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Challenges for the effective implementation of Environmental Impact Assessment Law: The case of Foreign Direct Investment projects in Addis Ababa.

A Study for the fulfillment of the requirements of Master of Arts Degree in Environment and Development.

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DEVELOPMENT STUDIES

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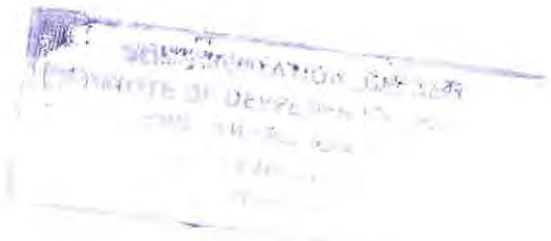

Acronym

CSI:	Conservation Strategy of Ethiopia
EIA:	Environmental Impact Assessment
EIS:	Environmental Impact Statement
EISR:	Environmental Impact Statement Report
EPA:	Federal Environmental Protection Authority
EPE:	Environmental Policy of Ethiopia
FDI:	Foreign Direct Investment
FGD:	Focus Group Discussion
FDRE:	Federal Democratic Republic of Ethiopia
NGO:	Non-Governmental Organization
OECD:	Organization for Economic Cooperation.
ToR:	Terms of Reference
UNDP:	United Nations Development Program
UNEP:	United Nations Environmental Program

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Abstract

There is a danger that the advantage of environmental protection and enhancement achievable through the use of EIA will prove inadequate unless a high level of attention is given to the application of EIA by FDI projects. In the era of rapid industrialization and population growth in the country, and increasing recognition of the environmental impacts of certain development projects, the need to effectively apply EIA by FDI projects is apparent.

The objective of this study is to indicate the challenges for the effective implementation of EIA by FDI projects. This is crucial if performance is to be improved in order to help to protect the environment of the country.

Apart from reviewing the documentary literature, questionnaire, key informant interview, focus group discussion and personal observation were the main research instruments employed in the study. About 26 interviews were conducted with relevant agents of government institutions, foreign investors, consultants and local community members. Moreover, 6 EISRs were assessed based on relevant international and national standards. Whenever possible, an attempt was made to overcome potential inaccuracies by cross-checking participants' accounts with those of other participants in the EIA process and with documentary evidence. Drafts of parts of earlier versions of much of the materials in this paper were reviewed by some of those interviewed. Generally, the approach adopted was in close accord with the principles for conducting EIA evaluations enunciated by Sadler (1998).

Pertaining to the results, lack of adequate legal foundation, lack of institutional capacity of EPA, weak inter-institutional coordination between EPA and licensing agencies and weak public participation were identified as major hindrances for the implementation of EIA by FDI projects in Addis Ababa. To get out of these challenges and further improve the implementation of EIA; strengthening the legal foundation of EIA, improving the institutional capacity of EPA and the institutional synergy between EPA and licensing agencies, and establishing enforcement mechanisms necessary to ensure the implementation of genuine public participation are recommended.

Chapter One: Introduction

1.1 Background to the Study

Foreign Direct Investment can be defined as an investment owned by somebody not a national, an investment made by a foreign person or organization in a particular country, or the total value of this type of investment. Foreign Direct Investment started in Ethiopia in general and Addis Ababa in particular since the period of emperor Haileselassie. However, the coming of Dergue regime witnessed a break in the development of Foreign Direct Investments in Ethiopia in general and in Addis Ababa in particular. Nevertheless, the inflow of Foreign Direct Investment to Ethiopia is reviving since the Ethiopian People's Democratic Revolutionary Front (EPDRF) assumes the power in 1991.

Relatively speaking, the existing government of Ethiopia has taken different measures to increase Foreign Direct Investment inflows to Ethiopia by creating favorable conditions and by enacting favorable laws among others. The government has established the Ethiopian Investment Agency which is the federal institution responsible for promoting, coordinating and facilitating foreign investment in the country. In particular, the agency grants Investment permits, trade registrations and operating licenses to foreign investors; and to facilitate acquisition of land by foreign investors (Proclamation No 350/2003). Moreover, different investment laws are enacted; senior government officials are traveling to different countries to attract Foreign Direct Investments (Melese, et al, 2008).

