /GTP/ of Ethiopia: to achieve the middle income status by 2025 Ethiopia follows Agricultural Development Led Industrialization economic policy.¹⁵⁷ Therefore, DBE has to finance more industrial projects to increase the contribution of industry to the economy. Furthermore, industrial projects involve the use of cleaning technologies than agricultural activities. Clean technologies comprise the application of methods as recycling, substitution or replacement, recovery and reevaluation which have the advantage of better business results based on less pollution produced.¹⁵⁸ Hence, if the EIA of industrial projects properly implemented, it is possible to manage environmental harm through technology which is the aim of DBE. This reveals that through financing more industry than agriculture DBE can achieve economic development strategy of the country and its environmental protection purposes properly.

Agricultural activities influence the state of the environment, and water in particular in different ways.¹⁵⁹ Irrigation and the use of pesticides and fertilizers are the most notable areas where improved farming practices could make a considerable impact.¹⁶⁰ Pesticides and fertilizers do not only run off into surface waters, like lakes and rivers; they can also leach into ground water, raising the level of concentration of potentially harmful substances in these important water sources and potentially causing harm to people,

¹⁵⁷ Federal Democratic Republic of Ethiopia, Growth and Transformation Plan, 2010/11-2014/15, Volume I, Main Text, Ministry of Finance and Economic Development, Addis Ababa, November 2010, p.56

¹⁵⁸ Eddie N. Laboy-Nieves and Fred C. Schaffner, Ahmd H. Abdelhadi,Matteus F.A Goosen (2009), (editors),*Environmental Management ,Sustainable Development and Human Health*, CRC Press, London, p. 90

¹⁵⁹ The European Commission Water Management Initiatives, Water and Agricultural, available at: <http://ec.europa. Evl agriculture/events/Zaragoza/ background. en.pdf> , visited on,July4,2015

¹⁶⁰ Ibid

animals and the surrounding ecosystem.¹⁶¹ Therefore agricultural sectors have significant environmental impact that they need appropriate protection mechanisms.

Industrialization has also potential to help achieve a variety of social objectives such as employment, poverty eradication, gender equality labor standards, and greater access to education and health care.¹⁶² At the same time, industrial processes can have negative environmental impacts, causing climate change, loss of natural resources, air and water pollution and extinction of species which threaten the global environment as well as economic and social welfare.¹⁶³

Therefore, both agricultural and industrial sectors have significant environmental impact as positive and negative results. Consequently, DBE has all these duties to balance environmental harm with development objective through proper implementation of EIA.

Table 4: Background information of projects observed by the Writer

Date of observation	Sector	Name of project	Location	Status	Production purpose	EIA monitored by DBE officer		Impact observed		Kind of impact
						Yes	no	Yes	No	
09/07/2015	Agriculture	Lonny Agro-industry/sole proprietor /	Sululta town	Active	Milk-processing	-	no	Yes		-Liquid-waste product follows out to grasses and river -bad smell
07/08/2015	Industry	Bekas chemicals plc	Adama town	Active	Soap /solid, powder/, detergent production	-	no			-More handled but, little chemical smell& dust at working place of employees
06/08/2015	Industry	Demise Degefa/sole proprietor /	Adama kebele 03	Active	Plastic production /pp sack/	-	no	Yes		-Employees do not wear protective equipments -there is also high smell of dyeing at working place.

¹⁶¹ Ibid

¹⁶² European Commission , 2006, Environmental Fact Sheet, Industrial Development, available at: <http://ec.europa.eu/environment/archives/wssd/pdf/fs-industrial-development.pdf> , accessed on; July 4,2015

¹⁶³ Ibid

All the three projects are financed by DBE. As the writer observed their project feasibility study files, there is no recommendation of EIA mitigation measures in the project feasibility study of Lonny project, but there are recommendations of EIA mitigation measures in the other two observed projects. However, including Lonny project, environmental impacts of the projects are observed by the writer. For instance, the liquid waste product of Lonny Agro industry follows from the project to surrounding grass area. As interview with Ato Kibiret exposed that the liquid waste product contains caustic sodas and nitric acid. Due to this impact, the local community has complained that threatening for their cattle those feed the grass.¹⁶⁴ The very bad smell from the waste is also observed. Despite the environmental impact of the projects, once the project is financed, DBE do not follow-up the implementation of EIA mitigation measures as per the requirements of its EIA policy.

4.7.2 Most Recommended EIA Mitigation Measures

The recommended EIA mitigation measures were identified by the writer through some document observation of loan appraisal reports. The mitigation measures proposed in the EIA reports and loan appraisal reports of DBE are in most cases similar. Accordingly, the projects can have environmental impact at three stages; so the mitigation measures have to be employed at pre construction phase, during construction phase and during operational phases.¹⁶⁵ The recommended EIA mitigation measures mainly include:

- Timely collection and disposal of solid waste
- Effluent treatment
- Abating air, soil water and noise pollution
- Provision of protective wear to workers are some major EIA mitigation measure as recommended in the project appraisal report and EIA reports of DBE financed projects.

Therefore, the follow up of EIA implementation should include these elements. On this point, the writer collected the following data to show the practice of DBE on EIA implementation.

