Effectiveness of Environmental Impact Assessment vis-à-vis Investment laws in Ethiopia: The Case of Floriculture Investment

By: Lilanie Gudeta (GSE/7948/09)

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Advisor: Engdawork Assefa. Ph.D

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DECLARATION

I hereby declare that this thesis entitled ***"Effectiveness of Environmental Impact Assessment vis-a vis Investment Laws in Ethiopia: The Case of Floriculture Investment"*** has been carried out by me under the guidance and supervision of Engdawork Assefa (PHD).

The thesis is original and has not been submitted for the award of any degree or diploma to any university or institution.

Lilanie Gudeta signature------------------------------Date October 9, 2020

This thesis has been submitted for examination with my approval as a university supervisor**.**
Name of Advisor: Engdawork Assefa, Ph.D

APPROVAL

The undersigned certify that they have read and hereby recommend to the Addis Ababa University to accept the Thesis submitted by Lilanie Gudeta entitled "***Effectiveness of Environmental Impact Assessment vis-a vis Investment Laws in Ethiopia: The Case of Floriculture Investment***", in partial fulfillment of the requirements for the award of a Masters Environment and Sustainable Development

Name of Supervisor ………………………Signature………………. Date………………………

Name of Internal Examiner …………………Signature---------------------- Date--------------------

Name of External Examiner ………………Signature----------------------- Date--------------------

Name of Head of Department-----------------Signature -------------------- Date--------------------

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Abstract

Focus on economic growth may bring about policies and legal regimes that encourage investments without due consideration for the environmental consequences of investment projects. Environmental impact assessment is conducted with the aim of avoiding and/ or mitigating the environmental consequences of projects. In Ethiopia, the EIA proclamation obliges projects that may cause significant environmental damage to conduct EIA prior to project implementation. However, the same requirement is not set in the investment laws of the Country, leading for licensing organs such as the EIC to grant permits that will allow investors to commence their projects without being required to conduct an environmental impact assessment.

This study aims to evaluate the nexus between EIA and FDI in one of the most profitable investment areas, i.e. the floriculture sector. To this effect, the study evaluates the policy, institutional and legal framework of EIA and Ethiopian investment law with the intention to investigate the legal gap created by the investment laws on implementation of EIAs and whether or not the country's focus of increasing FDI by calling of investors on floriculture sector have hindered the implementation of EIA and obstructing the constitutionally enshrined right to clean and healthy environment and building a sustainable development. To achieve the objectives of this research, a qualitative research approach that involves focal person interviews with EIC and EFCCC officials, as well as analysis of the existing laws and policies, was conducted.

This research found that the several policies (GTP II and Environmental Policy), the FDRE Constitution, and other legislations (including voluntary and mandatory code of practice) tried to create a positive relationship between EIA and investment as a whole, and floriculture investment, in particular. They tried to do so by using a cross-reference among provisions or sections or simply mentioning the term 'sustainable development'. However, some of these documents, on the other hand, tend to create an imbalance that undermines EIA over FDI. The findings also show the lack of relation and coordination between the two key institutions, the EFCCC and EIC in ensuring a proper implementation of EIA in FDI.

Key Words: Floriculture, Investment, Environment, Environmental Impact Assessment, Sustainable Development.

1. Chapter One: Introduction

1.1. Background

Floriculture as an industry began in the late 1800s in England, where flowers were grown on a large scale on the vast estates (Wikipedia, 2009). The industry continues to advance since that period. Floriculture can be defined as “a discipline of horticulture concerned with the cultivation of flowering and ornamental plants for gardens and floristry, comprising the floral industry.” It can also be defined as “The segment of horticulture concerned with commercial production, marketing, and sale of bedding plants, cut flowers, potted flowering plants, foliage plants, flower arrangements, and noncommercial home gardening.” The demand for these luxurious products has increased in the international market in recent years (Fiona, 2018).

People all over the world realize that flowers enhance the quality of life and influence human feelings more than words or other gifts. Globalization, cultural exchanges, and celebrations enhancing fraternity such as New Year, Valentine's Day, Memorial Day, Mothers' Day, Fathers' Day, Christmas, and weddings have induced people globally to use flowers as a means of sharing their feelings. Increased use of flowers and ornamental plants makes the marketing of flowers a lucrative business (Degytnu, 2012).

In recent decades, the global demand for cut flowers has grown considerably. This growth in market demands and its diversification value has attracted increasing numbers of developing countries to the global fresh flower trade. These reasons seem to make Ethiopia come into the picture of this business (Mesay, 2017, Gobie 2019). But some people say that Ethiopia gives attention to this sector because the European production cost skyrocketed. European cut flower growers (especially the Netherlands) have been looking to other continuities for more affordable conditions as experienced in other East African countries like Kenya, Tanzania, and Uganda (Degytnu, 2012).

Though floriculture development in Ethiopia blooming in recent years, it started for commercial purposes in 1980/81 which is now thirty-five years ago. The first fresh-cut flower production was commenced in 1981/82. The *Derge* regime had established Horticulture development corporations where the government was responsible both for regulation and production even for the marketing of horticultural products including flowers. During that time the production and export of cut flowers in Ethiopia was not established with well-planned and aiming of profit-seeking but foreign exchange earnings. As a result of this, the industry was one of the highly subsidized sub-sectors during the *Derge* regime. Floriculture was started to show a modest increase in the 1990s by 2-3 % from the agricultural output of the country. In 2001 it contributed $ 4.7 million to the country's foreign currency earnings. But it was not as such significant enough to say it was an important sector to develop the country's economy. The first private floriculture producer started around 1997, a second in 1999. From 2001 onwards, other growers started coming in and according to Trade and Industry floriculture industries under production reached 65 in the year 2006 (Gobie, 2019).

Floriculture investment is one of the priority investments sectors (An Investment Guide to Ethiopia, 2017). Like many other developing countries, Ethiopia is trying to diversify its export base with a view of acquisition new sources of income and foreign exchange; and thus, reducing its exposure to price volatility that typifies international markets. In addition, the sector also plays a great role in creating employment opportunities for unemployed citizens (Mesay, 2017). Suitable agro-climatic conditions and natural resources, governmental incentives and support, favorable investment laws, proximity to the global market, the efficiency of the transport system, and availability of abundant and cheap labor are some of the leading factors for the rapid growth of the sector in Ethiopia (Mesay, 2017, Degytnu 2012).

Despite the above opportunities created by the floriculture industry, Ethiopia has been facing different environmental problems that have negative impacts on the economic development of the country. Some of the major environmental problems include soil erosion and land degradation, including impacts on forests, agricultural and pastoral land, deforestation and forest degradation, water scarcity, biodiversity loss, and various types of pollution issues. Though these issues are widespread in the Country, the degradation is unevenly distributed taking different forms in different parts of the country (Daley, 2015)

The FDRE Constitution under Article 44 guarantees for citizens to live in a clean and healthy environment. Furthermore, under Article 92, the Constitution proclaims that the implementation of programs and projects shall not damage or destroy the environment. To attain these constitutionally enshrined rights, Ethiopia has endorsed environmental protection laws and policies to address the problems associated with the environment and achieve sustainable development. In addition to these, several environmental legislations have been introduced, which, among others, include EIA legislations.

EIA has been in existence since 1970 (when it was introduced into the United States of America following the National Environmental Policy Act coming into effect) and has spread rapidly since then to all parts of the World (UNEP, 1996). The wider use of EIA is formalized by the introduction of national laws and regulations and, in some cases, policies that establish systems of institutionalized procedures to ensure that all proposed development initiatives, expected to be environmentally damaging are assessed prior to authorization and possible implementation (UNEP, 1996).

In Ethiopia, the widespread application of EIA was introduced after 2002, with the introduction of the EIA Proclamation. According to this proclamation one of the powers and duties of EPA (currently the ‘Environment, Forestry and Climate Change Commission’) is to "prepare directives and systems necessary for evaluating the impact of social and economic development projects on the environment; follow up and supervise their implementation" (MELCA, 2008). The EIA Proclamation has made EIA to be a mandatory legal prerequisite for the implementation of major development, programs, and plans which also include investing in floriculture. The EIA process involves varies stages and starts with the identification of development proposals. Then, screening of the proposal determines whether an EIA is necessary and at what level the assessment should occur. The scoping stage is the process of interaction which aims at the identification of boundaries of the EIA studies, important issues of concern, significant effects and factors to be considered. The next step of the EIA process is undertaking an Environmental impact study that involves impact prediction, impact analysis, consideration of alternatives, preparation of a management plan (mitigation, monitoring activities), and preparation of a contingency plan. Finally, reviewing, decision making, and implementation and follow-up will be followed (Ashenafi, 2011).

The EIA proclamation is a central controlling tool for harmonizing and integrating environmental, economic, cultural, and social considerations into a decision-making process in a manner that promotes sustainable development including a guarantee to a clean and healthy environment for the people. This paper, thus, tries to investigate the relationship between investment laws pertaining to floriculture investment projects in the Country and environmental protection giving special attention to EIA as one tool of ensuring a safe environment. This Paper focuses on floriculture investment projects to assess the gaps created by different legislations relevant to the topic.

1.2. Statement of the Problem

Ethiopian government uses floricultural investment as one of the most important and effective strategies for economic growth and source of FDI. (Investment guide in Ethiopia, 2014). This led into the proliferation of various flower based investments, making Ethiopia the fourth largest non-EU exporter to EU, and the second-largest flower exporter in Africa, contributing USD 212.56 million to the economy in the fiscal year 2016/17 (Ethiopian Investment Report, 2017).

Economically the floriculture industry is playing a vital role and contributes a lot to the country's growth and development program (Fiona, 2018). It has inter-alia created an employment opportunity for many Ethiopians, diversified the Ethiopian economy, and been a source of foreign currency (Gobie, 2019).

But, on the other hand, the industry has its own environmental and social health impact, due to the input the industries utilize (Fiona, 2018, Mesay, 2017, Kelbesa 2012). As reported by several researchers, the floriculture industry uses too many pesticides and chemical fertilizers, which cause adverse effete on the environment. Pesticides that include herbicides, fungicides, insecticides, and more can contaminate organisms, soil, water, turf, and other vegetation (Mesay, 2017). Evidences indicate that Ethiopian floriculture sector is subjected to unregulated and high consumption of pesticide, fungicides, insecticides, and chemical fertilizers which are responsible for the loss of soil fertility, depletion of nutrient, killing non-target organisms, loss of biodiversity, greenhouse gas emission, the effect on water quality; depletion of water resource and competition with local community; unsafe waste disposal mechanisms; and risk on workers safety (Alemu, 2013, Fiona 208, Degytnu 2012, Atayesh 2016, Asnake and Belay 2013, Tesfaye, 2018, Hatch and Wells 2012).

The fact of the matter is that Ethiopia is still in the beginning stages of the floriculture industry and there are a number of challenges that must be resolved to continue the sustainable development of the sector with the present rapid speed (Degytnu, 2012). One of these resolutions is the proper applicability of EIA prior to the implementation of floriculture investment projects so as to alleviate the aforementioned impacts on the environment. EIA as a tool used to identify the environmental, social and economic impacts of a project prior to decision-making (Abayneh, 2013), is of paramount significance to curb the impact of the floriculture industry.

Therefore, this paper tries to investigate the EIA-floriculture nexus in current policies and laws pertaining to Investment and EIA in Ethiopia. It also tries to assess the relationship among the institutions empowered to govern and administer investment and EIA.

1.3. Objectives

The general objective of the study is to evaluate the EIA-floriculture investment nexus in the Ethiopian context.

The following are the specific objectives of the study;

- To evaluate the roles of investment law to the proper applicability of EIA in the floriculture industry
- To assess the EIA-floriculture investment nexus in the policy and the legal framework for investment and environment.
- To evaluate the relationship among institutions empowered to govern and administer investment and EIA for the proper implementation of EIA in the floriculture industry.

1.4. Research Questions

This research thus tries to answer the following research questions;

- Are the existing policies, legal and institutional frameworks adequate to ensure effective EIA in the Ethiopian floriculture industry?
- Can the existing relevant laws adequately strive to create a nexus among EIA and floriculture investments?
- Can the existing policies and institutional framework be sufficient to create a workable nexus between floriculture investment and EIA?

1.5. Significance of the Study

This study is believed to give a detailed assessment of the EIA-floriculture investment nexus in the Ethiopian context. As such, the research can be used as a benchmark for further related studies. Furthermore, the research is also considered to identify the major factors loosening the relation between EIA and floriculture investments in the policy, legal and institutional framework in Ethiopia, thus it may serve as a supplementary document for policy and lawmakers. Also, the research is believed to provide detailed information on the EIA-floriculture investment nexus to various stakeholders, including but not limited to implementing government organs, floriculture investor associations, and non-governmental organizations working on EIA.

1.6. Scope of the Study

This paper aims to review the relation between investment laws in Ethiopia and environmental impact assessment. Hence, the paper focuses on investment and environmental protection laws and policies enacted at the federal level, and their relations to investment projects of the country. However, due to a large number of investment projects that exist in the country, the Paper will focus on floricultural investment projects, involving foreign investors, to limit the jurisdiction at the Federal level only.

1.7. Limitations of the Study

As far as this research is concerned, the limitations encountered include lack of studies on the subject matter, especially in the Ethiopian context. The researcher also encountered logistical limitations that limited the geographical study area. Due to the pandemic that engulfed the country after March 2020, the researcher could not conduct further interviews with different stakeholders, as most were not accessible, making the data presented in the study limited.