Rapid economic growth by encouraging FDI is very important to realize the vision of the Ethiopian government "*to make Ethiopia a mid-income country by 2020*" and thereby ensure universal access to food, clean water, education and health in the country as well as lift Ethiopia's rank on the UNDP Human Development Index (presently 169th out of 177). To achieve this, however, it is necessary to assure that all the investment activities do not abuse or misuse the environment of the country. Environment is the most precious resource which is the foundation of the materials we require both to survive and to take our lives to a better standard of living. A productive and healthy environment provides goods and services for this purpose (Djoghalf, 2006). Environmentally sound

bdevelopment plays a vital role in building diversified economy, creating job and wealth, providing essential services, and could become a key engine of economic and social advancement.

Environmentally unfriendly investments, however, may seriously damage the land, soil and water quality and further affect human health. Especially, for our society where the lion share of its economy and livelihood is directly based on our natural resource, any action which damages the environment beyond its regeneration capacity will push our standard of living from bad to worse (Melese, et al, 2008). In the case of environmental degradation, it is not just the current supply of economy and livelihood of our society that is under threat, but the very source base itself. Eradicating poverty cannot materialize without productive environment. It should also be noted that investment in a degraded environment is prohibitive while preventing ecosystem degradation is relatively cheap (UNEP, 1989). Therefore, to be successful and profitable, investment activities should be conscious of their environmental and social realities and address them fairly and adequately. Finding a shortcut by avoiding environmental considerations may appear to be profitable, but from long term perspective it is suicidal (UNEP, 1989).

To protect and mitigate the adverse environmental impacts of investment activities, the Ethiopian government has enacted different environmental management tools and established different institutional arrangements. Among all these tools, Environmental Impact Assessment Proclamation No. 295/2002 in relation to Foreign Direct Investment in Addis Ababa is the focus of this research. Environmental impact Assessment (EIA) is one of the environmental management tools used for predicting the impacts of a proposed action on the environment and suggests mitigation measures before the implementation of major development project. By so doing, EIA helps to reduce costs of resources for clean up, proactively avoid irreversible environmental hazards and it also provides a forum for public involvement in the decision making process (UNEP, 1989).

The Ethiopian Environmental Impact Assessment law has defined EIA to include both project level as well as strategic assessment (EIA Proclamation, 2002). Just as EIA investigates the possible environmental impacts of a project, Strategic level assessment looks at the possible environmental repercussions of government programs, strategies and

laws. In this study, however, the project context EIA implementation is critically evaluated with the purpose of identifying the challenges and recommending for its effective implementation. In this regard, Article 3(1) of the EIA proclamation states that *'no investment project that requires environmental impact assessment be implemented without authorization from relevant environmental authority'*. Moreover, Article 3(3) of the same proclamation states that any licensing agency shall prior to issuing investment permit or a trade or operating license for any project, ensure that responsible environmental authority has authorized its implementation.

In spite of the existence of the EIA law, however, failure to comply with the requirements is apparently fatal. For instance, according to a study made by EPA in 2005, out of the total number of FDI projects which got land between 2002 and 2004, only 2% of them prepared EISR. Adding to this, according to the same study, there have been frequent instances where the land allocated to investors is environmentally sensitive and the change in land use brings in major risks of environmental degradation, be it the water, soil or biodiversity. In other cases, there have been complaints against some FDI Projects for bringing negative impact on people's health and well-being as a result of pollution they cause, inefficient water management, destruction of ecosystems, and disruptions in local lifestyle (EPA, 2005). From all these it is possible to understand that neither the EIA requirement is effectively implemented nor environmental degradation is halted.