¹⁶⁴ Interview with Ato Kibiret Lema, Manager of Lonny Project, ; 09/07/2015

¹⁶⁵ DBE, Appraisal Sub Process, New Loan Appraisal Report for MNS Manufacturing PLC, Terry Twels, Wall to Wall Carpet, Ball Fiber Wading and Fill Manufacturing, ,July 2012, P.49

4.8 Environmental Impact Assessment Practice of Development Bank of Ethiopia

Table 5: The responses about EIA implementation follow up of DBE practice.

Elements of EIA follow up	Number of respondents frequency		Percentage/%/	
	Yes	No	Yes	No
EIA monitoring	4	18	18	82
Evaluation of EIA	4	18	18	82
Line of communication with concerned government authority	10	12	45	55

Table 5 above indicates that the researcher employed three elements of EIA follow up to find out the overall perceptions of the respondents concerning the existing practice of DBE in implementing the recommended EIA mitigation measures of projects financed by the Bank.

Among the respondents 12(55%) of them responded that, once the project is financed by the Bank, they do not monitor the implementation of recommended EIA mitigation measures. Some of them said that, it is because, the authorized government organ should follow up and take corrective action, whereas others say in case of DBE monitoring and evaluation of EIA is only concerned with cost, few said, there is no such practice and finally others responded that there is no such awareness.

In the same way, the researcher has also conducted an interview with some of related Managers; Process Owners, Decision Makers and with other relevant personnel to compare with the responses collected through questionnaires.

The first interviewed is Ato Getachew Mengistu who is loan approval team leader of DBE, according to him, there are different recommended EIA mitigation measures for different projects based on the nature of the project. Development Bank of Ethiopia has also a duty to follow up the implementation of these recommended EIA mitigation

measures. However, there is the gap between the policy of the Bank on environmental concern and the EIA implementation mechanism of the Bank.¹⁶⁶ He stated that:

- There is a lack of knowledge and lack of awareness. That is the lack of capacity is reflected for instance, the project feasibility study do not show the exact impact of the project negatively or positively because of the lack of adequate and relevant knowledge about EIA of projects.
- There is also no awareness by the Bank personnel about the general objective of DBE on the environment protection and the need for the implementation of EIA of DBE financed projects. This is because in practice there is no concerned unit in the bank with the implementation of EIA of projects.
- But DBE has necessary capacity to establish environmental working unit within the Bank. The problem is nobody focuses on the EIA implementation.
- The other reason is that, the top management of the Bank does not check whether or not the EIA follow up is properly implemented.¹⁶⁷

The writer argues for all the negative responses of monitoring and evaluation. Because, it is evidenced by the observation of loan documents.. That is the researcher realized that, there are follow up reports in all documents. But there is no report about the implementation of recommended EIA mitigation measures or no any other EIA concerned in all follow up reports about the projects. Concerned follow up, other interviewees have confirmed with the first interviewee except giving slightly different reasons that why the Bank did not follow up the implementation of recommended EIA mitigation measures.¹⁶⁸

Furthermore, during the project observation made by the researcher, Ato Kibireit Lema, the Manager of Lonny Agro Industry Project, said that until now no personnel of DBE

¹⁶⁶ The Interview made with Ato Getachew Mengistu, the Leader/Coordinator/ of Loan Approval Team (LAT) of DBE, July 2, 2015

¹⁶⁷ The interview with Ato Desalegn Bogale, Addis Ababa Branch Manager of DBE, July 6, 2015
Also confirmed by the interview made with Ato Mokonon Jaleta, Principal Officer at Credit Process of DBE and Acting Manager, July 2, 2015

Interview with w/ro Gennet Yirgu, Member of LAT, July 2,2015.

¹⁶⁸ Ibid

asked our project about the implementation of EIA mitigation measures".¹⁶⁹ Hence, DBE does not follow up the implementation of EIA mitigation measures.

Table 6: Respondents' views regarding different factors of EIA implementation

Factors of EIA Implementation	Number of respondents frequency		Percentage		Total
	Yes	No	Yes	No	
Adequate resources (human and legal) to implement EIA	10	12	45	55	100
Screening of projects	7	15	32	68	100
Adequate EIA directives and guidelines	5	17	23	77	100
The existence of awareness about EIA implementation	5	17	23	77	100
Existence DBE's action on environmental injury	5	17	23	77	100

The factors used under table 6, in one or another all contribute to the effective implementation of EIA of projects. For instance, without adequate resource, that is relevant professionals, legal documents (policies, regulations, directives and formats) and also without financial capacity to arrange these resources EIA of projects cannot be successfully implemented. In the same manner, in the process of EIA implementation, first the designed projects have to be categorized according to their potential environmental impacts.

Accordingly, as table 6 revealed that out of 17 respondents, 59% of them have responded that DBE has adequate resource to implement EIA of projects and 41% of them respond that DBE has no adequate resource to implement EIA of projects. However 69% of them confirmed that there is the lack of directives and guidelines, while 31% of them still insisted, in that the bank has adequate resource in all cases.