1.8. Organization of the Study

This paper is organized in five chapters. The first chapter is an introductory chapter involving the statement of the problem, objectives of the paper, research questions, and scope of the Study. The second chapter reviews the relevant literature. The third chapter deals with the research design and methodology employed for the study. Chapter four discussed findings, while the fifth chapter has a conclusion and recommendations.

2. Chapter Two: Literature Review

2.1. Conceptual Definitions

2.1.1. Floriculture Investment

Before defining the term ‘floriculture investment’, it is important to define the two terms constituting it, ‘floriculture’ and ‘investment’. Floriculture, or flower farming, is a “discipline of horticulture concerned with the cultivation of flowering and ornamental plants for gardens and for floristry, comprising the floral industry” (Gobie, 2019).

Generally, there is no common legal definition of the term ‘investment’ because it depends on the context it is being used. With a few exceptions, the trend in multilateral and bilateral investment treaties is to define the term 'investment' as broadly as possible with open-ended definitions and indicative rather than definitive lists of investments. Most treaties define the term 'investment' as any 'kind of asset' and provide a non-exhaustive list of specific forms of investment or define the term as 'all assets, such as property, rights, and interests of every nature.’ However, some agreements provide a different approach to defining investment, setting forth a broad but exhaustive list of covered economic activities. Similarly, the new Investment Proclamation No. 1180/2020 (hereinafter the 'Investment Proclamation’) define the term ‘Investment’ broadly as an:

> “*expenditure of capital in cash or kind or both by an investor to establish a new enterprise, or to acquire, in whole or in part, or to expand or upgrade an existing enterprise.*”

This definition contains two components. The first is that investment is an “expenditure of capital”. The proclamation defines capital as a:

> “*means local or foreign currency, negotiable instrument, machinery or equipment, building, working capital, property right, intellectual property right, or other tangible or intangible business assets.*”

The second component formulates the purpose of investing the capital. In this regard, an investor may invest his/her capital for one of the following three purposes. The first is the establishment of an enterprise which is defined as an undertaking established for profit-making. Under the commercial code, even though the term 'enterprise' is not used, there are various ways to engage in profit-making undertakings (which are sole proprietorship, partnership, joint venture, private limited companies, and share companies). In plain words, the expenditure should aim at the establishment of a new enterprise, whether in whole or in part.

The second purpose is to acquire an already existing enterprise, in whole or in part. In this case, the aim of investing the capital is to buy an already existing enterprise whether in whole or in part.

The third purpose is to expand or upgrade an enterprise. The Investment Proclamation defines the term 'expansion' or 'upgrading' as a;

> "*means increasing in volume, by at least 50 percent of the attainable production or service rendering capacity of an existing enterprise, or increasing in variety by at least 100 percent by introducing new production or service rendering line of an existing enterprise, or increment by both.*"

Combining the above definition of 'floriculture' and 'investment', floriculture investment can be defined as an expenditure of capital in cash or kind or both by an investor (domestic, foreign, or both) to establish a new enterprise, or to acquire, in whole or in part, or to expand or upgrade an existing enterprise whereby the new or existing enterprise seeks to engage or operates in the cultivation, production, and marketing of flowering and ornamental plants.

2.1.2. Environment Impact Assessment

The term environment is a difficult concept to define, as the term has a wide scope (Tesfaye, 2018). The EIA Proclamation No. 299/2002 defines the term environment as "the totality of all materials whether in their natural state or modified or changed by a human: their external spaces and the interactions which affect their quality or quantity and the welfare of human or other living things, including but not restricted to, land-atmosphere, weather and climate, water, living things, sound, odor, taste, social factors, and aesthetics."

EIA is the process of identifying, predicting, evaluating, and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made (Asnake and Belay, 2013). It refers to the determination of the environmental consequences of proposed projects or activities (Tesfaye, 2012). The EIA Proclamation also defines Environmental Impact Assessment (EIA) as “the methodology of identifying and evaluating in advance any effect, be it positive or negative, which results from the implementation of a proposed project or public instrument.”

According to UNEP (1996) definition, Environmental Impact Assessment is a ‘structured approach for obtaining and evaluating environmental information prior to its use in decision-making in the development process.’ This information consists, basically, of predictions of how the environment is expected to change if certain alternative actions are implemented and advice on how best to manage environmental changes if one alternative is selected and implemented (UNEP, 1996).

EIA aims to predict environmental impacts at an early stage in project planning and design, find ways and means to reduce adverse impacts, shape projects to suit the local environment, and present the predictions and options to decision-makers (Abayneh, 2013). As per Jay *et al.* (2006) EIA as it is practiced today is being used as a decision aiding tool rather than a decision-making tool (Abayneh, 2013). In international and national laws, EIA is also used as a tool to prevent environmental damage. At the international level, lending banks and bilateral aid agencies have made environmental impact assessment a requirement for lending money. In 1989, the World Bank issued an Operational Directive making EIA a standard requirement for all of its investment projects, so that borrowing countries are required to comply with this directive (Tesfaye, 2012).

In other jurisdictions, laws distinguish between environmental impact assessment and strategic environmental assessment, which the Ethiopian law fails to do. “Strategic environmental assessment (SEA) is a process of prior examination and appraisal of policies, plans, and programs and other higher-level or pre-project initiatives”—in other words, the application of the project-by-project EIA process to policymaking (Tesfaye, 2012).

Since policy, program, and plan preparation is a continuous process, SEA has to be even more ‘process-oriented’ and less ‘product-oriented’ than project-level EIA. Indeed, project-level EIAs are process-oriented but there is an end-point that is successful impact management of the interactions between a project and the environment until the project is abandoned or decommissioned. It is generally agreed that SEA should move away from a focus on impact management toward a focus on the implications of an action on national/regional/local sustainability (UNEP, 1996).

Here a distinction is also to be made between EIA and other environmental management tools (such as environmental audit and environmental reporting). Although all of these tools have the same purpose of safeguarding the environment, the anticipatory nature of EIA distinguishes it from other environmental management tools (Tesfaye, 2012). “An EIA attempts to *predict* the likely environmental effects of a proposal and provide a basis for the developer and other decision-makers to respond to this information.” (Tesfaye, 2012). This is also envisaged under the Ethiopian law as EIA “is used to predict and manage the environmental effects” of implementing proposed development activities. On the other hand, environmental audit and environmental reporting as a ‘response’ initiatives attempt to evaluate the environmental performance of a company by focusing on its day-to-day operations. Environmental audit strives to understand the type and amount of resources used by a company, product line or facility, and the types of waste and emissions generated (Mazurkiewickz); whereas, Environmental reporting, voluntary as well as mandatory, is a mechanism whereby firms disclose information and data pertaining to their environment performance (Martinez, 2017).

2.2. The EIA-Floriculture Investment Nexus

For many developing countries, declining revenues from traditional commodities and the opportunities of a globalized market have led to the adoption of high-value agricultural exports to diversify production and achieve national growth and development (Degytnu, 2012). Over the last decade, these exports have generated significant amounts of foreign exchange, contributed to upgrade agricultural production skills, and created substantial opportunities for waged employment and self-employment (Degytnu, 2012). In many countries, diversification into high-value agricultural exports has become a key means of linking the world's developing nations to global product markets (Degytnu, 2012). From these high-value agriculture productions, floriculture industries are the major ones (Degytnu, 2012).

In order to achieve agricultural and economic development, many developing countries are taking measures and actions to attract FDI. However, as countries compete among themselves to attract as many foreign investors as possible, we observe the deregulation of various aspects of doing business. Among the things that make doing business expensive, one is complying with environmental regulatory and cautionary measures. Hence, the tighter the law is, the less attractive it gets to investors. Consequently, governments of developing and underdeveloped countries may show reluctance towards strict regulation in fear of scaring away potential capital inflow and focus more on their short-term economic benefits (Altayesh, 2016). This has created a debate that overshadows the positive relation between FDI-environment, and EIA-floriculture investment, in particular. This section will discuss what the FDI-environment debate is and why it is important to strengthen the positive relationship between EIA-floriculture investment.

2.2.1. What is the FDI-Environment Debate

The issue of investment to bring about development for a country and the protection of the environment was a point of contestation between developing countries and developed countries at the time of negotiation of the Rio Declaration. Developed countries argued that nations in the world should work for the protection of the environment (Tesfaye, 2018). Thus, they believed that the development projects implemented by developing countries should not be implemented if they affect the environment because the environment must be protected. Otherwise, life on earth would be at stake. On the contrary, developing countries argued that no limitation could be imposed on their development strategies. Therefore, the argument of the developed countries in the interest of the protection of the environment is considered as a limitation on their development strategies. For the developing countries, poverty and the alleviation of misery were more poignant and real problems. This was reflected in the negotiation of the 1972 Stockholm Declaration. Finally, both the developed and developing countries agreed that economic development was not necessarily incompatible with environmental protection and, therefore, it could be possible to undertake developmental projects without damaging the environment (Tesfaye, 2018).

The debate on investment promotion vs. environmental protection has several major layers. The first layer of debate relates to the environmental practices of individual foreign-owned companies. According to this approach, individual foreign investment activities are considered to show the negative impacts on the environment. It is argued that though foreign investments may generate economic wealth at the macro level in the host country, they do so by deteriorating the environment (Li, 2019). Some argue that foreign investment does not necessarily promote sustainable development, rather it causes environmental degradation. This approach believes that international investment law is designed to protect investors, not in the interest of the communities, and the liberalization of foreign investment would exacerbate these problems (Tesfaye, 2018).

The other debate relates to management practices, and some argue that foreign investors will not implement effective and clearer management that will protect the environment (Tesfaye, 2018). Others, on the contrary, argue that foreign investors will practice efficient and effective management that will help protect the environment. It is argued that where the parent company is an oversea company implementing effective environmental management, it will also use its experience, technology, and management skills to protect the environment in the host country. There is an assertion that transnational corporations, by transferring both clearer technology and/or better environmental management practices, will help to drive up standards in developing countries, and therefore, FDI could be employed for sustainable development (Tesfaye, 2018).

Generally, it is also possible to categories the relationship between environmental and FDI laws into three categories. A) Whether lower environmental standards may attract foreign investment from developed countries to developing countries. The hypothesis that basis this argument is known as the ‘pollution haven’ hypothesis; B) Whether the competition for FDI leads to a downward pressure environmental standards which is called the ‘race to –the –bottom’ hypothesis; C) Whether competition for investment leads countries to improved environmental standards-that is called ‘race-to-the-top’ hypothesis (Tesfaye, 2018).

Although the issue of environmental compliance standards as a factor of attracting or repelling foreign investment is controversial (Li, 2019), the hypothesis of the *pollution haven effect* holds that “a tightening up of pollution regulation will, at the margin, have an effect on plant location decisions and trade flows” (Nour, 2012). According to the ‘pollution haven' theory, companies will move their operations to less developed countries in order to take advantage of less stringent environmental regulations (Mabey and McNally, 1999). In other words, this theory predicts that trade and capital will flow from countries with stringent regulations to those with less stringent regulations (Cole et al, 2017).

According to race-to-the-bottom theory, a positive action by a government is made in lowering environmental standards, which in turn brings in foreign investment, and thus, it is a subset of the pollution haven theory. However, states may not lower environmental standards intentionally and act against their interest, but the empirical evidence shows that countries employ the race to the bottom theory (Tesfaye, 2018). The literature-based on this theory, also known as the political economy approach, contends that firms can influence the development and implementation of environmental policy in the home and/or the host country. Hence, in an open economy setting, environmental differences are shown to be endogenously generated through lobbying by firms for lower environmental regulations or at least to prevent any increases in environmental regulations (Cole et al, 2017). Like the pollution haven theory, this also predicts that FDI flow from high-to-low regulation countries or regions (Cole et al, 2017). But little empirical evidence confirms the theory (Cole et al, 2017).

Race to the top is a theory contrary to the race to the bottom and pollution haven. The theory states that ‘stronger environmental policies can impose competitiveness in the marketplace by fostering innovation and efficiency, therefore attracting investors’ (Cole et al, 2018). It is also known as ‘pollution halo’ or the ‘California effect’ because the higher air standards in California led to other US states adopting similar levels. However, this theory cannot be universally applicable since its application depends on the policies and objective realities of countries. The second weakness of the theory is that ‘it occurs mainly in high technology and energy-intensive sectors’, and the other problem is that investors who produce under lower standards may not have access to markets in the world. Regulatory Chill is a situation whereby countries refrain from enacting stricter environmental standards so as to attract FDI. As a result, ‘environmental regulations can get ‘stretch in the mud.’ However, it is difficult to attribute the reason of the government enactment to this theory. Some argue that stringer environmental policies may improve competitiveness by fostering innovation and efficiency (Tesfaye, 2018).

In conclusion, FDI affects the environment mainly in two ways. The entrance of FDI will bring serious environmental pollution to the host countries and worse their environment. For another, FDI may introduce cleaner technologies and better management practices to improve the environment quality of host countries. Moreover, FDI plays an important role in stimulating productivity, because it is an important source of capital, which can enhance technology transfer to the host countries. FDI brings in modern management and improves the productivity of host countries. Secondly, environmental initiatives promote productivity that considers sustainability (Li, 2019, Cole 2017).

2.2.2. Why the EIA-floriculture Investment Nexus

The role of EIA in the floriculture investment can be described from two perspectives, sustainable development, and corporate environmental responsibility. EIA ensures sustainable development and corporate environmental responsibility in the floriculture industry since it offers the following benefits:

- improved project design/siting.
- safeguarding valued economical ecological processes and heritage areas.
- more informed decision-making.
- more environmentally sensitive decisions.
- increased accountability and transparency during the development process.
- improved integration of projects into their environmental and social setting.
- reduced environmental damage.
- more effective projects in terms of meeting their financial and/or socio-economic objectives; and
- a positive contribution toward achieving sustainability (UNEP, 1996, Tesfaye 2012).