1.2 Statement of the problem.

The EIA proclamation states that no project shall get investment permit or trade license or an operating license and be commenced without priorly getting environmental clearance certificate from the responsible environmental Agency (Article 3-3 of EIA Proclamation No. 299/2002). Despite this, there have been frequent instances of non-compliance practice of FDI projects with the relevant EIA law. For instance in 2005, out of the more than 150 FDI project owners who were given land for their investment projects in Addis Ababa, only 2 of them approached EPA and they were advised how to prepare and submit the EISRs. These two project owners, however, never showed up again (EPA, 2005). Though it is out of the scope of this study, the same non-compliance problem is observable at the national level too. Moreover, Dessalegn (in his study on the

Evaluation of the Effectiveness of the Ethiopian EIA System) concludes that the Ethiopian EIA system is not effectively implemented (Dessalegn, 2007).

This non-compliance has been attributed to have different sources by different stakeholders. In view of the responsible environmental agencies, the non-compliance is because licensing institutions are granting investment or business license without priorly requesting environmental clearance certificate while investment agency argues that inadequate and unenforceable EIA requirements are the causes. Yet no comprehensive study is made particularly about the challenges hindering the effective implementation of EIA by FDI projects, which in turn made its solution unclear.

Therefore, it is the ineffectiveness of the EIA implementation which mainly initiates this study. The study is aimed at exploring the exact sources of the ineffectiveness with a view to generate perspectives to address the challenges.

1.3 Significance of the study

Observations show that there are FDI projects which are degrading the ecosystem of the country. According to a survey of 118 industrial establishments in Addis Ababa which didn't undertake EIA, waste containing hazardous pollutants have been discharged into all-purpose streams, water bodies and the air by all of them (EPA, 2005). Although it is difficult to specify a monetary value, the cost of such environmental degradation is very significant. On the other hand, the government of the FDRE has expressed its commitment to sustainable development by various legislations. This can literary be interpreted as Ethiopia has determined achieving development without environmental degradation. To this effect, the application of EIA is a crucial step towards halting environmental degradation. In spite of this fact, there are gaps between the need for and implementation of EIA by development activities in general and FDI projects in particular. Effective implementation of EIA, to narrow or close down the gap, requires that the EIA regime has adequate legal base and all other factors necessary for the implementation of the EIA process are fulfilled (UNEP, 1989).

Therefore, doing this research is significant for different reasons. Firstly; in the face of the progressively increasing FDI in-flows to Ethiopia; this study is relevant and timely to

suggest solutions to remove the barriers that hinder effective implementation of EIA and curve down the negative impacts of the projects. Moreover, it will contribute to fill knowledge gap on the issue as there are only few studies that have looked into various aspects of Environmental Impact Assessment in Ethiopia such as: Effectiveness of the Ethiopian EIA system (by Dessalegn, 2007), and An Overview of EIA in Ethiopia (Melese and Mesfin, 2008). However, not any study has comprehensively looked into challenges for EIA implementation by FDI projects in Addis Ababa.

1.4 Objectives of the study.

The general objective of this study is to assess challenges for the effective implementation of the EIA law by FDI projects in Addis Ababa.

The specific objectives of the research are:

- Assessing the adequacy of the legal basis of EIA for its effective implementation,
- Assessing the institutional capacity of EPA in relation to assuring the implementation of EIA by FDI projects,
- Assessing the level of inter-institutional coordination between EPA, the Ethiopian Investment Agency, and Addis Ababa City Government Land Administration in the EIA process related to FDI projects.
- Assessing the level of public participation within the EIA process related to FDI projects,

1.5 Research questions.

The followings are main issues that help to identify major causes and solutions of the research problems:

- Is the existing legal basis of EIA adequate to assure effective implementation of EIA by FDI projects?
- Is EPA equipped with adequate human, financial and material resources necessary to enable the authority to enforce the implementation of EIA by FDI projects?

- Is there genuine public participation in the preparation and approval of EISR documents of FDI projects?
- Is there effective institutional coordination among concerned public agencies in the EIA process related to FDI projects?

1.6 Scope of the study.

The study exclusively looks at the bottlenecks for the implementation of the EIA requirements; not the impact of the weak implementation the EIA requirement is addressed. Moreover, only the EIA practice of operational FDI projects is assessed, as it is difficult to contact and evaluate the on-process projects' practice.