Hence, there are no guide lines/directives to screen projects based on their impacts, no EIA follow up procedure established and also there is no standard follow up reporting

¹⁶⁹ Supra Note,164

format. Therefore, there are no adequate legal documents to carry out and implement EIA of DBE financed projects.

This premise is supported by that 56% of the respondents said that they do not categorize DBE financed projects based on their environmental impacts. Even if 44% of them responded "yes" as revealed by document observation, there is no any such classification.

According to Ato Mekonen, Jallela, there is no such practice.¹⁷⁰ And also all other interviewed personnel and officials responded in the confirmation with the statement of this interviewee.

The other factor in this table is the action of DBE if projects cause environmental injury. Concerning to this 31% of the respondents have said that, DBE solve the problem through different mechanism, while 69% of them responded that DBE has no role to avoid the injury in case the projects create environmental harm.

In this regard the writer agrees with the negative respondent's due to the fact that the main source of duties and responsibilities of the parties (DBE and entity) is the loan contract. But, as the researcher knows and observed most loan contracts of the Bank, there is no terms and conditions or safeguard closes found in the loan agreements. Therefore, the bank cannot take legal action based on the loan contract.

As discussed above the factors of EIA implementation described in the table 6 are also explained in the same way with the responses of the interviews. In addition quantifying method approach of the responses to these EIA implementing factors is used in order to reflect the different ways of establishing the fact. Thus, the data shows that DBE is not implementing EIA properly.

4.9 Views of All Interviewees

The interview made with the coordinator of the decision maker organ of the Bank, CP process owner, branch manager and other members and from internal audit officer was revealed that Even if there is an effort to implement EIA of DBE financed projects, in practice there is no implementation of EIA of DBE financed projects. What DBE doing is it asks the promoter to submit only approved EIA letter from concerned government

¹⁷⁰ The interview with Mokonon Jaleta, June 29,2015

authority. Thus, it seems that the follow-up and management of EIA implementation is assumed to be the only responsibility of Environmental Protection Authority. Further, as the solution they all agree that, DBE has to establish environmental specialist working units and also should have adequate legal documents and formats to implement EIA of projects properly.

Therefore, as the interviewees responded, DBE has capacity to establish its own professional environmental working units. Its capacity can be shown in terms of financial and material aspects. For instance; in the year 2014/15/ (2007 E.C) DBE employed 1353 new employees for its different working departments.¹⁷¹ In the same year it opened three new branches at different parts of Ethiopia; and planned to borrow birr, 9.69 billion; but, actually borrowed, birr, 6.84, billion; it also has earned profit of birr, 678.4 million. Similarly in the 2015/16(2008 E.C), the Bank has planned to borrow birr, 12.78 billion for project financing.¹⁷² Hence it is safe to conclude that DBE has capacity to establish its own environmental specialist working units.

4.10 Opportunities and Challenges Faced DBE to Implement Environmental Impact Assessment

4.10.1 Opportunities

DBE credit policy manual considers the environmental impact mitigation measures shall be considered as eligible costs of project in appraisal.¹⁷³ Therefore, the project is financed together with the cost of environmental impact mitigation measures. In short, the promoter of the project is expected to implement the recommended EIA mitigation measures considering as part of project cost and financed by the Bank. The existence of EIA implementation legal framework of the Bank is also another opportunity to the implementation of EIA of DBE financed projects.

¹⁷¹ Development Bank of Ethiopia, Human Resource Management, Data base

¹⁷² DBE, Executive Management, Annual Meeting of 2007, Official Minute,p.3-5

¹⁷³ The Equator Principle June 2006, A Financial Industry Bench mark for Determining, Assessing and Managing Social and Environmental Risk in Project Financing, available at: <http://www.equator-principles.com>, accessed on May 3,2015

4.10.2 Challenges

A number of challenges were revealed by the majority of respondents during the interview and response to the questionnaires distributed. According to the majority of respondents' view the most outstanding challenges faced DBE in implementing EIA requirements include:

- The fact that, the implementation of EIA requirements of different projects need special knowledge, DBE has no such professional or environmentalists that, it is a challenge to proper implementation of EIA requirements of DBE within the projects.
- The other challenges disclosed by majority of respondents highlighted that, lack of follow up, and standard reporting by concerned organ of DBE as per the EIA policy of the Bank.
- DBE also has no designed mechanism to implement recommended EIA mitigation measures
- There is no accountability and supervision by top management, behind the implementation of EIA requirements of the Bank.
- The Majority of respondents again revealed that there is no adequate legal document, to follow up that is no procedural guidelines to; monitor, evaluate and manage the implementation of EIA and no standard reporting format after follow up of the requirements of EIA implementation.
- The practice of the Bank is also another constraint. That is DBE asks only the promoter to present the approved EIA report by concerned government organ after that no further review by the bank. In addition, DBE also conduct follow up only if it finances the recommended EIA mitigation measures as a project cost. Until it ensures that the money is properly expended to the purpose. This means, in short DBE monitors only project cost.
- The level of awareness of EIA implementations also not adequate.

In addition DBE is not concerned about EIA implementation after the project has started operation; that is no post EIA follow up and the implementation of recommended

mitigation measures is left to the will of the project owner. These are the major opportunities and challenges pointed out by the majority of respondents of the study.