2.2.2.1. EIA as a tool to ensure Sustainable Development

The concept of sustainable development had growing prominence in the 1970s and 1980s through international discussions about the global human impact of development, economic growth, and the environment. Particularly, the World Commission on Environment and Development (the WCED or Brundtland Commission), established in 1983, popularized the idea of sustainable development (Martinez, 2017).

The establishment of the Brundtland Commission was a notable attempt to address global issues of environment and development. The Commission highlighted the concept of sustainable development to the world with its 1987 report Our Common Future. The report attempted to shift corporate thinking of environmental management as an added expense by showing that environmental protection and corporate profitability can be combined if the relationship between economic development, social development, human rights, and environmental impact on human settlements is viewed as a whole. This new concept helped to shape the international agenda and the international community's attitude towards economic, social, and environmental development. It became one of the most successful approaches to be introduced in many years (Marinez, 2017).

Sustainable development merges three important areas—environmental, social, and economic—(and recently culture) into an integrated single perspective. The integration of groups of two of the three pillars of sustainable development leads to the concepts of eco-efficiency, eco-justice, and socio-efficiency. Expressed simply, sustainable development recognizes that the economy and society depend on the biosphere and environmental processes occurring within them (Schaltegger et al, 2013).

Because EIA identifies and estimates the environmental impacts of development projects, it is linked to sustainable development (Tesfaye, 2012). According to the UNEP (1996), EIA is one of the mechanisms which, when used together with natural resource accounting and sustainable resource management guideline, can help to determine the extent to which a proposed course of action is sustainable. EIA assists countries to move towards achieving sustainable development by identifying gains and losses to social, economic, and natural capitals (UNEP, 1999). As EIA focuses attention on alternative use of these types of capital and enables decision-makers to see the implication of resource use, EIA identifies the most appropriate use of a resource (capital) (UNEP, 1999). In a very real and practical sense, EIA can help all countries 'capture' the real benefits of their resources. As is true for other development activities, EIA plays a significant role in the sustainable use of resources in the floriculture sector (Getu, 2013).

2.2.2.2. EIA as a tool to ensure Corporate Environmental Responsibility in the Floriculture Industry

Corporate Environmental Responsibility (CER), which is one component of Corporate Social Responsibility, is relatively a new concept that includes different ideas, actions, strategies, and ideologies. The concept clearly identifies and explains the role played by the corporations in the current environmental crisis. "Its basic premise is that a corporation engages in environmentally beneficial actions to reduce society's burden on our ecosystem and promote environmental sustainability" (Joshi, 2012). Broadly CER can be described as precautions and policies organizations adopt to reduce and prevent hazards to the environment along with stakeholder participation to induce transparency. It makes a lot of sense for companies to be environmentally responsible because of its multifarious tangible and intangible benefits (such as good company reputation, enhanced stakeholder engagement, competitive advantage and cost-saving, improved risk management, and sustainable financial performance). With this realization and growing awareness, most polluting companies have voluntarily initiated environmentally responsible programs (Sindhi & Kumar, 2012). In this regard, one of the major ingredients of CER, among others, is EIA (Sheikh, 2017).

Although, some environmental risks and impacts on society can be hard to measure because of a lack of transparent data and 'greenwashing' (this means the implementation of CER initiatives as a pretext for covering environmental harm), corporate can assess operations and past management decisions for clues. EIA would attempt to answer the following questions: Has the company had transaction failures in the past, such as problems divesting lands that have known contamination? Does the company have high insurance rates due to past environmental problems? Has the company set aside a 'sinking fund' or have financial assurance mechanisms in place that it plans to use to offset environmental problems or liabilities such as pollution cleanup? (Hung et al.2010)

2.3. EIA and Floriculture Investment in the Ethiopian Context

2.3.1. EIA: Policy, Legal, and Regulatory Framework

Like most countries, Ethiopia adopted its current environmental laws under the influence of increased global environmental awareness that came in the wake of the Stockholm Conference in 1972, the WCED report in 1987, and the United Nations Conference on Environment and Development ("UNCED") in 1992. The WCED and UNCED specifically called on donors to help developing countries establish the national legal infrastructure for environmental protection (Krueger et al., 2012). As a result, Ethiopia has enacted various national policies and laws pertaining to the environment, including EIA. But, before we identify the national framework relating to EIA, it is important to identify the international framework.

2.3.1.1. International Framework

Internationally, different actions have been used to guarantee the use of EIAs as a tool to prevent environmental damage. For instance, the World Bank and other lending institutions have made EIA an essential precondition of their lending agreements with countries (Sadler, 1996). Recognizing its importance, in 1987, the UNEP came up with a resolution that includes goals and principles of environmental impact assessment. In the document, EIA is defined as "an examination, analysis, and assessment of planned activities with a view to ensuring environmentally sound and sustainable development" (UNEP- United Nations Environmental Programme, 1987). The second principle of the UNEP leaves setting procedures of EIA to individual countries stating "…*whether an activity is likely to significantly affect the environment and is therefore subject to an EIA, should be defined clearly by Legislation, regulation, or other means, so that subject activities can be quickly and surely identified, and EIA can be applied as the activity is being planned*" (UNEP- United Nations Environmental Programme, 1987).

The importance of EIA was raised in the international normative discourses as early as 1972 during the United Nations Conference on the Human Environment though could not make into the final version of the resulting Stockholm Declaration. However, a more concrete stipulation was included under the World Charter for Nature adopted by UN General Assembly obliging states to conduct EIA in advance for activities that may disturb nature (World Charter for Nature, 1982).

The Brundtland Report also signifies the importance of EIA as a tool by which environment and development objectives could be integrated to achieve sustainable development (OUR COMMON FUTURE, 1987; Getu, 2013). Since then, many binding and soft international documents came to require EIA as a policy guideline without specifying under what circumstances EIA should be mandatorily required (Getu, 2013).

Similarly, The Rio Declaration on Environment and Development, under Principle 17 calls for use of EIA as a national decision making instrument in assessing whether proposed activities "have a significant adverse impact on the environment" (Rio Declaration, 1992; Agenda 21, 1992, para. 9.12(b), 11.23(b), 13.7(a), 15.5(k), 17.6(d) and 22.4(c)). It also underlines the importance of national institutions in the decision-making process.

Despite the above international discourse on EIA, a more detailed requirement of EIA is found only in few international conventions: the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991) and the Protocol to the Antarctic Treaty on Environmental Protection (the Antarctic Protocol) are examples. Though its scope of application is limited, Espoo is the first multilateral EIA treaty. In addition to requiring EIA only during transboundary impacts of activities, Espoo was framed as a regional convention before it is opened to all later. It stipulates the responsibility of signatory countries, the principles, provisions, and procedures to be followed, and list of activities, contents of documentation, and criteria of significance that apply (Getu, 2013).

Ethiopia remains within the influence of all those international discourses and is responsible for its international obligations assumed through treaty or customary international law (FDRE Constitution, Art. 9(4)). The influences of these international understandings are yet to be felt by the national system (Getu, 2012).

2.3.1.2. National Framework

The national framework for EIA constitutes the Environmental Policy, and environmental legislations, as well as the regulatory organs established pursuant to these legislations.

2.3.1.2.1. Policy Framework

The basis for EIA came after the enactment of the first comprehensive environmental policy in 1997. The Policy had the overall goal of improving and enhancing the health and quality of life of all Ethiopians and "to promote sustainable social and economic development through the sound management and use of natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs" (Environment Policy of Ethiopia, 1997).

The environmental policy set forth different principles that laid foundations for guidelines and procedures for EIAs. These principles include:

a. The development, use and management of renewable resources should be based on sustainability.
b. Appropriate and affordable technologies which use renewable and non-renewable resources efficiently shall be adopted, adapted, developed and disseminated.
c. Full environmental and social costs (or benefits foregone or lost) that may result through damage to resources or the environment as a result of degradation or pollution shall be incorporated into public and private sector planning and accounting, and decisions shall be based on minimizing and covering these costs; and
d. When a compromise between short-term economic growth and long-term environmental protection is necessary, then development activities shall minimize degrading and polluting impacts on ecological and life support systems. When working out a compromise, it is better to err on the side of caution to the extent possible as

rehabilitating a degraded environment is very expensive, and bringing back a species that has gone extinct is impossible

The Environment Policy contains a separate section, Section 4.9, dealing with EIA. Accordingly, the policies regarding EIA are:

a. To ensure that environmental impact assessments consider not only physical and biological impacts but also address social, socio-economic, political and cultural conditions;
b. To ensure that public and private sector development programs and projects recognize any environmental impacts early and incorporate their containment into the development design process;
c. To recognize that public consultation is an integral part of EIA and ensure that EIA procedures make provision for both an independent review and public comment before consideration by decision makers;
d. To ensure that an environmental impact statement always includes mitigation plans for environmental management problems and contingency plans in case of accidents;
e. To ensure that, at specified intervals during project implementation, environmental audits regarding monitoring, inspection and record keeping take place for activities where these have been required by the Environmental Impact Statement;
f. To ensure that preliminary and full EIA's are undertaken by the relevant sectoral ministries or departments, if in the public sector, and by the developer, if in the private sector;
g. To create by law an EIA process which requires appropriate environmental impact statements and environmental audits for private and state development projects;
h. To establish the necessary institutional framework and determine the linkages of its parts for undertaking, coordinating and approving EIAs and the subsequent system of environmental audits required to ensure compliance with conditionalities;
i. To develop detailed sectoral technical guidelines in EIAs and environ-mental audits;
j. To ensure that social, socio-economic, political and cultural conditions are considered in environmental impact assessment procedures and included in sectoral guidelines; and
k. To develop EIA and environmental audit capacity and capability in the Environmental Protection Authority, sectoral ministries and agencies as well as in the regions.

Hence, the Environmental Policy of Ethiopia contains more detailed EIA regulations that stimulate EIA practice.

2.3.1.2.2. Legal Framework

The national legal framework of EIA in Ethiopia constitutes various legislations, including the FDRE Constitution and the Environment Impact Assessment Proclamation No. 299/2002. It also constitutes the code of practice adopted by the EHEPA as a self-regulation of the horticulture (including floriculture) industry.

2.3.1.2.2.1. The 1995 FDRE Constitution

At the national level, Ethiopia stressed the importance of having a clean and safe environment in the FDRE Constitution enacted in 1995. The Constitution gave everyone the right to live in a clean and healthy environment and laid a responsibility on the Government to make every effort to afford such an environment (FDRE Constitution, Art.44 (1) and Art. 92(1)). It also holds the people and the Government accountable for the preservation of natural resources and maintenance of ecological balances (FDRE Constitution, Art.44 (2)). Further, it conceptualizes the right to development based on 'sustainable development' rather than mere economic development (FDRE Constitution, Art.43).

Though the Ethiopian constitution nowhere used the language EIA, it has recognized that development activities should not hamper the environment and be done to ensure sustainability. In particular, Art. 92(2) of the FDRE Constitution states, "the design and implementation of programs and projects of development shall not damage or destroy the environment." Further, sub-Art. 3 of the same Art., states that 'people have the right to full consultation and to the expression of views in the planning and implementation of environmental policies and projects that affect them directly.' Accordingly, EIA, and consultation and community participation are an indispensable part of the decision making process in development activities. EIA could be considered as one of the most acceptable tools for achieving the above said environmental values included in the constitution (Getu, 2013).

2.3.1.2.2.2. Environment Impact Assessment Proclamation No. 299/2002

Despite, different efforts to formalize and make the application of EIA mandatory throughout the years following the enactment of the Constitution or the 1997 environment policy, it only became a reality with the drafting and ratification of the Environmental Impact Assessment Proclamation No. 299/2002, which came in to force in December 2002.

The EIA Proclamation came into force with the aim of harmonizing and integrating environmental, economic, cultural, and social considerations into the decision-making process so as to bring about sustainable development (EIA Proclamation, Preamble). The Proclamation, in its preamble, also recognizes the significance of EIA in bringing about administrative transparency and accountability as well as ensuring the participation of the public in the decision that may affect them and the environment.

Under the Proclamation different essential terms that may affect the application of the law are defined; an impact is defined, under Art. 2(4), as "*any change to the environment or to its component that may affect human health or safety, flora, fauna, soil, air, water, climate, natural or cultural heritage, other physical structure, or in general, subsequently alter environmental, social, economic or cultural conditions*." Similarly, Art. 2(3) of the proclamation defines Environmental Impact Assessment as "*the methodology of identifying and evaluating in advance any effect, be it positive or negative, which results from the implementation of a proposed project or public instrument*."; and Art. 2(8) defines "Project" as *"any new development activity under any category listed in any directive issued pursuant to [the EIA] proclamation, major expansion or alteration or any existing undertaking, or any resumption of work that had been discontinued."*

The EIA Proclamation obliges any person, whether natural or legal, to conduct an environmental impact assessment before commencing the implementation of a project as to be determined by the directive of the then EPA unless otherwise an authorization from the EPA or the relevant regional environmental agency (EIA Proclamation, Art. 3(1)). The EPA (the now, 'EFCCC') or relevant regional environmental agency is expected to give its authorization not to conduct EIA 'if it believes that the project is insignificant'. Noteworthily, an approval of an environmental impact study report or the granting of authorization by the relevant organ doesn't exonerate the proponent from liability for damage (EIA Proclamation, Art. 4).

Another basic feature of the EIA Proclamation is that it adopts the principle of ‘err on the side of caution’ while determining the negative impacts of a project (EIA Proclamation, Art. 4(2)). This has the effect of withholding approval of an EIA where the proposed project has a slightly or arguable beneficial effects in comparison with its negative impacts.