1.7 Structure of the Study.

The first chapter of this study provides the background, problem statement, objective and significance of the study. Moreover, the scope of the study is demarcated and its limitations mentioned in the same chapter. All these are done with the intention of presenting the clear picture of the problem, significance and range of the study. In chapter two, review of related literatures is undertaken with the purpose of providing background and context for the research problem. Chapter three describes the methods and instruments employed to generate and analyze the data necessary for the study. Chapter four draws the main threads of the earlier chapters by presenting and discussing the data gathered within the framework of the literature reviewed. Finally, the chapter summarizes the findings and put forward a number of suggestions important to come out of the challenges and, therefore, improve the effectiveness of EIA implementation by FDI projects in Addis Ababa.

1.8 Definition of Terms in use.

Alternative

A possible course of action that might be adopted in lieu of the proposal or activity or in terms of site, design, input, process, including the "no action" alternative.

Audit

The process through which how well compliance with policy objectives and regulatory requirements is met and the fidelity of the implementation of conditions attached to an approved environmental impact assessment report is examined.

Competent Agency

Any federal or regional government organ entrusted by law with a responsibility related to Environmental Impact Assessment.

Cost-Benefit Analysis

Objective, careful, and explicit analyses of the costs and benefits of a proposed action. Such an analysis should also determine social discount rates for both costs and benefits.

Cumulative Impact

An impact that may in itself not be significant but the combination of one or more impacts that can have a greater effect than the sum of the individual impacts.

Environment

The physical, biological, social, economic, cultural, historical and political factors that surround human beings. It includes both the natural and built environments. It also includes human health and welfare.

Environmental Assessment

The methodology of identifying and evaluating in advance, any impact positive or negative, which results from the implementation of a proposed action.

Environmental Impact Assessment Report

A report containing sufficient information to enable the Environmental Agency to determine whether and under what conditions a proposed action should proceed.

Environmental Management Plan

An action plan that addresses the how, when, who, where and what of the environmental mitigation measure aimed at optimizing benefits and avoiding or mitigating adverse potential impacts of proposed operation or activity. It encompasses mitigation, monitoring, rehabilitation and contingency plans.

Environmental Management System

Is the means of ensuring effective implementation of an environmental management plan or procedures and compliance with environmental policy objectives and targets.

Environmental policy of an organization

A statement by the organisation of its intentions and principles in relation to its overall environmental performance that provides a framework for action and for the setting of its environmental objectives and targets

Environmental Protection Organs

Refers to The Authority, the Council, the Sectoral and Regional environmental agencies.

Impact

Any change to the environment or its component that may affect human health or safety, biophysical conditions, or cultural heritage, other physical structure with positive or negative consequences.

Integrated Environmental And Development Management

A code of practice for ensuring that environmental considerations are fully integrated into all stages of the development process in order to achieve a desirable balance between conservation and development and promote environmentally sustainable use of resources.

Interested and Affected Parties

Individuals or groups concerned with or affected by an activity and its consequences. These include local communities, work force, customers, or consumers, environmental interested groups and the general public.

Licensing agency

Any organ of government empowered by law to issue an investment permit, trade or operating license or work permit or register business organization as a case may be.

Mitigations

Measures taken to reduce or rectify undesirable impacts of a particular activities when an environmental evaluation process deems the impact is adversely significant.

Monitoring

The repetitive and continuing observations, measurements and evaluation of changes that relate to the proposed activity. It can help to follow changes over a period of time to assess the efficiency of control measures.

Project

Any activity enlisted in the Annex here in and includes any new development activity, major expansion or alteration of any existing undertaking, or any resumption of work that has been discontinued.

Proponent/ Developer

Any organ of government, if in the public sector or any person if in the private sector that initiate a project or a public instrument.

Public instrument

Means a policy, a plan, a strategy, a program, a law or an international agreement.

Rehabilitation

Restoration of an environmental component, social service or system that has been affected by an activity to more or less its former states.

Regional Environmental agency

Any regional government organ entrusted by that Region, with a responsibility of the protection or regulation of the environment and natural resources.

Reviewing

The determination of whether or not the environmental impact study report meets the approved Terms of Reference and provides satisfactory information and analysis that is required for decision-making.

Scoping

The identification and "narrowing down" of potential major environmental impacts based on which a detail impact assessment will be conducted.