4.11 Concluding Remarks

As discussed in this chapter Development Banks are the tools of government to enhance development of a country. That is Development Banks inject loans for long and medium terms to government priority areas of projects. In this process Development Banks appraise the project to make it profitable, sustainable and environmentally sound project.

As evidenced by data collected through different approaches; there are gaps in implementing EIA requirements of DBE due to different factors which include; lack of professional environmentalist within DBE, practice of EIA implementation by DBE, absence of EIA implementation follow up, lack of adequate legal documents, lack of awareness about EIA implementation, lack of designed mechanisms to ensure EIA implementation and the absence of supervision of EIA implementation by top managements of the Bank are among challenges found by the study. In the contrary of these challenges the respondents of the study, also quoted that DBE has capacity, power and responsibility to fulfill the gaps and to implement EIA of projects properly. These are the major theme of the study examined in this chapter.

CHAPTER FIVE

Conclusions and Recommendations

5.1 Conclusions

“Environmental concerns are often trapped by economic development plans and external securities.”¹⁷⁴ The problem is keeping the development of industry and protection of environment in balance. Environmental Impact Assessment norm is evolved to serve as powerful tools to balance these conflicting interests. As discussed in the study to integrate environmental issues and development activities, most Countries have enacted EIA laws in their national legislative following the National Environmental Protection Act /NEPA 1970/ of U.S.A. After 1972 of UN Conference on Environment and Development EIA is recognized at international level as a legal regime. Multilateral Development Banks and international instruments necessitated the use of EIA to promote sustainable development agenda of international community.

The investigation realized that, the notion of EIA laws at international arena through country practices and the recognition in judicial decisions by ICJ, enhanced EIA laws to attain International Customary Law Status. The study discussed that EIA should have common goal to encourage sustainable development of each country and international community as a whole. To achieve its purpose EIA implementation should consider the basic and operating principles which include: it must be implemented early and through the life cycle of the project and also be participative. Furthermore, the study highlighted Ethiopian EIA legal and institutional frameworks. Accordingly, there are adequate resources /legal and institutional/ capacity to convert EIA laws into practice in Ethiopia. However, the researcher has a threat that great attention had given to enacting EIA laws than implementing it in Ethiopia.

The main theme of the study is to examine the EIA requirements of DBE and their implementation in Light of EIA laws. In this regard, chapter four of the investigation revealed that Development Banks have to serve government as a tool to promote sustainable development and environmental protection. Hence, DBE has formulated EIA

¹⁷⁴ Havid Held, Angus Fane-Hervey and Marika Theros, 2011,(editors),*The Governance of Climate Change, Science, Economics, Politics and Ethics* , Polity Press, Cambridge, p,91

policy which considers EIA of projects as project eligibility in the process of appraisal. The assessment realized that even if there is lack of guidelines in general terms the EIA policy requirements of the Bank enables the application of EIA of DBE financed projects in terms of EIA laws.

However, the finding disclosed that DBE has emphasized environmental protection only focused on formulating EIA policies and procedures without practical application. This means, as exposed in the study, in one or another, the observed DBE financed projects are causing environmental harm which includes; pollutions of water or river, polluting grasses on which local cattle feed on and terrible smell of waste products and chemicals which would have negative impacts on the health of the employees of the organizations. The problems are created due to the fact that DBE lacks some elements of EIA implementation mechanisms. These shortages are: the lack of environmental working unit with relevant profession, lack of awareness, on one hand, and lack of focuses on another, lack of adequate legal documents and also no means of communication with concerned authority in EIA implementation process. Furthermore, there is no follow up, monitoring and evaluation practice of recommended EIA mitigation measures while the project is operating; and/ or there is no means of ensuring it. As revealed in the study, in practice DBE requests only approved EIA certificate to approve that the project is environmentally friendly. Due to these constraints in practice there is no proper implementation of EIA requirements by Development Bank of Ethiopia. That is no practice of reviewing EIA reports and categorization of projects in accordance with their magnitude of environmental impact, and also no consideration of EIA in the decision making process.

Therefore, to cope up with EIA laws and to promote sustainable development policy of Ethiopia as a government tool and to achieve its environmental objective, DBE should apply its EIA policies and procedures into practice. Finally, as the writer's view: to realize environmental protection as a whole the forefront starting EIA requirements of Development Bank of Ethiopia should be taken as a role model to other private and government Banks in Ethiopia. However, to scale up and put into practice the EIA requirements of DBE to other Banks and financial institutions, it needs the cooperation of government and all other relevant institutions.