The EIA Proclamation imposes sanctions for non-compliance with its provisions. Accordingly, any person (whether legal or natural) who violates the provisions of the Proclamation is criminally responsible (EIA Proclamation, Art. 18(1)). For instance, any person who fails to obtain an authorization from the concerned organ or make false presentations in an environmental impact assessment study report is liable to a fine of not less than fifty thousand birr and not more than one hundred thousand birr (EIA Proclamation, Art. 18(2)). Further, any person who fails to keep records or to fulfill conditions of authorization is liable to a fine of not less than ten thousand birr and not more than twenty thousand birr (EIA Proclamation, Art. 18(4)).

The EIA Proclamation further obliges any licensing government organ to ensure that the EPA or relevant regional environmental agency has authorized the implementation of a proposed project prior to issuing an investment permit or trade or an operating license for the project (EIA Proclamation, Art. 3(3)).

2.3.1.2.2.3. EIA Directive No. 1(2008)

Environmental impact assessment is essential to prevent or mitigate environmental damage that may be caused by different projects. In order to have an efficient EIA system, it is important to regulate and limit the types of projects that will be required to conduct EIA (Bekechi and Merciee, 2002). To this effect, the EPA enacted the Environment Impact Assessment Directive No.1 (2008) to determine the projects for which EIA is mandatory.

2.3.1.2.2.4. EIA Procedural Guideline Series 1 (2003)

The EIA Procedural Guideline was drawn from the environmental policy and other sources and modified to go with the environmental and social situation of the country (EIA Procedure Guideline, 2003). According to this procedural guideline, the core values of EIA are sustainability (i.e. the EIA process should result in sustainable development by establishing long-term environmental safeguards, integrity (i.e. the EIA process will conform to agreed and established requirements), utility (i.e. the EIA process will provide balanced, credible information for decision making), and equity (i.e. the EIA ensures fairness in the distribution costs or benefits).

The EIA Procedural Guideline aims, among others, to ensure the implementation and compliance of EIA related legal and technical requirements and assisting government organs (including Environmental Protection Organs and Licensing Agencies) in discharging their roles and responsibilities. The Guideline contains the guiding principles, basic requirements/procedures, and schedules of activities relating to EIA.

2.3.1.2.2.5. Code of Practice (2008)

The Ethiopian Horticulture Producer Exporters Association Code of Practice is the result of an initiative taken by the sector to introduce a voluntary system of continuous professional and technical development, monitoring, and self-regulation into the sector and is designed to address market and civil society concerns about standards for social and environmental performance in the sector and also to guide the sustainable development of the sector (https://ehpea.org/code-of-practice/#). The Code of Practice was developed by a multi-stakeholder group comprising EHPEA members, Government Ministries, the Confederation of Ethiopia Trade Unions, and ILO. The Code contains the standards for systems and record-keeping, good agricultural practices, protection of the environment, occupational safety and health, and employment practices (https://ehpea.org/code-of-practice/#). The code is binding only to its members but non-members are encouraged to work for it.

This self-regulatory document of the horticulture/floriculture sector is becoming influential in many respects. The bronze level of the code of practice is developed by the Ethiopian Horticulture Producers and Exports Association in 2007 to make the sector more competitive in the international market and responsible for the environment (Code of Practice, 2008; Mulugeta 2009). The bronze level is the minimum level Ethiopian flower and ornamental plant farms should meet to be able to export their products (Code of Practice, 2008). One of the requirements a particular farm has to fulfill to attain the bronze level is to conduct EIA (Code of Practice, 2008). Indeed, the Code of Practice notes that future new businesses are required to complete an EIA before starting the development of a farm site rather than existing farms (Code of Practice, 2008).

2.3.1.2.2.6. Council of Ministers Regulation No. 207/2011 to Provide the Code of Practice of the Floriculture Sector

This regulation has the objective to 'realize environmental and social sustainability and to improve the performance and market competitiveness of farms' (Regulation No. 207, Art. 3). This regulation seems to be enacted to make the code of practice, which was developed by the EHPEA as a self-regulation, a mandatory requirement. Article 4(1) of the Regulation states that 'any farm that has not obtained a certificate regarding its compliance with environmental and social responsibilities.' This means that any farm engaged in the production of cut flowers, including other ornamental plants or flower seedlings, to obtain a certificate of compliance at least at the bronze level.

Similar to the Code of Practice (2008), this Regulation has three levels of compliance; bronze level, silver level, and gold level. With regards to EIA, a farm intending to obtain a certificate of social and environmental compliance at a bronze level is required interalia to 'assess risks related to environment and occupational safety' (Regulation No. 207, Art.5(3)).

2.3.1.3. Some Legal Issues

2.3.1.3.1. Who conducts EIA?

EIA becomes more successful and produces the aspired results if it is done in an atmosphere of neutrality towards a particular proposed action (Squillace, 1995). This also can guarantee public confidence in the system of EIA, which also helps as a mechanism of support for the proposed project as well. In order to guarantee neutrality different countries have used different approaches. The first approach is giving the responsibility to conduct EIA to government organs. This approach has a positive benefit since one can rely on government agencies to be independent, then proponents or project owners who might prioritize business profits. However, conflict may arise when the government is the project holder that will be required to do their own EIA. Some argue that even in such instances, entrusting the government with conducting its own EIA is a lesser evil as compared to giving the responsibility to private business owners. This is because the government is believed to be less profit-oriented and hence can be more neutral (Andreen, 2000). However, this is not always true, especially for developing and least developed countries, where the government will be inclined to favor large scale investments, giving investors incentives, such as lax environmental obligations.

The second approach of ensuring independence is allowing proponents to do the EIA, either using consultants or by themselves in situations where they have the necessary expertise. This is a generally accepted approach that many countries follow. Nevertheless, this approach is also not without fault. Some scholars point out that, proponents will only conduct the EIAs as a means of meeting a requirement and not because they are concerned for the welfare of the environment. They mostly start conducting the EIA after devising a specific project proposal that the government needs to approve (Andreen, 2000). Further, since the proponents perform by protecting their self-interest, which is increasing their profit margin, it is certain that the impact study will focus on what the proponents want to do or not to do on the components of the study, such as alternative courses of actions (Squillace, 1995)

Ethiopia follows the second approach as indicated in the EIA Proclamation. Art. 7 of the EIA Proclamation states that a proponent must undertake EIA, (a close reading of sub- Art. 2 suggests that the proponent shall use experts), identify the likely adverse impacts of the project, incorporate the means of their prevention or containment and submit to the federal and regional environmental agencies, as the case may be, together with the documents determined as necessary by the respective concerned environmental agencies. In addition, the Proclamation requires the proponent to bear the cost of conducting an environmental impact assessment report. Moreover, it also stipulates that during the implementation phase, a proponent must fulfill the terms and conditions of authorization, where failure to do so will result in a suspended or canceled license.

2.3.1.3.2. Projects required to Conduct EIA

The EIA Proclamation states that projects which would be subject to EIA are to be decided when the then environmental authority issued directives to this effect, obligating the then Federal Environmental Protection Authority to establish the necessary system that lays the procedures of EIA work (EIA Proclamation, Art. 5 and 13). Therefore, the question of which actions or projects will be required to do an EIA is determined by the Authority’s directives or guidelines.

In Ethiopia, distinctions are made on which projects require EIAs and which do not. However, there is no legislation that clearly defines the distinctions. The EIA proclamation doesn't provide for a list of activities that will require EIA, nor are any regulations that clearly define such distinctions. However, in 2008, the Federal Environmental Protection Authority issued a directive that provides for a list of projects that require EIA. Accordingly, the Authority issued Directive

No. 1/2008. The directive does not include any criteria for determining which projects require EIA but instead puts a list of types of projects that should be subject to EIA. According to the directive, the following are the list of projects that must conduct EIAs;

- Mine explorations that are subject to federal government permit;
- Dam and reservoir construction (dam height 15m or more, reservoir storage capacity 3 million m^3 or more, or power generation capacity 10 MW or more;
- Irrigation development (irrigated area of 3000ha or more);
- Construction of roads (Design and Standard DS1, DS2, DS3) with a traffic flow of 1000 o r more;
- Railway construction;
- Taking fish from lakes on a commercial scale;
- horticulture and floriculture development for expert;
- Textile factory;
- Tannery;
- Sugar refinery;
- Cement factory;
- Tyre factory with a production capacity of 15,000 Kg/day or more;
- Construction of urban and industrial waste disposal facility;
- Paper factory;
- Abattoir construction with slaughtering capacity of 10,000/year or more;
- Hospital construction;
- Basic chemicals and chemical products manufacturing factory;
- Any project planned to be implemented in or near areas designated as protected;
- Metallurgical factory with a daily production capacity of equal or more than 24,000 Kg;
- Airport construction;
- Installation for the storage of petroleum products with a capacity of 25,000 liters or more;
- Condominium construction; and,
- Establishment of industrial zone.

The directive (no. 2 2008) has been regarded as 'incomprehensive' partly because the lists are very brief and incomplete leaving out many more projects that should have been scheduled (Getu, 2013). For example, the directive does not include lists of projects that do not require EIA nor projects that should undertake a preliminary assessment (Tesfaye, 2012). Though the EIA proclamation authorizes EPA to determine lists of public instrument (defined as "a policy, a strategy, a program, a law or an international agreement" (EIA Proclamation No 299, Art. 2(10)) that should pass through EIA (otherwise called 'strategic environmental assessment'), the directive does not include any of these. It is understood, however, that "[a] broader environmental assessment should be applied not only to products and projects but also to policies and programs" that induces significant environmental impacts" (Getu, 2013).

In addition to the directive, an important document in differentiating whether a project will require EIA or not is, the EIA Procedural Guidelines, which have final drafts, though no government organ, has yet given an official approval for the guidelines. However, though the guidelines have not been approved, they still serve as an official document; hence it is important for this discussion. The then federal environmental protection Authority so far has issued two procedural guidelines, i.e., the Environmental Impact Assessment Guideline Document, issued in 2000, and the Environmental Impact Assessment Procedural Guidelines Series 1, issued in 2003. The Guidelines provide for projects that must be subjected to EIA and those which are not. Generally, the Guidelines contain three schedules: Schedule I contains actions that require full EIA; including agricultural, forestry, and fisheries activities, wildlife, tourism and recreational development, energy industry, petroleum industry, textile industry, wood, pulp and paper industries, public instruments, and all projects in environmentally sensitive areas in spite of their nature.

Schedule II contains actions that require preliminary EIA, which includes small- scale activities and enterprises such as fish culture, bee-keeping, small animal husbandry, horticulture, and floriculture. Finally, Schedule III comprises projects which will require EIA, activities such as social infrastructure and services of small-scale educational facilities, audiovisual production, and teaching facilities unless they are going to be implemented in environmentally sensitive areas.

Therefore it could be concluded that, in Ethiopia, actions that are subject to EIA are known and EIA should be done in accordance with these Guidelines. EFCCC uses the Guidelines to require, review and decide upon EIAs although it cannot force proponents to do EIA and take measures based on them if EIA is not conducted, as the Guidelines are not approved, making it lack legal enforceability.

2.3.1.3.3. Stages in EIA

In Ethiopia, there are no legislations, be it a regulation or a directive that provides for the steps to be taken in the EIA process. Nonetheless, the 2003 Procedural Guidelines stipulates that pre-screening, scoping, preliminary assessment, environmental impact study, reviewing decision – making, and systemic EIA follow- up are the steps in the EIA process. The Guidelines also provide what each step should entail and the steps to be followed by the proponents and environmental protection agencies.

However, the EIA Proclamation imposes a duty on any licensing agency to ensure that the relevant environmental agency has authorized the implementation of a project before issuing an investment permit.

The EIA Proclamation, under Art. 15, requires the then EPA or relevant regional agency to "*make any environmental impact study report accessible to the public and solicit comments on it*," and also to ensure that public comments are incorporated into the final report.

However, the law does not clearly indicate the procedures for doing this. Art. 9 of the Proclamation also requires that "a brief statement summarizing the study in non-technical terms" should be included with the study. This could allow the public to understand and comment on the EIA, if only they were allowed access to it. After evaluating an EIA, including "any public comments and expert opinions," the appropriate environmental agency must decide on the project within fifteen working days.

Art. 8/3 of the EIA Proclamation requires the then Federal Environmental Protection Authority to issue guidelines on "the elements necessary to prepare as well as evaluate an environmental impact study report." However, there are still no approved guidelines in force. The EFCCC currently uses draft guidelines that have not been officially approved. A discussion with the senior EIA expert of EFCCC indicated that they are in the process of amending the existing draft guideline and ensuring the approval of it, however, it lacks the attention from concerned authorities resulting in unnecessary delay (Interview at EFCCC).

In general, successful EIA requires four basic procedural steps (Jain, 2002) The first step is to understand the proposed action: What is to be done? Where? What kinds of materials, labor, and/or resources are involved? Are there different ways to accomplish the original purpose? The second step is to gain a complete understanding of the affected environment at the site where the project will be implemented. Third is to envisage the implementation of the project and determine its possible impacts on the environment, quantifying these impacts whenever possible. Fourth, it is important to report the results of the study so that they may be used in the decision-making process (Jain, 2002).

2.3.1.3.4. Content of an EIA Document

Art. 9 of the EIA Proclamation require that 'a brief statement summarizing the study in non-technical terms" should be included with the study. Besides this general stipulation, by virtue of Article 8, the EIA Proclamation set forth the minimum information an EIA must include as follows:

a) *The nature of the project, including the technology and processes to be used.*

b) The content and amount of pollutant that will be released during [implementation] as well as during operation;

c) Source and amount of energy required for operation;

d) Information on likely trans-regional impacts;

e) Characteristics and duration of all the estimated direct or indirect, positive or negative impacts;

f) Measures proposed to eliminate, minimize, or mitigate negative impacts;

g) Contingency plan in case of accident; and

h) Procedures of self-auditing and monitoring during implementation and operation."