Screening

The process that decides whether or not a project requires assessment, and the level of assessment that may be required.

Strategic Environmental Assessment

The assessment used to identify the potential impacts of the proposed public instruments and the design of their containment.

Source: EPA, 2003. The Draft EIA Procedural Guidelines.

Chapter Two: Literature review.

2.1 Definition and purpose of EIA.

The concept of Environmental Impact Assessment (EIA) refers to the examination, analysis and assessment of planned activities with a view to ensuring their environmental soundness and sustainable development. It is said to be a valuable means of promoting the integration of environmental and natural resource issues into planning and program implementation (see UNEP, 1987 as discussed by Lissu and Magabe, 1994). The purpose of incorporating EIA approaches has been described as subjecting a proposed action to an examination of what the possible environmental impacts of that action would be and to find ways to mitigate any negative long term impacts.

EIA may also be a process which brings the proposed action into the public forum and provides an opportunity for comment and feedback (Wood, 2002). In this sense, and depending on the nature and extent of that participation, EIA processes are seen as mechanisms for public participation and the democratization of decision-making processes in matters of environmental governance and natural resource allocation and use. As such, EIA processes may result in a proposed project being abandoned, but in most cases they result in a better project more in harmony with long-term needs and with little negative environmental impact (Wood, 2002). Wood mentions the objectives of EIA as follows:

- To disclose to decision makers and the public the significant environmental effects of proposed activities.
- To identify ways to avoid or reduce environmental damage.
- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures.
- To disclose to the public reasons for agency approvals of projects with significant environmental effects.

- To foster interagency coordination in the review of projects.
- To enhance public participation in the planning process.

2.2 Evolution of EIA

EIA is a systematic and integrative process, first developed in the United States in 1969, for the purpose of considering possible environmental impacts prior to a decision being taken on whether or not a proposed project should be given approval to proceed. Following that, several international agencies have involved themselves with EIA. In 1989 the World Bank ruled that EIA for major projects should normally be undertaken by the borrower country under the Bank's supervision (World Bank, 1999). United Nations Environment Program (UNEP) also made recommendations to member states regarding the establishment of EIA procedures and established goals and principles for EIA. It subsequently issued guidance on EIA in developing countries (UNEP, 1989). The 1992 Earth Summit provided additional momentum to these developments. Principle 17 of the Rio Declaration (in Sadler, 1996) stated that:

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

EIA is now practiced in more than 100 countries world-wide both in developing and developed countries (Donnelly et al., 1998). However, unlike the developed countries, first EIAs to be carried out in developing countries were usually demanded by development assistance agencies on a project-by-project basis, not as a response to a widespread indigenous demand for better environmental protection (UNEP, 1989). However, Lohani et al. (1997) noted that the emergence of the sustainable development agenda was also an influential factor in the development of some developing countries' EIA systems.

Just as in developed countries, however, the EIA situation in different developing countries varies considerably. Within Africa, for example, while the South African EIA system has many of the attributes of a sophisticated developed country EIA system

(Wood, 2002) and EIA is becoming important in Ghana (Appiah-Opoku, 2001), as yet EIA is unimportant in Somalia. George (2000a, 35) gave a number of reasons for the variation in the extent, regulatory form and practical application of EIA in different developing countries. These included "...resources, political and administrative systems, social and cultural systems, and the level and nature of economic development."

2.3 Elements of the EIA process.

While not all EIA system contain every element, the EIA process from National Environmental Protection Authority of America and subsequently diffused around the world can be represented as a series of iterative steps:

2.3.1 Screening

EIA is initiated through screening procedure. Screening is a stage of identifying projects that will be subjected to EIA. It also helps to identify activities that require less detailed environmental study or no additional study beyond screening decision. In some countries, it is simply a decision as to whether an EIA is required or not using prescribed lists or criteria (Wood, 2002). The screening criteria for determining the level of review required are required to be well defined.