5.2 Recommendations

1. The legal documents like Guidelines and Directives are necessary to implement EIA of projects. The implementation process of EIA also need to have detailed Guidelines and Directives which should be specifically established for review of EIA report and screening of projects proposed for Bank financing, monitoring and evaluation of compliance to the recommended EIA mitigation measures or any other newly detected environmental impact of DBE financed projects. Furthermore standard format of follow-up report should be developed. By virtue of Public Enterprises Proclamation No.25/1992, DBE can formulate its Guidelines and Directives through the approval of Management Board of DBE. Therefore, to incorporate these legal documents, DBE should review its EIA policy and procedure.
2. As per the policy of the Bank, DBE has to screen the projects in accordance with their environmental impact magnitudes and then, has to review the environmental impact assessment report of the proposed project. Consequently, the Bank would ensure the implementation of EIA mitigation measures. To achieve these important elements of EIA implementation DBE must put its policy and procedure into practice.
3. Environmental considerations would be an integral part of loan agreements and binding documents. Thus, DBE has to incorporate EIA implementation measures as an obligation in the loan contract documents.
4. In order to achieve environmental objective, DBE has to ensure the implementation of recommended EIA mitigation measures through continuous follow up and standard reporting.
5. For the determination of significant impacts of projects, all DBE financed projects should be screened and classified according to their potential environmental impacts. Hence DBE should screen projects early in the preparation phase and must review EIA reports so that, the appropriate environmental assessment or due diligence requirements are selected for the operation.

6. Basically, to strengthen the implementation of EIA laws, professionals of the Bank should be responsible for the violation of EIA policy implementation of the Bank and the level of awareness of all concerned organs should be increased through environmental trainings.
7. As revealed in the study the existence of Environmental Specialists enhance proper implementation of EIA of projects. In this view, DBE has adequate financial and material capacity to establish its own Environmental Specialist working units and to fulfill with necessary instruments. Therefore, in order to realize its environmental purpose, DBE should establish fulltime environmental working unit: and/or would outsource the recommended EIA mitigation measures implementation: and/or DBE would request approved recommended EIA mitigation measures implementation report quarterly or at determined period from the promoter of the project as contractual obligation.
8. Other government and private Banks should follow the forefront starting EIA implementation of DBE

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I. Interviews

- Interview with Ato Demise Degefa, project owner, Adama plastic Project, (July 15,2015)
- The Interview with Ato Getachew Mengistu, Approval Team Coordinator,DBE, (June,28,2015)
- The Interview with Ato Jemal Seid, Adama Branch manager,DBE, (July 15,2015)
- The Interview with Ato kebireit Lemma, project manager, Lonny Agro.Industry (July 9,2015)
- The Interview with Ato Moknon Jaleta, , principal Officer Credit Process, DBE,(June,29,2015)
- The Interview with Ato Mulgeta kebede, Internal Auadit Officer, DBE, (July 20,2015)

- The Interview with Ato Zewude Kafalew, Commercial manager Bekas Chemicals Plc. (July 15,2015)
- The Interview Conducted with Ato Desalgne Bogale, Addis Ababa Branch Manager, DBE,(July 6,2015)
- The Interview with Ato Hailu Girey, Administrator, Bekas Chemicals Plc. (July15,2015)
- The Interview with W/ro Genet Yirgu, Approval Team Member, DBE,(June 28,2015)

J. Observed Borrower's Files at DBE

- Ayka Addis Textile and Investment group PLC file, Project site, Oromia Special zone, Sebeta Town Alemgena kebele 02, observed on: July 22,2015
- DAVIMPEX Enterprise file, Leather and Leather products, Project site, Bahir Dar Town, woreda 01, kebele 07, observed on: July 21,2015
- Demise Degefa, Plastic Industry file, Project site, Adama Town, kebele 03,observed on: July 23,2015
- G/egziabher Dairy project file, produce milk products Project site,Oromia Special Zone,Sululta Town, observed on: July 24,2015
- Get Eshet Detergent Manufacturing and Packing Plc file, Project site Oromia Special Zone, Ada'a Woreda Liben,Bishoftu 01, observed on: July 24,2015
- Kelebet Integrating Agro Industry Plc file, Milk Processing, Project site, Oromia special Zone, Dukem town, observed on: July 24,2015
- Komblocha Tannery SC File, Project site, Amhara N.State, South Wollo Zone, Kombolcha Town, 04 kebele, observed on :July 20,2015
- Lonny Agro Industry milk product processing file, project site, North Showa zone, Sululta Town, observed on: July 22,2015
- MNS Manufacturing Plc file, Textile product, Project site, Oromia Special zone, Lega-Tafo Lega Dadi woreda, observed on: July 21,2015
- Oasis Abysinya Garment production Plc file, feasibility study document,Project site, Addis Ababa,Nifas Silk Lafto Sub City,Kebele 03,observed on: July 23,2015

DEVELOPMENT BANK OF ETHIOPIA



LOAN MANUAL



JUNE, 2014

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background, technical knowledge of the project under consideration, etc.