2.3.1.5. Regulatory Organs

2.3.1.5.1. EFCCC and Regional Environmental Agencies

The primary organ to regulate and administer EIA is the EFCCC Environment, Forest, and Climate Change Commission (EFCCC). The EFCCC was recently established following the enactment of the Definition of Powers and Duties of the Executive Organs of the Federal

Democratic Republic of Ethiopia Proclamation No. 1097/2018. The EFCCC has the responsibility for the evaluation of an environmental impact study report and the monitoring of its implementation when the project is subject to licensing, execution or supervision by a federal agency or when it is likely to produce trans-regional impact (EIA Proclamation, Art. 14(1).

In addition to the EFCCC, regional environmental agencies have similar mandates in their respective regions (EIA Proclamation No. 299, Art. 14(2)). Unless federal licensing is involved somewhere in a project life or a project has interregional or inter-country impact, REA has full responsibility for administering the process (EIA Proclamation No 299, Arts. 3(2) & 14). This leaves REAs with their hectic resource shortage to enforce EIA regimes in the vast majority of development activities (Getu, 2013).

2.3.1.5.2. Ethiopian Horticulture Producer Exporters Association

Ethiopian Horticulture Producer Exporters Association (EHPEA) is a business membership organization which is established in 2002. It is a not-for-profit organization meant to promote the interest of its members which are engaged in the production and export of flowers, vegetables, fruits, herbs, and cuttings. Currently, EHPEA registered members have reached 119, and it is contributing to the horticulture industry boom in Ethiopia and also effectively representing the interests of its members operating locally and globally (https://ehpea.org/about-company/).

Due to the EHPEA's direct connections with member companies, they have the most potential to implement successful and effective industry standards. Encouraging companies to reach the Silver and Gold standards will provide positive examples for other companies and encourage them to also reach the higher levels (Hatch and Wells, 2012).

2.3.1.6. EIA and Major Projects in Ethiopia

Conducting an EIA before a project is implemented has become mandatory for project approvals. The purpose of conducting an EIA is to enhance the positive effects of development projects by preventing, reducing, or offsetting the significant adverse environmental effects (Damtie, et.al. 2008). In Ethiopia, EIA has become a legal requirement in 2002 with the drafting of the EIA Proclamation. However, prior to the promulgation of the law, EIA has been applied in a few sectors.

The legal framework for the introduction of EIA begins with the FDRE Constitution. The Constitution under Art. 92 stipulates that the design and implementation of development projects should not damage or destroy the environment and recognizes the right of the people to be consulted and express their views on the planning and implementation of environmental policies and projects that affect them. The EIA Proclamation No. 299/2002, which came into effect following the provisions of the 1997 environment policy, requires an EIA process for any planned development project which likely has adverse environmental effects. Art. 3 of the Proclamation makes an environmental assessment of a development project mandatory prior to the implementation of a development project, and it further necessitates an approval from the concerned environment agency. Accordingly, investors have submitted EIAs in different sectors.

2.3.2. Floriculture Investment: Policy, Legal and Regulatory Framework

Like every other investment, floriculture investment is subject to general policies and laws pertaining to investment.

2.3.2.1. Policy Framework

Throughout its history, Ethiopia has had different economic policies; during the monarchy, the country followed a market economy policy, which changed into a communist regime, when the Derg took power. Following the downfall of the Derg, EPRDF changed the economic policy to a market-led system. This led to the expansion of privatization, which was guaranteed by the constitutional right to own property. This led to the proliferation of investors willing to invest in the country's economy.

The Growth and Transformation Plan I was implemented as a five-year plan with the aim of maintaining economic growth and transforming the economy. The plan included goals so as to attain the millennium development goals. Following the completion of the plan, the Second Growth and Transformation Plan (GTPII) was introduced. Although the GTP II doesn't contain a separate section for the floriculture industry, there are various strategies and targets stipulated in various segments of the GTP II (note that there is a separate single paragraph dedicated to dictate the strategic directions in horticulture productivity and production). The GTP II recognizes the expansion of cut flower as one focus area of the agriculture industry. To this effect, one of the strategies is to "enhance the provision of the necessary support for domestic and selected foreign investors taking their capacity into consideration to enable them to participate in transformative agriculture."

2.3.2.2. Legal Framework

Under Art. 55 of the FDRE Constitution, the federal government is entrusted with the function of regulating foreign commercial relations. The power begins with enacting specific legislations on the mater. It also has the power to regulate the use of land and other natural resources, in whose scope floriculture investments fall. Furthermore, the provision that deals with economic objectives put a duty on the state to formulate feasible economic policies. To this effect, there are various investment-related laws in Ethiopia, which either aims at creating an enabling investment environment for domestic and foreign investors or establishing the relevant government organ that oversees the effective implementation of the proclamations.

In Ethiopia, the 1960 Civil Code and Commercial Code serve as general frameworks for business activities. The Civil Code provisions on General Obligations and Specific Contracts (along with other provisions of the Code) are of particular significance to generally conduct business in Ethiopia. Similarly, the Commercial Code deals with general business affairs including traders and business, business organizations, and bankruptcy and scheme of arrangements.

But within these broad frameworks, there are specific investment laws regulating investment. These laws are discussed below.

2.3.2.2.1. Investment Proclamation No. 1180/2020

The Investment Proclamation No. 1180/2020, which constitutes nine parts and 58 provisions, is the primary legislation dealing with FDI. In its preamble, the Proclamation defines the goal of investment as a means of accelerating the economic development of the country, ensuring its sustainability, strengthening domestic production capacity, and thereby improving the living standards of people. Within the realm of this overarching goal, the preamble also refers to specific goals, such as encouraging and expanding investment, strengthening domestic production capacity, increasing inflow of capital, and speeding up of transfer of technology. In line with the objectives stipulated in the preamble, the Proclamation also outlines the general and the specific objectives of investment. The main objective, as provided under Art.5 of the Proclamation is “to improve the living standard of the people of Ethiopia by realizing a rapid, inclusive and sustainable economic and social development.”

The Investment Proclamation deals with several issues relating to investments, which among others, include areas of investment, forms of enterprises, capital requirements, investment permits, registration of technology transfer and collaboration agreements with domestic investors, incentives, gurantees and protection, and grievance procedures and settlement of investment disputes.

2.3.2.2.2. Council of Ministers Investment Regulation No. 474/2020

The Investment Regulation No.474/2020 is enacted to supplement and for the implementation of the Investment Proclamation. Unlike its predecessor, this Regulation provides for a negative list of areas reserved for domestic investors. The repealed regulation, under its attached schedule, provided for a positive list of investment areas whereby foreign investors are allowed to invest. However, the new Regulation, under Art. 4, provides for investment areas exclusively reserved for domestic investors. This means that foreign investors are allowed to invest in any of the areas as long as the concerned area is not exclusively reserved for domestic investor, joint investment with the government/domestic investor (Investment Regulation No.474, Art. 6). In this regard, floriculture is not exclusively reserved for any type of investor/investment which means that the sector is open to all investors.

Additionally, the Investment Regulation No.474/2020 contains specific issues pertaining to application/renewal for investment permits for new/expanding/upgrading enterprise, transfer of investment project under implementation, one-stop-services, and training and transfer of knowledge and skill to Ethiopian Employees.

2.3.2.3. Regulatory Organs

Previously, there was a separate organ empowered to regulate the horticulture sector as a whole. The now defunct Ethiopian Horticulture and Agriculture Investment Authority (EHAIA) was established by the Council of Ministers Regulation No. 396/2017with the objectives of identifying and facilitating agricultural investment land and providing supports to investors so as to ensure maximum utilization of investment land as well facilitating and integrating services that encourage horticulture export and growth of foreign currency. The Regulation gives EHAIA different powers and duties that ensure the help to accomplish its establishment objectives. One of the duties given to it, that is relevant to this study is enforcing preparation and implementation of plan for social environmental protection in the project areas of horticulture as well as promoting environmental code of practices of the sector. An interview with a Horticulture Expert at the EHAIA, and currently has the same capacity at Ministry of Agriculture, stated that following the enactment of the Regulation, EHAIA started working on environmental concerns caused by floriculture farms. It established an environment protection directorate that began work by creating a link with EFCCC. The Environment Protection Directorate had the mandate to make on- site visits to monitor waste disposal, use of chemicals as well as ensuring codes of practice is applied by the farms. However, in 2018, barely a year after its establishment, EHAIA was merged with EIC and Ministry of Agriculture, with investment related works covered by EIC (Proclamation No.1097-2018, Art. 32(7)). [1]

As such, floriculture is treated as other forms of investment and is subjected to the organs regulating investment. In this regard, there are various bodies regulating the Investment sector. The primary organs are the Ethiopian Investment Board, Ethiopian Investment Commission, The Federal Government and Regional State Administrations Investment Council; and Investment Administrations Organs established pursuant to regional laws.

2.3.2.3.1. Ethiopian Investment Board

The Ethiopian investment Board is the organ entrusted with the power to oversee all investment laws and matters. It is chaired by the Prime Minister and is composed of 13 members from various sectors including 2 representatives from the private sector with an observer status.

The Board is required to meet once every quarter and may hold additional meetings when it deems fit. The meeting is regarded to fulfill the quorum where more than half of the members are present at the meeting.

2.3.2.3.2. The Ethiopian Investment Commission

The Ethiopian Investment Commission, which is accountable to the Prime Minister, is an autonomous federal government agency mandated with regulating and supervising investment projects. The Commission is composed of a Commissioner and Deputy Commissioner which are appointed by the Prime Minister, and the necessary staff.

[1] During conducting this Paper, the EHAIA has been decided with Ministry of Agriculture, and retained a directorate at the Ministry, with the same mandate as provided when it existed as a separate entity.

2.3.2.3.3. Investment Administration Organs at Regional Level

According to the new Investment Proclamation, the Commission operates at the federal level while regional governments can establish an investment administration organ at regional level.

Regarding the allocation of power, the Investment Proclamation exclusively empowers the Commission (and the Authorities with designated powers) on some matters (the jurisdictions enlisted above). Subject matters, other than those which are under the jurisdiction of the Commission, are administered by investment administration organs at regional level.

2.3. Literatures in the Ethiopian Context

Previous researchers have made studies on the relationship between environmental protection and investment opportunities. One such research is done by Habtamu Lanjore as part of fulfilling LL.M in Commercial and Investment Law entitled '*Interplay between Investment Laws and Environmental Laws in Ethiopia with regards to Environmental Protection.*' The Paper focused on the analysis of environmental laws and investment laws enacted by the federal government of Ethiopia. The Study aimed at investigating legal gaps created by the existing laws that hinder environmental protection, by analyzing different relevant legislations of the country.

Another notable research is a thesis submitted for the degree of PHD at University of Warwick by Elias N. Stebek with a title of '*The Investment Promotion and Environment Protection Balance in Ethiopia's Floriculture: The Legal Regime and Global Value Chain.*' The thesis examined the balance in the objectives of investment promotion in Ethiopia, i.e. the enhancement of development and well-being in the context of environmental sustainability in the floriculture industry. The research was based on sociological and legal inquiries, and also included case study which involves in-depth interviews and on-site observations.

In a similar manner, Tesfaye Abate Abebe conducted a research entitled "Laws of Investment and Environmental Protection: The Case of Ethiopian Large-scale Agriculture,". The basic aim of this research is to investigate the roles of legal rules of development and environment and their implementation in large-scale agricultural investment without adversely affecting the environment in Ethiopia.

Elias Nour also conducted a research entitled, 'The Investment Promotion and Environment Protection Balance in Ethiopia's Floriculture: The Legal Regime and Global Value Chain.' The thesis examines the balance in the objectives of investment promotion in Ethiopia, i.e. the enhancement of development and well-being in the context of environmental sustainability.

In a different manner, there have been various researches assessing the environmental impact of the floriculture investment in the Ethiopian context. These researches include:

- Nimona Fufa Hunde, The Impact of Floriculture Industry on the Environment in Ethiopia, 2018. The Paper identifies the major environmental impacts of the Floriculture Industry in Ethiopia.
- Mesay Adugna Kassa, Review of Environmental Effects of Ethiopian Floriculture Industry, 2017. This Art. attempts to review the Ethiopian Floricultures industry significance in respect of the adverse effects on the environment.
- Degytnu Tilahun Gudeta, Socio-economic and Environmental Impact of Flori-culture Industry. This thesis seeks to assess the socio-economic and environmental implication of floriculture industry in Ethiopia. It seeks to address the questions, "How Ethiopian floriculture industry affects the socio-economic and environment of the Country" and "What are the problems that flower farm workers face while working in the industry?"
- Abayneh Tilahun, Environmental Impacts of Foriculture Industry in Debrezeit Town: A Need for Strategic Environmental Assessment, 2013. The general objective of this research is to assess the ecological impacts of floriculture industries on surrounding environment with respect to the existing environmental regulations/EIA/ and implementation analysis and assessing a need for strategic environmental assessment/SEA/ which basically focuses on cumulative impacts.
- Mushir Ali, Environmental Impact Assessment of Horticultural Project in Amhara Region, Ethiopia: A Case Study. This study was conducted with aims to assess impacts of the horticultural project on the soil, water, ecosystem and society and to explain the influence of the project activities on the socio-economic and health of the people at Sebatemit area.