2.3.2 Scoping

Once the project undertaken screening and determined to be subjected to EIA, Scoping is the next stage. *Scoping* is the process of determining the issues to be addressed, the information to be collected, and the analysis required to assess the Environmental impacts of a project. The primary output of scoping is the terms of reference (TOR) required to conduct an EIA and to prepare the EIA report. Usually EIA administrative agencies approve the TOR for the EIA (Wood, 2002). The task of preparation is left to the investor who normally contracts a team of EIA consultants/practitioners/EIA Team to prepare the TOR. These are then submitted to the review agency.

The TOR developed by the EIA team is then reviewed by the EIA administrative agencies, sometimes, with the help of outside experts (Ibid). In the absence of public participation, the scope and quality of the EIA are dependent on the interplay of experts hired by the review agency and the EIA team. The EIA team usually works within the proponent's budget. The work proposed by the EIA team is always influenced by the

training and capabilities of its members. For example, a group of engineers and physical scientists is less likely to recommend comprehensive biological surveys than a group of biologists' Sectoral guidelines developed by an independent group of experts are needed to counter these tendencies.

In some developing countries, the TOR is developed from general guidelines (UNEP, 1989). These guidelines often require baseline data that has little relevance to the situation at hand. This leads to an EIA report with extensive superfluous baseline information, little analysis of impacts, and a standard set of mitigation measures. In the absence of clear guidelines, the TOR for a study is developed by the EIA practitioners undertaking the work. These practitioners must negotiate the TOR with the review agency in each case.

2.3.3 Initial Environmental Examination (IEE)

Icn some EIA processes, scoping is conducted in the context of an *initial environmental examination* (UNEP, 1989) After a project has been screened and found to have potentially significant environmental impacts, an IEE is undertaken to determine the probable environmental impacts associated with the project and ascertain whether a full-scale EIA is required. The IEE is usually conducted with a limited budget, and is based on existing information and the professional judgment of people who are knowledgeable about impacts from similar projects. The three primary objectives of the IEE (UNEP, 1989) are to:

1. identify the nature and severity of specific, significant environmental issues associated with the project;
2. identify easily implementable mitigative or offsetting measures for the significant environmental issues. If the IEE shows there are no significant environmental issues which need further study, then the IEE serves as the final EIA Report; and
3. develop the TOR for the full-scale EIA study should more detailed assessment be needed, or any special topic reports which may be required instead of, or in addition to, the full-scale EIA.

The IEE process involves identifying potentially significant environmental issues, and resolving those issues which are easily mitigated. Conducting an IEE ensures a focused

TOR for a full-scale EIA because it identifies the issues requiring resolution and provides background information on them. The objectives of the IEE may be met without extensive financial and human resources, thereby increasing efficiency. The most crucial requirements for IEE execution are excellent judgment and appropriate experience, since evaluations and decisions are based on limited information. Competent EIA practitioners need to be involved in the IEE phase because the decisions made at this stage affect the composition and scope of the EIA performed on a project. A poor IEE report could result in failure to recognize significant environmental impacts, but a good report can result in efficient resolution of significant environmental issues (Ibid).

2.3.4 Preparing Environmental Impact Statement Report (EISR).

A project must undergo a *full scale EIA* if it is explicitly prescribed by law (or regulation) or if the IEE results indicate that an EIA is required (Wood, 2002). A full-scale EIA normally involves a rigorous study whereby new environmental information is collected. A number of environmental experts are generally required. A full-scale EIA may also undergo or involve elaborate review procedures and requirements for public consultation. A detailed EIA report is required as part of a full-scale EIA. EISRs are generally prepared by EIA practitioners. Depending on their capability, the available budget, and the time frame, they produce reports of varying quality. In most cases, consultants follow the guidelines developed by the review agency and/or the international assistance agency, if any (UNEP, 1989). These guidelines specify what is to be included in the EISR. Because the scope of the TOR is often too broad for the available time and money, EISRs do not always provide an in-depth analysis of the critical issues.

Most of this information necessary for the EIA reviewing Agency to arrive at informed decision is to be provided by the project proponent or the EIA practitioners who are responsible for the environmental assessment. It is the basic information that is expected of every EISRs (Ibid).