2.9.17.5 Complete CV of the board of directors, if any;

2.9.17.6 Credit status of shareholders with other banks which have more than 5% of the prescribed capital.

2.9.18 **Environmental Impact Assessment Report**

2.9.18.1 Applicants should submit environmental impact assessment report for proposed projects in 'A' and 'B' categories by licensed environmental consultants and approved by concerned government organ as per the environmental assessment policy of the Bank;

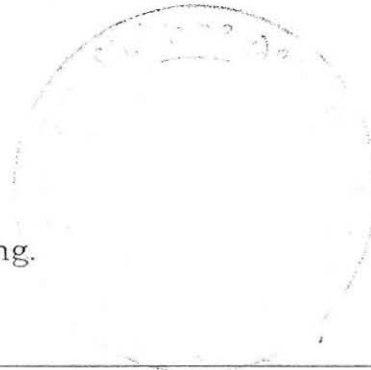
2.9.18.2 Applicants for projects in 'C' and 'D' categories are not necessarily required to submit an environmental impact assessment report;

2.9.18.3 For projects in 'C' and 'D' categories the CP and branches shall conduct internal environmental due diligence assessment to assist their own decision makings;

2.9.18.4 Based on reviews of environmental impact assessment reports and site inspections, the CP and branches shall screen and classify all projects early in the application process according to their potential environmental impacts in conjunction with borrowers' due diligence assessment and findings therein shall be part of the decision making process;

2.9.18.5 The CP and branches shall ensure that at a minimum projects to be financed are environmentally friendly. Environmentally friend projects are those projects which:

- a. Do not add to existing pollution of the environment (air, soil and water) to the extent that exceed the maximum authorized concentration limits set by Ministry of Environment and Forest;
- b. Favor the use of:
 - i. Cleaner technologies;
 - ii. Renewable resources;
 - iii. Waste reduction; and
 - iv. Resource recovery and recycling.



2.9.18.6 If for some reasons operations of projects to be financed by the Bank imply undesirable consequences on the environment or health and safety conditions; applicants should submit environmental impact assessment with appropriate mitigation mechanisms;

2.9.18.7 Investment requirements for environmental impacts mitigation measures shall be considered as eligible costs of projects in appraisal. These shall include the costs of:

- a. Waste treatment plants and related equipments;
- b. Recycling and recovery plants and related equipments;
- c. Meeting local and international standards including ISO Environmental Management System;
- d. Safety equipments and materials for workers;
- e. Production of bio-fuel, or any other renewable energy, as by-product and to be used for internal consumption; and
- f. Implementation of other environmental management systems proposed in environmental impact assessment.

2.9.18.8 The Bank shall not entertain applications for financing projects intended to produce radioactive materials;

2.9.18.9 The Bank shall not finance projects engaged in the production or trade in wood or forestry products except from sustainably managed forests;

2.9.18.10 The Bank shall not finance projects that do not comply with the country's environmental laws and regulations;

2.9.18.11 The CP and branches shall strictly monitor and follow-up implementations of environmental impacts mitigation measures set out in environmental impact assessment reports and/or environmental due diligence assessments and/or project appraisal reports; and

2.9.18.12 The CP and branches shall advise borrowers to strengthen their systems of environmental safeguards and develop their capacities to manage environmental risks.

2.9.19 **Additional Requirement for Agricultural Projects**

Applicants for loans to finance agricultural projects are required to submit the following data on project areas:

- 2.9.19.1 Rainfall data at least for five years;
- 2.9.19.2 Soil test report (on PH value, mineral contents, etc.) from recognized soil laboratories or other organs having a mandate to do so;
- 2.9.19.3 Topography survey;
- 2.9.19.4 Farm design;
- 2.9.19.5 Irrigation structure approved by a consultant; and
- 2.9.19.6 New varieties of crops adaptability permit.

2.9.20 **Requirements for Expansion of Existing Projects**

- 2.9.20.1 All requirements listed above apply;
- 2.9.20.2 Renewed business license;
- 2.9.20.3 Expansion license as appropriate;
- 2.9.20.4 Capital increment if the registered capital is not sufficient;
- 2.9.20.5 Audited financial statements of the project for a minimum of the preceding three years, if applicable, or provisional financial statements for the latest year and audited financial statements for at least the rest two years should be attached;
- 2.9.20.6 Detailed business plan required for project expansion which should include, among other requirements:
 - 2.9.20.6.1 Current operational and financial performances of the project;
 - 2.9.20.6.2 Market and marketing strategy of the project;
 - 2.9.20.6.3 Managerial aspects of the project;
 - 2.9.20.6.4 Total investment outlay;
 - 2.9.20.6.5 Reason for expansion.
- 2.9.20.7 Confirmation letter on fulfillment of tax obligation;
- 2.9.20.8 Signed statement stating that all statements represent true financial statues of the project;



OTUMMAA NAANNOO OROMIYAATTI
 AFAA FEEGUMSA NAANNOO
 TO: **LONI AGRO INDUSTRY PLC**
 Addis Ababa

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Ref. No. BL/21-1531/2140
 Date 4-13-03

Subject: Approval of EIA report of Dairy Products Processing

We have reviewed your submitted EIA study report on Dairy products processing which is proposed to be located in Sululta Woreda at Worarso Malema locality of Oromia National Regional State.

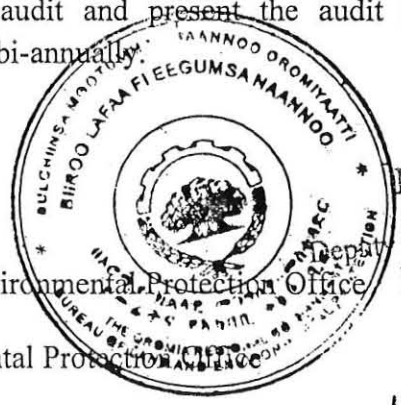
The assessment report document was thoroughly reviewed by experts, and found that in the document major adverse environmental impacts and suggested mitigation measures are incorporated for impacts that could occur due to the proposed project implementation.