This research is different from the above two categories of research (those dealing with investment promotion and environmental protection, and those dealing with the environment impact of the floriculture industry) in two ways. First, this paper is specific as it tries to study the relationship of EIA and investment laws. It focuses on the role of EIA in ensuring sustainable floriculture investments. Second, it tries to assess the EIA-floriculture investment nexus under the various policies and laws of Ethiopia. The Study will analyze relevant legislations to assess whether or not environmental considerations will be taken in order to engage in an investment project. Apart from analyzing the written law, the practice that exists in the relevant institutions will be evaluated to examine the role of existing institutional framework for environmental projects. This will be done by conducting interviews with relevant government agencies.

3. Chapter Three: Methodology

3.1. Description of the Study Setting

This paper focuses on the interplay between investment laws in Ethiopia and EIA, with a particular focus on the floriculture sector. Environmental impact assessment is one of the most essential tools that help to ensure mitigation or avoid environmental damage by investment projects. To accomplish this, there needs to be a clear institutional and policy framework that guarantees the nexus between EIA and investment. In recent years, Ethiopia's investment-friendly policies have caused a proliferation of different investment projects. However, achieving growth through FDI does not guarantee sustainable development. The government must include environmental considerations when an investment project is set to be approved. Hence, this paper will analyze the legal, policy, and federal institutional frameworks of EIA as well as investment laws and try to determine if there is coordination between two significant concepts of development of Ethiopia.

The floriculture sector has been promoted as one of the most pivotal sectors in increasing revenues of the country, particularly in increasing the foreign currency reserve of the country. It is estimated, Ethiopia now has over 84 active flower-growing farms making the country the fourth largest non-EU exporter of cut-flower to the European Union and the second-largest flower exporter from Africa. Floriculture has contributed to 225 million dollars or 80 percent of the total foreign revenue earning of the horticulture sector. Most of the production is made of roses (about 80 percent of the production), and the country is noted for the high quality, long stems, large buds and vibrant color of its roses. In addition to the rose farms, five farms are engaged in the production of cuttings and eight farms produce a variety of other types of flower crops, including gypsophilia, hypericum, limonium, chrysanthemum, carnations, static, pot plants and a range of summer flowers (Export Horticulture in Ethiopia, 2017). The first private farm that started trading flowers was the Ethio-flora (EHPEA, 2017). The industry is one of the sectors that brought tremendous growth, making Ethiopia emerge as a global player in the cut flowers business ranking only second to Kenya accounting for 80 % of the foreign currency acquired from the horticulture sector (EFCCC, 2019). In addition, it has created job creations for more than 180, 000 people in the country, and 85% of them being women. In addition, the government reserved 12, 552Ha of land for the sector, though only 1,442 Ha is currently being utilized (EFCCC, 2019). Due to the absence of EIAs before the farms started production, most local communities as well as environmentalists have resisted the industry.

3.2. Research approach and Design

The study was conducted to find whether there exists a nexus between environmental impact assessment and investment law. Therefore, it aims to analyze the gaps and opportunities created by the legal and policy frameworks of EIA and investment using qualitative research approach Thus, qualitative research approach was used to collect, analyze, and interpret the collected data.

Research design is a plan that provides a framework for relating the conceptual research problem to relevant and practicable research. There are different types of research designs that may be employed to guide a researcher into the appropriate form of data collection and analysis method. One type of method that is used in this Paper is case study, most used in qualitative research.

3.3. Data Types

In this study, descriptive research type is used because it is more appropriate to describe what exists as regards to the link between investment law and EIA. Qualitative data that helps in describing the facts on the ground and get answers for the research questions.

To assess whether investment projects as per the investment laws have any roles for conducting EIAs, review of relevant legislations is made. In addition, focal person interviews with the Licensing Directorate and the Legal Directorate at EIC and Environment and Social Impact Directorate and Social Impact and licensing Directorate at the EFCCC is also conducted. Relevant literatures are also reviewed.

The effects of EIA on whether or not floricultural investment projects may be granted permit will be assessed by conducting expert testimonies, focal person interviews with the Licensing Directorate, Agriculture, Horticulture, Service Investment Projects and Land Aftercare and Support Directorate as well as the Legal Directorate at EIC and Environment and Social Impact Directorate at the EFCCC and reviewing of literatures. The assessment of whether public participation during the conducting of the EIA has any effect on whether an floriculture investment project will be approved or not will be made by conducting focal person interviews at the License and registration Directorate and Environment, Social Impact and licensing Directorate at the EFCCC as well as environmental consultants.

Data that evaluates the federal level institutional and policy framework in relation to floriculture investment projects will be federal level relevant legislations, Key informant interviews at EIC, EFCCC as well as review of relevant literatures.

3.4. Sources of data

3.4.1 Primary Source

Primary data consists of data acquired directly by the researcher in order to address the problems identified. In this Paper, the researcher employed focal- person interviews that consisted of semi-structured questions as well as questionnaires, aside from reviewing laws and policy documents.

3.4.1.1. Legal documents

The link between investment law and EIA will be assessed by reviewing laws that were published in the Negarit Gazette and relevant policy documents.

3.4.1.2. Key informant interview

In order to gather first-hand information on the issues raised, the researcher has conducted focal person interviews with the concerned government institutions. The people are selected on their direct involvement to the research questions as well as seniority on the job.

To assess the links between investment laws of Ethiopia and EIA procedures and to evaluate the institutional and policy frameworks expert at relevant government institutions (one person the License and registration Directorate and one Agriculture, Horticulture, Service Investment Projects and one Land Aftercare and Support Directorate at EICand the one Legal Directorate and four persons Environment, Social Impact and licensing Directorate at the EFCCC) is conducted to evaluate the evaluate the role of public participation in EIA of floriculture projects. The participants are selected on the years of experience in the area in order to select the most knowledgeable and relevant to the information needed for the research area. In addition, three environmental consultants were interviewed to assess participation level of the public on EIA.

3.4.2. Secondary Source

Secondary sources of data are gathered from different published articles, journals, books and other relevant internet sources.

3.5. Methods of data collection

Different data gathering tools will be used to collect data. Closed and open-ended interview questions and review of documents will be used to collect primary and secondary data.

3.6. Methods of analysis

Qualitative data analysis that is based on content analysis is used to explain the data acquired through interview and expert testimonies. The data is analyzed on whether the current investment legal frameworks have created gaps in relation to the requirement of EIAs. Content analysis as one form of qualitative analysis for research is used to address policy and legal gaps.

Content analysis is a method that is used to study and examine organizational behaviors, stakeholder perceptions and societal trends (Bengtsson, 2016). This Paper focuses on examining the relationship between investment and EIA, with a focus on the existing laws, policies, and institutional framework. Therefore, the researcher opted to use this method to address issues raised by the research questions. In addition, a narrative analysis, that is used to revise and formulate the data from focal person interviews are also used. Analysis of the legal and policy frameworks on investment and EIA is made by analyzing the content to identify any gaps created by the existing laws. Qualitative analysis that is based on the evidence gathered by key informant interviews and secondary sources is used to identify any differences in the legal requirement and the actual practice on the ground. The gaps on implementing legal and policy frameworks created by jurisdictional overlap between institutions are also analyzed by reviewing the laws and data acquired from the key informant interviews.

3.7. Ethical consideration

The primary data will be collected by communicating the responsible different organizations through a formal letter from Addis Ababa University. The collected data is analyzed without any bias and/ or exaggeration. Data taken from any other secondary sources and previous studies will be cited and acknowledged.

Table 1. Summary of data collection and analysis

Themes of study	Data	Collection methods	Data analysis
Roles of investment law on EIA	-Legislations -Interviews and questionnaires -Relevant literatures	-Negarit Gazette (FDRE Investment laws, EIA laws) -Questionnaires and Interviews (at EIC and EFCCC) -Journals -Published books and online works	-Content analysis -Qualitative analysis - Gaps created by legislations
Floriculture investment and EIA	-Legislations -Focal person interview -Literatures -EIA Reports	-Negarit Gazette (FDRE Floriculture investment laws, EIA laws) -Interviews (EIC and EFCCC) -Floriculture EIA Reports -Journals and published books	-Qualitative analysis - Analysis of legal gaps - Analysis of difference between legal requirements and practice
Institutional framework of EIA and investment	Focal person interview Legislations	Interview conducted in (EIC and EFCCC)	-Qualitative analysis - Jurisdictional gaps between institutions -Legal and policy gaps

4. CHAPTER FOUR: Results and Discussions

4.1. Demographic and socio-economic background of respondents

Key informant interviews are used in this Paper, with demographic characteristics of the participants assessed in terms of gender, age, education level and working experience. The details are presented as follows.

Table 3. Demographic for focal person interviewees

No.	Item	Measurement	Frequency
1	Gender	Female	1
		Male	11
2	Age	18- 20 years	0
		21- 30 years	1
		31- 40 years	4
		41- 50 years	4
		Above 51 years	3
3	Educational Level	Certificate	0
		Diploma	0
		Degree	6
		Masters and higher	6
4	Working Experience	Less than 5 years	0
		5 – 10 years	3
		10 – 20 years	3
		Above 20 years	5

4.2. Current Status of Floriculture Industry

The history of the Ethiopian floriculture industry dates to 1980, when state farms started to export flowers to Europe. The first private farm that started trading flowers was the Ethio-flora.

It cultivated summer flowers but not roses and exported only to the Netherlands. Recently it has been producing mainly roses and exporting them to several countries. Another company which entered the industry in the early phase is Golden Rose Agro farms L.T.D, which started growing roses in 2000 (Gobie, 2019, Mulu 2011). Between 2000 and 2002, another four farms entered the industry, of which three were owned by Ethiopians (Mulu, 2011).

Although it has only been during the last 20 years that the floriculture industry in Ethiopia has started to prosper. In 2004, the number of firms doubled, marking the start of the growth period of the industry. By 2008 the number of firms reached 81, estimated to generate employment for about 50,000 people, of which above 70% were women. In 2008 flowers and plants became one of the five top export commodities for the country, with more than USD 120 million foreign exchange earnings. Floriculture exports continued to grow in the following years and reached about USD 220 million by 2012 (Gobie, 2019).

Similar to many other sub–Saharan countries, the primary destination of Ethiopian flower exports is the EU market, which accounts for above 90% of the total export value. Ethiopian flower industry shows a dramatic rise in the rank of top non–EU flower suppliers to the EU market. In 2003 Ethiopia ranked only 33rd, whereas in (2012) it became the second top exporter, surpassed only by Kenya, long established in the EU flower market. This is because, Ethiopia has geographical advantages for a floriculture industry, e.g. the high altitude (flowers grow well above 1100 MASL), the vast unexploited arable land and water resources, and the conducive climate for flowers. Also, the plentiful low-cost labor market is very attractive for the industry, since it is a labor-intensive one. The strong initiative of the Government of Ethiopia to encourage the industry and the safe environment of the country compared to other African countries, such as Kenya, is also a big advantage for Ethiopia. These advantages, especially the geographical ones, are the reason why Ethiopia has been attracting many flower-farms even from Kenya where the industry has already been developed (Gobie, 2019).

Currently, there are 126 investments in Ethiopia in the export of flower, fruits, vegetables, and herbs. Farm ownership is made up of local investors (46), Direct Foreign Investors (76), joint venture partnership (3) and Development Bank of Ethiopia (1). Currently the flower, fruit, vegetable, and herb farms occupy 10,897.21hectars of land. The horticulture sector employs 199,640 citizens and in 2017/18 fiscal year generated US$ 307.04 million. In hard currency generation, the horticulture sector has stood at the fourth largest in export earnings (https://ehpea.org/overview-of-the-sectors-growth/).

Ethiopia now has 72 active flower farms and the country is noted for high-quality flowers. In addition to the Rose farms, six farms are engaged in the production of cuttings, and seventeen farms produce other flower varieties including Carnations, Hypericum, Veronica, Alstromeria, Gypsophila and a range of different types of flowers (https://ehpea.org/overview-of-the-sectors-growth/).

4.3. Assessment of Policies, Laws, and Institutional Framework on the nexus between EIA and Floriculture Investment

4.3.1. Policy Framework

As discussed in Chapter 2, the major policy document constituting the policy framework for floriculture investment is the GTP II and the 1997 Environment Policy for environment. In this regard, both documents will be analyzed to assess the relation between EIA and floriculture investment.

Ethiopia’s current development plan, the GTP II has the main objective of attaining lower middle-income country by 2025, by achieving an annual average real GDP growth rate of 11% within stable macroeconomic environment while pursuing rapid industrialization and structural transformation. It has nine strategic pillars that aim at achieving the Plan’s objectives; most of the pillars are concerned with achieving economic growth and development by meeting the set targets and standards for each sector.

The GTP II contains an Economic Development Sector Plan, which inter-alia include Agriculture and Rural Transformation Plan. Among the three objectives of the agricultural development sector plan, one is to “bring about accelerated and sustained growth of agriculture within the framework of the Climate Resilient Green Economy” (GTP II, 2016). This objective has relevance with respect to EIA as it strives to bring a sustainable development in the agriculture sector (including floriculture) that implies that one of the activities to be undertaken is EIA. This is evident in the fact that the ‘sustained growth’ of the agriculture sector is to be achieved within the framework of the Climate Resilient Economy.

One of the pillar strategies of GTPII is building climate resilient economy. The plan recognizes the strong link between development and climate. In order to build green economy, the Plan aims to mainstream green economy agenda in macro and sector plans, projects and programs and aims at regular monitoring and evaluation at different levels. One of the tools for building a climate resilient economy is conducting an EIA. GTP II recognizes the importance of conducting an EIA and endeavors to conduct EIAs for all development projects and programs. It states that EIA "will be conducted on new and on-going projects and strict monitoring and evaluation activities will be carried out to check whether or not projects are being implemented in accordance with environmental laws" (GTP II, 2016). Hence, it plans to conduct social and environmental impact assessment for 100% of agricultural projects/programs (GTP II, 2016).