2.3.5 Review Process

Different jurisdictions use different arrangements for the review of projects. Often EIA reports are reviewed by a review agency or by a special "Standing Committee" or "Commission" established to review projects in a given sector (Djoghalf. 2006). In most cases, a technical evaluation of the EIA report is made by specialists. This technical evaluation provides the basis for the review. The output of the review is either a rejection of the project, or an approval report outlining terms and conditions under which the project may proceed. These terms and conditions are attached to any license, permit, or certificate issued by the approval authority.

2.3.6 Approval Process - Attaching Terms and Conditions

In most cases, the results of an EISR are provided to the agency that is responsible for ultimately approving the proposed project. In many jurisdictions, project approval also depends on approval from the EIA agency (Wood, 2002). One output of the EIA review process is the terms and conditions that are attached to approvals. These terms and conditions define the environmental protection measures that must be integrated into a project. The terms and conditions may also specify environmental monitoring that must be undertaken in conjunction with the project.

2.3.7 Environmental Management and Monitoring

Environmental management is part of project management that is responsible for implementation of mitigation measures and environmental monitoring. The *environmental management plan* outlines the mitigations and other measures that will be undertaken to ensure compliance with environmental laws and regulations, to reduce or eliminate adverse impacts, and to promote feasible environmental enhancement measures. The *environmental monitoring plan* outlines the objectives of the monitoring; the specific information to be collected; the data collection program, including sampling design; and monitoring program management (Djoghalf, 2006). Environmental management includes assigning institutional responsibility, reporting requirements, enforcement capability, and ensuring that adequate resources are provided in terms of funds, skilled staff, equipment, and supplementary training.

2.3.8 Post-Audit and Evaluation

Most EIA processes recognize the need for follow-up and evaluation. Follow-up is required to determine whether the environmental protection measures and monitoring programs that were conditions of project approval have been undertaken as required (UNEP, 1989). Further follow-up is required to determine if the environmental protection measures were successful and if the monitoring data have been analyzed and acted upon.

2.4 Roles and Responsibilities of Groups Involved in the EIA System

There are many actors in the EIA process. Each has an important role to play. An effective EIA system gives each actor ample opportunity for participation.

2.4.1 EIA Administrative Agency

The *EIA administrative agency*, in many countries, has responsibility for efficient operation of the EIA process (Wood, 2002). This encompasses a number of tasks, including screening of projects and provision of general procedural advice to the project proponents throughout the EIA process. In cases where an IEE or full-scale EIA is required, the EIA agency will approve the TOR for the EISR. The EIA agency manages the review of the EISR and is responsible for any approvals or recommendations associated with the EIA. In most jurisdictions, the EIA agency is responsible for verifying that environmental protection measures are properly implemented (Ibid).

In addition to their responsibilities for day-to-day operation of the review process, the administrative agency must provide formal procedural guidance to proponents and EIA practitioners who will be participating in the EIA process. Procedural guidelines outline the basic requirements of compliance with the EIA rules and regulations. Many EIA agencies have recognized the need for such technical guidance (UNEP, 1989). Sectoral guidelines outlining environmental issues, potential environmental impacts, and suggestions for mitigation are often developed by these agencies.

2.4.2 Project Proponent

The *project proponent* is the entity with overall responsibility for the project (Djoghalf, 2006). The proponent may be a private sector developer, a government agency, a joint venture, or some combination of these. The proponent is responsible for providing the scientific and technical information necessary at all stages of the EIA process (UNEP, 1989). Proponents usually contract outside experts skilled in EIA to assist them in this task. The proponent is also responsible for providing access to information about the project activities and the environmental setting of those activities. The level of detail required varies with the type of report. Initial project screening requires the least detailed information. A scoping/IEE report requires a higher level of detail, and a full EIA will generally require field work to gather sufficient data for an adequate assessment of the potentially significant environmental impacts of the project. During a full-scale EIA, the proponent normally commissions a study to gather the required information (Wood, 2002). As the EIA will be conducted as an integral part of the feasibility study, much of EIA team's data needs may be provided by other members of the project team. In the review process, the proponent must be available to answer questions about the project, its potential impacts, and the proposed environmental protection measures. The proponent is responsible for the implementation of mitigation measures and may be required to conduct environmental monitoring.