Accordingly, the Oromia Land and Environmental Protection Bureau agreed only for the implementation of the Dairy Products Processing with conditions that **LONI AGRO INDUSTRY PLC** will fulfill and commit itself to:

- The proper management of solid and liquid wastes generating from dairy products processing
- The provision of all necessary Occupational Health and Safety materials to employees
- Proper implementation of Environmental Management Plan and monitoring activities
- Make necessary arrangement for Oromia Land and Environmental Protection Bureau and other concerned stakeholders for joint monitoring and evaluation of the environmental performance of the project, and
- Conduct regular environmental audit and present the audit report to Oromia Land and Environmental Protection Bureau bi-annually.

With best regards,

[Signature]
Mohammed Ibrahim Musa
 Deputy
 Bureau Head and Environmental
 Protection Process Owner



CC
 Oromia Investment Commission
Finfinne
 Oromia S/Z/S/ Finfinne Land and Environmental Protection Office
Finfinne
 Sululta Woreda Land and Environmental Protection Office
Chancho
 Bureau Head
 Env'tal Protection Core Process
 Land Use Planning Core Process
OLEPB

Original seen
 02/09/2011
[Signature]



Southern Nations, Nationalities And Peoples Regional State
Natural Resource And Environmental Protection Authority

Ret No
P#
Date

To whom it may concern
Hawassa

Subject: Approval of Project proposal

VEG BOX Horticulture PLC has submitted "Environmental Social Impact Assessment Report" For review and approval to our office with dated 31/09/2015 E.C. we reviewed the document and approved.

With regards,

Mr. Alemayehu
CC'

- Land administration, use and Environmental protection process
- Environmenatal Protection Case team

Hawassa

6.14 Environmental Impact Assessment ✓

The company has presented confirmation letter from Environmental Protection Authority, indicating that the project will not have any adverse effect on the environment. ✓

Dyeing use varieties of chemicals for since it involves wet processing. In this regard, substantial quantities of hazardous effluents will be created during finishing operations which makes the establishment of waste treatment plants vital. ✓

As it is stated in the feasibility study waste treatment plant to treat water contaminated with toxic chemicals that are hazardous to human life in the surrounding areas, agricultural production and water life.

In this regard, it has to ensure that sanitary and industrial wastes treatment plant have been installed which operates by both biological and chemical treatments, and all the chemicals to be used are as per the EU standard since it is the major pre-condition to sell in the EU market. ✓

ETB

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DEVELOPMENT BANK OF ETHIOPIA

Date: September 13, 2011

Internal Memo

TO: Addis Ababa Branch	FROM: Secretary, LAT
Subject: Sending Loan Approval Process Minutes	

Attached here with, please find the Loan Approval Process minute for Loni Agro – Industry PLC for your information and subsequent action.

With regards,

Abebit

Abebit H/Mariam

C.C.

_ President's office

_ LAT Chairman

Encl.

S. Team B
 please communicate to the client that the loan is approved and this get prepared + submit the application?
 10/9/11

DEVELOPMENT BANK OF ETHIOPIA
LOAN APPROVAL TEAM (LAT) MINUTES

Minutes: No. 81/11

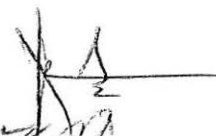

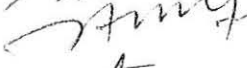

Date: September 9, 2011

Time of meeting: 2:30p.m. - 3:30 p.m.

Venue: Loan Approval Team syndicate room

Agenda: Loni Agro –Industry PLC

Members Present:

- | | | |
|------------------------|----------|---|
| 1. Ato Redwan Bedri | Chairman |  |
| 2. Ato Alemayehu Neway | Member |  |
| 3. Ato Ketema Damte | " |  |
| 4. Ato Tekle Zewdie | " |  |

Member Absent

Ato Samuel Tadesse On sick leave

Secretary

Abebit H/Mariam

In attendance

- 1) Ato Dessalegen Bogale (Branch Manager, Addis Ababa Branch)
- 2) Ato Tefera Befekadu (Loan Officer ,Addis Ababa Branch)
- 3) Ato Zinahbizu Abebaw (Central Region, Principal Officer)

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I. INTRODUCTION TO THE AGENDA

The Chairman of the Loan Approval Team opened the meeting by briefing the agenda for the session. The agenda is to deliberate on the reconsideration of new loan proposal for Loni Agro –Industry PLC which will be engaged in milk collection from the surrounding farmers and produce pasteurized milk and milk products that would be sold to local markets especially to Kalid's Coffee PLC.

He further stated that, the new loan request was kept pending due to a number of issues ought to be clarified during LATs deliberation dated September 1, 2011 minutes No79/11 The Addis Ababa Branch was, therefore, advised to provide a clear clarifications and justifications on all issues raised during the meeting. At the end, the Addis Ababa Branch came up with all the justifications and corrections as per the revised appraisal report and requested the LAT by its letter dated September 9, 2011 to reconsider the request accordingly. After his introductory remarks, the chairman invited the LAT members to discuss on issues and pass its final decision on the loan request.