Despite the above general reference made to EIA, the GTP II fails to dictate specific strategic direction for the implementation of EIAs in the Floriculture Industry. A mere promise that EIA will be conducted is not enough. The GTP II should have prescribed the specific strategic directions of EIA, like the other priority areas. In this regard, the government has been criticized of prioritizing economic growth over environmental protection. For instance, such concern, have been part of the BTI Country Report of Ethiopia (BTI Country Report of Ethiopia, 2018) reported that environmental concerns are rarely taken into account in determining development programs and policies, stating; "Environmental impact assessments are not seriously undertaken for almost all major development project, whether it be hydropower generation or mechanized agriculture."

Ethiopia seems to follow such policy. The investment laws of Ethiopia focus on attracting foreign investment with little consideration for the environment. This is especially true for the floriculture sector, which is seen as one of the major investment opportunities that attracts foreign investors. A horticulture expert at the EHAIA, and currently has the same capacity at EIC stated that during the initial years of the flower sector, the government's main factors that were considered were the attraction of FDI and job creation (Interview at EIC). Investors in flower farms focused on low labor cost and the availability of land at a very low price. Such considerations did not allow for environmental considerations to be on the forefront, since the investors want to maximize their profits at any cost, while the government wants to incentivize the investors so as they will bring their businesses to the country. Due to the attractiveness of the floriculture sector to investors, environmental concerns were set aside, which resulted for all of floricultural farms in the country commence operations without having conducted environmental impact assessment (Interview at EFCCC). The expert stated lack of the political will to favor environment protection over the foreign currency the sector could bring, as one of the main reasons for this neglect by the authorities. This is also supported by studies as one research pointed out that the lack of regulation during initial as well as implementation phase in the floriculture sector is argued as a main cause of serious environmental damages, to soil and water bodies (Mulugeta, 2013)

The other policy document that ought to be assessed is the 1997 Environmental Policy of Ethiopia. The Ethiopian environment policy was enacted in 1997, with an overall policy objective of improving and enhancing the health and quality of live and promoting sustainable social and economic development through the sound management and use if natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs (Environmental Policy of Ethiopia, 1997).

Unlike the GTP II, the link between EIA and investment can be found in a detailed manner. One of these policies, is to 'ensure that public and private sector development programs and projects recognize any environmental impacts early and incorporate their containment into the development design process.'

However, the effectiveness of some of these EIA policies has been questioned. Particularly, the one that strives 'to establish the necessary institutional framework and determine the linkages of its parts for undertaking, coordinating and approving EIAs and the subsequent system of environmental audits required to ensure compliance with conditionalities' (This will be discussed in the following sections in detail).

Further, the Policy seems to neglect the positive impact of FDI in promoting the application and implementation of EIA. All of the EIA policies, under Section 4.9, tend to impose certain standards and principles on the implementation of EIAs. Focusing on these points, the policy neglects the role of FDI in the application of EIA. As discussed in Chapter Two, FDI may have a positive impact on the application of EIA by brining clean technologies and advanced knowledge for the better assessment of environment impact posed by the proposed project. Further, foreign investors may positively impact the application of EIA through self-regulation as they have a better capacity and knowledge in the context developing countries. The environment policy of Ethiopia fails to address the role of FDI in the applicability and implementation of EIA and rather focused on the environmental impacts posed by projects.

In addition to the above shortcomings, the Environmental Policy document doesn't address the floriculture or at least some of its aspects in the Sectoral Environmental Policies (such as, soil husbandry and sustainable agriculture). The Policy does not make a reference to policies to curb pesticides and fertilizers emitted by floriculture companies that are affecting the environment. Of course, this may be due to the lack of evidence or awareness during the enactment of the Policy. However, many of the policies are also broad, vague, and difficult to measure. This problem also is evident in Section 4.9 on EIA. The policy document should have at least indicated one or two performance indicators to evaluate the effectiveness and proper implementation of each policy.

4.3.2. Legal Framework

4.3.2.1. The FDRE Constitution

The FDRE Constitution seems to provide for a positive relation between EIA and investment. Article 89(2) of the FDRE Constitutions states the Government has the duty to ensure that all Ethiopians get equal opportunity to improve their economic conditions and to promote equitable distribution of wealth among them. At the same time, the Government has the duty to take measures to avert any natural; and man-made disasters, and, in the event of disasters, to provide timely assistance to the victims (FDRE Constitution, Art. 89(3)). One of these measures is putting place a system for EIA as a tool to identify and assess environmental risks. Further, Article 92(2) of the FDRE Constitution clearly states that the design and implementation of programs and projects of development shall not damage or destroy the environment.

The positive relation is also evident in Article 43 of the FDRE Constitution on the right of development. Article 43(1) state that the peoples 'of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular have the right to improved living standards and to sustainable development.' The adoption of the concept of 'sustainable development' on describing the right to development is very vital to understand the role of environmental protection to economic growth and the vise-versa. Hence, this provision of the constitution can be considered as recognizing the complementarities of the economic and environment pillars of sustainable development.

4.2.3.2.2. Specific-Investment Laws vis-à-vis the EIA Proclamation

Before the enactment of the new Investment laws, Ethiopia's governing investment laws were the Investment Proclamation No. 769/2012 and Investment Amendment Proclamation No. 849/2014 and the subsequent regulations, which mostly regulate incentives given to investors. One of the challenges that these previous laws created for the application of the EIA and environmental protection starts with the objectives of the investment laws. Under Article 5 of the Proclamation No. 769/2012, it states the objectives of the proclamations that mostly revolve around promoting investment as a means of supporting the economic growth, such as increasing foreign exchange services, creating job opportunities and exploitation of natural resources of the country, among others. The Proclamation failed to recognize that environmental protection is an essential tool for making the development created by different investments sustainable.

The EIA Proclamation requires EIAs to be conducted for projects that will have significant impact on the environment. However, this requirement is not echoed by the previous investment laws. This is another gap created by the previous laws. An interview with EFCCC expert, cites the fact that the investment laws being an updated one, while the legal framework of EIA enacted in 2002 makes the latter outdated, that cannot keep up with existing policy changes. (Interview at EFCCC). The current investment laws were enacted ten years after the EIA Proclamation, which gave the drafters of the investment law ample time to consider the experiences of environmental agencies on the purposes and uses of EIAs, so as they will recognize EIA as one of the pillars of the investment law. The lack of the requirement of conducting EIAs to acquire investment permit made the investment commission to be lenient on the need to protect the environment. Further, the legal expert is of the opinion that the investment law is there to promote investment and creating opportunities to investors (Interview at EIC). Therefore, it is not within the mandate of the investment law, in addition to including environmental issues as one concern of the law discourages investment.

As a deviation from the previous laws, the new Investment Proclamation No. 1180/2020 strives to build a relatively better relation between investment objectives and environmental objectives. For one thing, unlike the previous proclamation, it recognizes the concept of sustainable development under its general objective (Investment Proclamation No. 1180, Art.5). This means that investment, whether domestic or foreign, should aim at ensuring sustainable developments. Further, the new Investment Proclamation incorporates the objective 'to encourage socially and environmentally responsible investments' as one of the investment objectives. Hence, the new Investment Proclamation strives to recognize the positive relation between FDI and environmental protection, and the vise-versa.

Moreover, the new Investment Proclamation specified the 'obligation of investors to observe duties under other laws' which was also found in the previous proclamation. Accordingly, all investors have the duty to give due regard to social and environmental sustainability values including environmental protection standards and social inclusion objectives in carrying out their investment projects (Investment Proclamation No.1180/2020).

Despite the above merits of the new Investment Proclamation, the Proclamation has some pitfalls with regards to the role of EIA and FDI. First and foremost, it does not explicitly require EIA before the issuance of investment permits. This omission has not answered the question of whether the EIC is obliged or not obliged to undertake its responsibility under Article 3(3) of the EIA Proclamation that states, 'any licensing agency shall, prior to issuing an investment permit or a trade or an operating license for any project, ensure that the Authority or the relevant regional environmental agency has authorized its implementation.' As stated above, some professionals in the EIC are taking the position that by omitting this obligation the Investment Law has impliedly repealed Article 3(3) of the EIA Proclamation.

This regressive measure is similar to the one introduced by the Investment Proclamation No. 769/2012. This requirement is relevant because it forces applicants to get statements pertaining to the environment from the relevant environmental protection organs, whereas these organs will issue the statements only if they get EIAs for projects subject to EIA. However, the Investment Proclamation No 769/2012 relieves applicants of their duty to produce statements on environmental protection and safety measures from the concerned government institutions. In a similar manner, the new Investment Proclamation/Regulation seems to deliberately omit the requirement of EIA before issuing investment permits. This is because, EIA is still considered by proponents and licensing agencies as 'bureaucratic stumbling block in the path of development' (Krueger et al, 2012, p. 89). With expanding development activities in Ethiopia especially in the last decade, environmental protection has not got comparable attention (Getu, 2013). Hence, on the ground, floriculture farms operate without having done an impact assessment (Altayesh, 2016).

4.3.2.3. Code of Practice

As discussed in Chapter Two, there are two codes of practices, one developed by EHEPA while the other was enacted by the Council of Ministers.

Regarding the Code of Practice of 2008 developed by the EHEPA, although the code is a good voluntary imitative undertaken by the floriculture investors, the code does not say much about EIA partly because members are farms who are operational and obliging them at this stage would be too late and unrealistic, EHPEA claims (Getu, 2013). The Council of Ministers has recently upgraded this self-regulatory instrument to binding regulation applicable across the sector. But some of stipulations in the original self-regulatory document are excluded with no major innovation regarding EIA (Getu, 2013).

In order to improve the performance and market competitiveness of farms through the realization of environmental and social sustainability requirements, the Regulation authorizes the EFCCC to grant a certificate that confirms “the level of social and environmental compliance of a farm with the provisions of this Regulation” and sets forth tiers of compliance standards that are designated as “Bronze, Silver or Gold levels of excellence”, the Bronze level certification, being the minimum standard that should be met by a farm to be allowed to continue flower cultivation. The Regulation provides for minimum requirements or sets of standards to get a certification. Such as, the Bronze compliance level includes the duty to “measure, evaluate and report” the performance of a flower farm “on its performance relating to its consumption of water, use of agrochemicals, management of waste and consumption of energy”; the Silver level, in addition to the Bronze level’s requirements, the farms must accomplish “good agricultural practices required by the prevailing international market” and put in place acceptable auditing system which “allows periodic evaluation of its social and environmental management practices”; and the highest level of standard i.e. the Gold Compliance Level requires ensuring the support or rural local communities through financing demand driven skill enhancement programs, as well as finance community, school environment clubs and other initiatives that are designed to prevent soil erosion, to enhance vegetation cover and carrying capacity of lakes and wetlands, to conserve biodiversity and to improve the quality of rivers, groundwater and air, in addition to the stipulations required for the Silver level.

Though the above certification mechanism is a step forward in ensuring environmental sustainability of the floriculture industry, in practice the compliance of the farms to the standards are non- existent. According to a Director at EFCCC, in 2019, EFCCC conducted a study that aims in finding the compliance of the farms with the standards set in the regulation. Accordingly, out of the seventy floriculture farms, that the study was conducted on, none of the farms fulfilled even the minimum bronze standard. Hence, EFCCC set different standards to compare the farms among themselves. In the comparison only 20% of the farms were found to fulfill the standards at a better rate, while 33% of them taking the lowest standards (Interview at EFCCC). These show that even when the rules and regulations that aims at protecting the environment, there are still gaps in the practical application resulting in their failures to have the needed impact.

4.3.3. Institutional Mechanisms to Enforce EIA in Floriculture Investments

The successful application of EIA can only be achieved by the collaboration of the required government agencies, in this case the environmental protection agencies i.e. the EFCCC and the EIC, which is given the mandate of granting, renewing or cancelling investment permits.

In Ethiopia, environmental agencies do not have the mandate to issue any kinds of permits for the implementation of projects, rather issuing of permits is given to regional and federal investment and trade bureaus.

The Ethiopia Investment Commission used to demand an EIA before it issued investment permit. However, currently, the Commission is not requiring EIA to issue investment permit because it argues, that its duty to do so is now removed by law. Instead, the Ethiopia Investment Commission sends a letter to federal and regional environmental authorities, as the case maybe and other licensing bodies, when necessary, stating that it has issued an investment permit to a given investor with a view to enabling them to follow-up the implementation of the project in accordance with the laws of the country.

In addition, officials at EIC maintain that the Ethiopia Investment Commission does not and should not have a duty to ensure the preparation of EIA as a condition to issue investment permit. Instead, they argue that environmental protection agencies and land planning and administration organs should ensure the use of EIA before investors commence implementing their projects (Interview at EIC).

An interview at the License and Registration Directorate at the EIC was conducted to evaluate the position of EIC on the matter. According to the interviewee, the laws governing the Commission i.e. the Investment Proclamation and its regulation do not require the conducting of EIA as one of the prerequisites to grant investment permits to investors. Accordingly, the duty to check whether the investors have complied with other laws do not fall within the mandate of EIC, but rather environmental protection agencies. It is also stated that in addition to showing foreign investors fulfill the minimum capital requirement; they are required to bring feasibility study. In some cases, the feasibility study may include a brief part on environmental and social impacts of their projects. However, most do not include that and the EIC does not oblige them to include environment and social impact either as part of their feasibility study or conducting a separate assessment, since the law does not require it as one of the pre- requisites of granting investment permits (Interview at EIC).

This argument defeats the purpose of conducting an environmental impact assessment. EIA is a tool that helps to predict the consequences of a project before the commencement of it. However, if the project has acquired the necessary permits to commence the project, the proponents will not have any motive to do the EIA and start their projects. This will give an opportunity for the harm that could have been prevented or mitigated had it conducted an EIA, to materialize. Hence, leaving for environmental authorities to follow up the environmental impact once the project has commenced becomes a pointless exercise.

In addition, one of the purposes of EIA is ensuring the acceptance of a project by the public that reside close to the area. Conducting an EIA study involves various levels of stakeholders and public discussions not only to assess the possible damage to the environment but also assessing the social attitude towards a project. If the local people that will be directly affected by a project are involved from the initiation of a project, it will give them a sense of ownership towards the project. Further, the public will have stage to raise their issues and also the project owners or the investors will have the opportunity to give adequate information about the benefits of the project to the local community so that they can align to the project. However, this significant advantage of EIA seems to be overlooked by the regulatory organs. An interview with an expert confirmed that in theory they are aware of the various benefits of conducting EIAs, however, as EIC focuses on its facilitating role. However, there is a lack of understanding in thinking EIA is a cumbersome requirement as opposed to a means of ensuring the acceptance of the project by the local community. This thinking has already backfired, due to the social unrest that has been ongoing for the past five years in the country. The effects of this social unrest is seen on different investment projects, between 2016 and 2018 549.investment projects that are worth Birr 2,037,900,496 have been partially or fully destroyed, as the community is of the opinion that the projects are more of a harm than the benefits. Of these 549 investment projects, 56 horticulture projects valued at 220,744,240.40 have taken the impact of the public anger, some even had repeated attacks against the farms and machineries (Interview at EIC).

The principle of “one-stop-shop service”, where investors acquire multiple services at once from one service centre, is incorporated under the investment law. This may be a challenge to the EIA since it may lack skilled personnel to study an environmental impact assessment of investment projects. Thus, investment projects that are hazardous to the environment may be granted permission. In short, there seems to be a loophole in this regard. According to the Investment Proclamation, the EIC is given a facilitating role between the investors and the concerned environmental authority. Article 30 of the Proclamation establishes the ‘one stop services’ where EIC renders services to the investors at one service center. Sub-article 4 of article 30 stipulates for EIC to facilitate some services on behalf of the investors. While facilitating the process, EIC is expected to ensure the observance of the minimum requirements of the various applicable sections of the law. An expert at the facilitation and after care directorate of EIC, described the process of the ‘One- Stop’ service as a service that allows different concerned government agencies, such as immigration office, revenues office among others, to set- up windows at the EIC, so that the investors get the necessary services without additional bureaucratic hurdles. As part of this process, the EFCCC was invited to set- up shop and follow- up on the fulfillment of the legal obligations regarding the environment. However, according to the Expert, the EFCCC failed to do so, despite many attempts at urging them. This created a gap, since the EIC does not have the technical capacity and skill to provide environment related services, such as reviewing of EIAs or as per the expert it also lacks the mandate to follow up on environmental issues (Interview at EIC).

One of the services that are facilitated by EIC, in accordance with the provision, is the approval of the EIAs conducted by investors on their investment project. This facilitative role makes EIC on the investors side, so as they will not be too burdened with environmental agencies. EIC, for example, should, first, check if the project on hand needs an Environmental Impact Assessment or not. If the answer is in the affirmative, it should consult the relevant Environmental Agency i.e. EFCCC or regional environment agencies to get the report before issuing an operational permit. However, the cooperation between EIC and EFCCC had never been smooth. As indicated above, officials at the EIC do not believe that they should follow- up on environmental concerns and because the EIA process takes longer time, hindering investors from commencing their projects, goes against EIC's commitment fast-track licensing service and EIC indeed issued a permit without obtaining a decision from EFCCC or the relevant federal or regional government organ. Nonetheless, EIC, to effectively implement the widely advertised "one stop shop" services of the authority, it will show reluctance to carry out the time-consuming evaluation process.

Recognizing the importance of the horticulture sector as a whole, the government established a key institution with the enactment of the Council of Ministers Regulation No. 396/2017 which established the now defunct the EHAIA was established with the objectives of identifying and facilitating agricultural investment land and providing supports to investors so as to ensure maximum utilization of investment land as well facilitating and integrating services that encourage horticulture export and growth of foreign currency. The Regulation gives EHAIA different powers and duties that ensure the help to accomplish its establishment objectives. One of the duties given to it, that is relevant to this study is enforcing preparation and implementation of plan for social environmental protection in the project areas of horticulture as well as promoting environmental code of practices of the sector. An interview with a Horticulture Expert at the EHAIA, and currently has the same capacity at EIC, stated that following the enactment of the Regulation, EHAIA started working on environmental concerns caused by floriculture farms. It established an environment protection directorate that began work by creating a link with EFCCC. The Environment protection Directorate had the mandate to make on- site visits to monitor waste disposal, use of chemicals as well as ensuring codes of practice is applied by the farms (Interview at EIC). However, in 2018, barely a year after its establishment, EHAIA was merged with EIC and Ministry of Agriculture, with investment related works covered by EIC, creating another challenge to the sector.

5. Chapter Five: Conclusion and Recommendation

Conclusion

Promoting investment in a country like Ethiopia is important for the economic growth of the country. However, the promotion of investment must be hand in hand with environmental protection in order to make the economic growth sustainable. In this paper, an attempt has been made to analyze the relations between the existing investment laws of the country with EIA which is one of the important tools of environmental protection and special focus is given to the floriculture industry.

This research found that the several policies (GTP II and Environmental Policy), the FDRE Constitution, and other legislations (including voluntary and mandatory code of practice) tried to create a positive relationship between EIA and investment as a whole, and floriculture investment, in particular. They tried to do so by using a cross-reference among provisions or sections or simply mentioning the term 'sustainable development'. However, some of these documents, on the other hand, tend to create an imbalance that undermines EIA over FDI.

The following are the major shortcomings of the system;

- Obtaining permits and EIA

The investment laws of the country do not require the approval of the EIA report before a permit is issued to an investor. It fails to impose a responsibility on the concerned investor to prepare a report on the potential adverse impact of his/her project. The requirement, by the EIA Proclamation, of conducting an EIA before the commencement of a project is not mirrored by the investment laws. This created a gap between the two laws, giving the window for the investors to acquire the necessary permits for their projects and commence their projects without conducting EIA.

- Policy on One-Stop Service

The Ethiopian Investment Commission commits itself to help foreign investors in facilitating the process of carrying out business in Ethiopia. This is done to ease the doing business bureaucracies, that may hinder the investors, which is a positive aspect of facilitating investments. However, though it is required for an environmental regulatory body to have a seat in the premise. This has created a gap in implementing and evaluating the requirements of conducting an EIA for investment projects, Therefore, the one- stop service must be practically implemented by participating EFCCC and addressing environmental concern of investment projects.

- Lack of political will

Currently, the focus of the government is increasing the economic growth. This can be seen in the economic policies such as the growth and transformation plans. The plans focus on numbers, in terms of GDP, per- capita income, or annual revenues. In order to improve the growth of the economy, the main tool is attracting foreign investments. To encourage foreign investors to come and invest, the government gives incentives of different forms. One of such incentive is lenient environmental protection requirements. In the floriculture industry, the investors were allowed to commence their projects without conducting EIAs, which is a clear contravention of the EIA Proclamation. However, no measures were taken against them or efforts were not made to correct such contraventions, because the preference was the investment even if it came to the detriment of the environment.

- Legal gaps

The governing law of EIA was enacted in 2002, without being followed up by any binding documents, be it a regulation or a directive. On the other hand, since 2002, the country's development economic plans have progressed along with enacting detailed investment laws, in 2012 and 2014. Therefore, the EIA proclamation became an obsolete law that does not reflect the current condition of the country.

- Institutional framework

The federal environmental protection agency is the recently reformed EFCCC; on the other hand, investment promotion is done by EIC. EFCCC must ensure the effectiveness of the system of EIA; however, due to various problems including lack of capacity (adequate manpower and other resources), lack of adequate autonomy, the existence of problematic organizational structures make it difficult for them to effectively discharge their duties. On the other hand, there is poor linkage between EFCCC and EIC. The latter, is of the opinion that the mandate of environmental protection lies on the EFCCC and any follow up or check that needs to be done in order to ensure the investors comply with environmental laws and standards should be done by the EFCCC or regional environmental protection agencies. Such lack of cooperation between the two key government organs is another challenge to the effective application of EIA process.

Recommendations

Based on the above gaps and challenges, the following recommendations are suggested;

- Policy and Legal Reform

Future policy documents should recognize the role of EIA in sustainable Floriculture industry as well as the role of the latter in the protection of the environment.

The requirement of EIA for projects that significantly impact the environment must not be limited to the EIA Proclamation. The requirement must be included in the investment laws, since doing so will force EIC to require EIA to be done and adequately reviewed by the concerned authority, prior to handing investment permits to investors.

On the other hand, legal reforms must also be done to the EIA Proclamation. The current EIA law is background that does not reflect the reality on the ground. In addition, it does not have any subsidiary laws that are supposed to include detail processes and requirements, even though the proclamation clearly leaves some matters for subsequent regulation and directives. Therefore, the reform will fill gaps created by the backwardness of the law and lack of subsidiary laws.

- Creating institutional cooperation

Though EIC is entrusted with promoting the investment of the country as a means of economic growth, it must recognize economic growth must not disregard environment protection, in order to make the growth sustainable. Focusing on the numbers alone will not develop Ethiopia. Therefore, EIC must forge good relations with EFCCC and other regional environment protection agencies. One of the EIC's visions and goals must include environment protection, leading to effective application of EIA process on investment projects.

- Civil society and other interested groups

Civil society organization should put a positive pressure on the government to adopt relevant laws, as well as properly implement the laws. One of the important roles civil society organizations is in the "naming and shaming". With respect to the government, they should call for the publication of every report related to EIA and international donors will obtain the necessary information from that. In addition, civil societies can also influence the legal reform in order to implement EIA process.

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Interviews

Interview with Ato Mulugeta Alemu, Environmental and Social Impact Assessment Expert IV, at EFCCC, conducted on 29/04/2019

Interview with Ato Tolosa Yadesa, Director, Environmental and Social Impact Assessment Directorate, at EFCCC, conducted on 29/04/2019

Interview with Ato Shiferaw Nigusse, Director, Environmental and Social Impact Assessment and Licensing Directorate, at EFCCC, conducted on 30/04/2019

Interview with Ms. Azeb Dagne Asrat, Environment and Social Assessment Operation Audit Expert, at EFCCC, conducted on 30/04/2019

Interview with AtoSisay Hailu, Horticulture Expert, at EIC, conducted on 07/05/2019

Interview with Ato Ahmednur Yusuf, Director, License and Registration Directorate, EIC, conducted on 07/05/2019

Interview with Ato Bogale Tumede, Director, Legal Directorate, EIC, conducted on 10/05/2019

Interview with Ato Genanaw Girma, Facilitation and Aftercare Expert, EIC, conducted on 10/05/2019

Interview with Ato Yisfalegn Woldeammanuel, Advisor to the Commissioner, EIC, Conducted on 16/06/2020

ANNEX.

Interview questions for experts

Requested by: Lilanie Gudeta

Mobile Phone 0913609777

Email- lilanigudeta@gmail.com

This interview is designed to gather information about the roles of EIA in floriculture investment. The purpose of the Study is to fulfill a thesis requirement for Masters in Environment and Sustainable Development at Addis Ababa University. Your highly esteemed responses for the interview questions are extremely important for the successful completion of my thesis. The information that you provide will be used only for the purpose of the study and will be kept strictly confidential. Finally, I would like to thank you very much for your cooperation and sparing your valuable time for my questions.

- Please state your name and position at our organization.
- How long have you worked in the institution>
- Can you please state your office's mandate regarding the floriculture investment?
- How many active floricultural investments exist in Ethiopia?
- How many of them have conducted EIA prior to starting the project?
- How many floriculture projects have passed within an EIA framework? Provide EIA reports, if possible
- Which institution is responsible for reviewing EIAs in floriculture sector?
- Do you think EIA is properly implemented in the floriculture sector?
- Do you think EIA is properly implemented by other concerned offices, such as the EIC and horticulture investment agency?
- Are there policies that aim to protect the environment as regards to the floriculture industry? If so, please state the policies and/ or provide any manuals your institution has.
- Do you evaluate the level of public participation for conducting EIAs?
- What are the tools or international standards that your office uses to assess public participation in EIAs?
- What tools do you use to evaluate the methods of stakeholder identification for public participation?

- How do you take in to account the views expressed in EIA documents in your decision process?
- If the Commission is mandated to undertake assessment of EIAs, does the Commission has the capacity (in terms of skilled man-power, budget…) to assess the submitted EIAs?

Additional questions for EIC

- What are the legal requirements for granting investment permits for floriculture investments?
- Does the law require the conducting of EIA to undertake floriculture investment?
- Do you require an EIA for granting an investment permit in floriculture projects?
- Does EIC assess submitted EIAs? If not, which institution is responsible for assessing the EIAs?
- If EIC assesses EIAs for floriculture investments, what tools do you use to evaluate the EIA?
- Do you take in to account the views of stakeholders in granting investment permits?
- If the Commission is mandated to undertake assessment of EIAs, does the Commission has the capacity (in terms of skilled man-power, budget…) to assess the submitted EIAs?
- Does EIC do monitoring of EIAs after implementation of the proposed project, for instance during permit renewals?