V. DECISION

The Loan Approval Team has thoroughly discussed on the amended loan proposal of Loni Agro Industry PLC. Based on the appraisal report and explanations provided by the Addis Ababa Branch on the internal memo dated September 9, 2011 the responds have found to be relevant and appropriate. Therefore, the appraisal document further reveals that, the project is found out to be financially, technically and economically viable and socially desirable. The team is convinced that establishment of such farm helps to enhance raw milk collection & marketing of the surrounding farmers in order to avail pasteurized milk to the nearby towns. Therefore, thus the loan approval Team approved a loan of Birr 11,323,903 (Birr Eleven million three hundred twenty three thousands and nine hundred three) for Loni Agro – Industry PLC subject to the following terms and conditions.



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5.1 Terms and conditions

A. Terms

a. Equity Utilization

After verification by Addis Ababa Branch of the Bank that the promoter has fully invested its equity contribution of Birr 4,685,344.- deposited in cash in block account. The detail of the promoter equity contribution and equity to be blocked are presented in the table as follows:-

Purpose	Existing	Planned	Total
Land Lease payment	-	37,980	37,980
Electric power line	-	-	-
Building & Construction	-	3,908,883	3,908,883
Machinery and Equipment	7,093,238	-	7,093,238
Vehicle	-	-	-
Working Capital	-	-	-
Pre- operating Cost	70,932	129,777	200,709
Pre- Operating Interest	-	776,461	776,461
Total	7,164,170	4853,101	12,017,271
Equity to be blocked			4,685,344

b. Disbursement Schedule

- **First Disbursement**

Birr 4,034,898 of which

- Birr 2,495,062.- to the contractor/promoter for Building & Construction.
- Birr 323,466.- to the supplier for Drilling of Deep Water Well.
- Birr 839,689.- to the supplier for Vehicle.
- Birr 209,987.- to the supplier for Stainless steel electric submersible Pump.
- Birr 166,694.- to the supplier for Electric power line

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- **Second Disbursement**

Birr 5,351,066 of which

- Birr 2,495,062.- to the contractor/ promoter for Building & Construction
- Birr 323,466.- to the supplier for Drilling of Deep Water Well
- Birr 1,959,274.- to the supplier for Vehicle
- Birr 573,264.- to the supplier for Working Capital

After verification by the Addis Ababa branch of the Bank that the promoter has effectively utilized the first disbursement.

- **Third Disbursement**

Birr 1,937,939.- of which

- Birr 169,928.-to the supplier for Office furniture & equipments
- Birr 48,220.- to the supplier for Residential Equipments
- Birr 1,719,791.- to the promoter for Working Capital

c. Interest Rates and Other Charges

- **Interest Payment:**

8.5% p.a. on the outstanding loan balance to be paid every-four-month starting on April, 2012.

- **Commitment Charge Payment:**

0.5% per annum on balance in commitment

d. Repayment Schedule

The principal loan is planned to be repaid every-four-month in six years starting on April 30/2012 and ending December 31/2017, whereby repayment will be made in 21 installments, the first installment being Birr 772,977.- and 20 subsequent equal installments of Birr 772,993.-

16,232,533

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B.

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B. Conditions

- 1) **Collateral:** First degree mortgage on all fixed assets of the project.
- 2) **Insurance:** Purchase of insurance policy for the entire fixed assets and stocks of the project with DBE as a co-beneficiary.
- 3) **Current Account:** The promoter should open current account with DBE.
- 4) **Record Keeping:** The Company should maintain proper record keeping system and submit audit report annually.
- 5) **L/C Opening:** The Company should open letter of credit (L/C) in DBE both for import and export.
- 6) The purchased and existing machineries and equipments and their compatibility for milk processing should be verified and endorsed by the Bank's engineer prior to the signing of the loan contract.
- 7) Credit information should be updated and the credit information of Loni Agro - Industry PLC should be submitted and verified by Addis Ababa Branch prior to the signing of the loan contract.

Other Conditions

- a) The company should deposit Birr 4,685,344.- in block account.
- b) The company has to raise its paid up capital to the level of equity contribution as minimum but to cover the fluctuation of foreign currency it is required to be beyond the envisaged contribution.

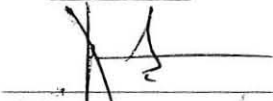

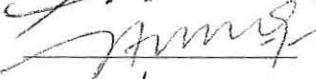

Precaution

- The Addis Ababa Branch shall closely inspect the implementation as well as the operation of the existing factory and shall detect any deviation in the plan and diversion of loan utilization other than the intended purpose. Any miss utilization of the loan to other purpose and any deviation regarding these issues shall entail blocking of disbursement and cancellation of loan.

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m Members favoring approval of new loan

<u>Name</u>	<u>Position</u>	<u>Signature</u>
1. Ato Redwan Bedri	Chairman	
2. Ato Alemayehu Neway	Member	
3. Ato Ketema Damte	"	
4. Ato Tekle Zewdie	"	

<u>Name</u>	<u>Position</u>	<u>Signature</u>
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Nil