2.4.3 Environmental Practitioners

Environmental practitioners act for the proponent, the EIA agency, and governmental project implementing agencies (Canter, 1996). Environmental practitioners can be drawn from private consultancy practices, project proponent personnel, government utilities and infrastructure development agencies, scientific and technical institutes, and academia. They have considerable influence on the scientific and technical aspects of the EIA review process. Over time, practitioners have accumulated considerable procedural knowledge. This knowledge is applied to help proponents satisfy the requirement of the EIA process and develop guidelines for impact assessment.

In many jurisdictions, EIA practitioners provide advice to the EIA agency throughout the process (Canter, 1996). Few EIA agencies have the necessary technical and scientific

expertise on staff to deal with the broad range of environmental issues they face. Where possible, they supplement their staff by hiring outside practitioners to help with project screening, reviewing TOR, and reviewing EIAs (Ibid). The sectoral standing committees and commissions set up as review bodies may also are supported by independent practitioners. Proponents rely heavily on practitioners to prepare TORs; conduct environmental studies; design mitigation measures; and prepare EIA reports, environmental management plans, and environmental monitoring programs.

2.4.4 Other Government Agencies

EIA is usually conducted in conjunction with the project approval process. Responsibility for granting final project approval may lie with a planning agency or an economic development agency. This agency normally is involved throughout the EIA process (UNEP, 1989). At the beginning of the project approval process, the agency ensures that the project proponent is aware of the requirements of the EIA process, and may refer the proponent to the EIA administrative agency. In most countries, for example, once the licensing Agency registers a project, it notifies the relevant Environmental Authority (Ibid). In some cases representatives from the Environmental Authority attend a meeting convened by the licensing Agency at the beginning of the fiscal year to discuss proposed projects for the year. In other countries, the licensing Agency will not register a project until it receives notice from the Department of Environment that the project is undergoing an environmental impact assessment.

Once the EIA administrative agency has completed its review, the agency responsible for approval takes the decision or recommendations of the EIA administrative agency into account in its decision making process. The degree of cooperation and interaction between the two agencies determines the degree to which potential environmental impacts are taken into account in the final project approval.

Other government agencies are often charged with management and/or protection of environmental resources, social development, public health, and economic development. If a project will have an impact on one or more of these sectors, the agencies responsible should have an opportunity to raise issues and provide input into the EIA process. These

agencies are often contacted by the EIA team during the preparation of the EIA report, and should be represented in the EIA review panel/committee (Wood, 2002).

2.4.5 The Public

Most development projects affect a wide range of people with varied interests. Public participation is required to allow the affected people to identify significant environmental and social issues. An effective EIA process takes issues raised by the public into account in the project design, or addresses the issues through appropriate environmental protection measures. Many development projects have failed because their designs did not address local needs or were not appropriate to the socioeconomic context of the locality (UNEP, 1989). Although most developing countries have no formal requirements for public participation, communities are sometimes consulted by the EIA team during its preparation of the EIA report. While this practice of community consultation is relatively new, it is assuming increasing importance and is thus becoming more prevalent.

2.4.6 Financial institutions

Most projects funded by loans from financial institutions must undergo an EIA (Wood, 2002). By incorporating EIA authorization into their loan policies, financial institutions can help ensure that development projects comply with the EIA requirements.

2.4.7 Academic Institutions

Universities and other academic organizations can assume several roles in the EIA process. They may assemble teams to perform EIAs because they have access to different disciplines in their faculties (Canter, 1996). The same advantage gives them a role in reviewing EIA drafts; more importantly, they usually have an independence from the project that is difficult to find in other sources of reviewers. Universities should be the main source of training for EIA practitioners. They should also bring new analytical methods, such as GIS and computer-assisted risk assessment, into practice.

2.5 Concepts framing effectiveness of EIA.

Much of the debate about the effectiveness of EIA centers on the factors that can be advanced to explain why EIA systems are effective, on which evaluation criteria are appropriate in judging the effectiveness of an EIA system and on how EIA can be improved (Glasson et al., 1999; Wood, 2002). While it is difficult to reach an objective overall judgment about any EIA system, there is a need for an evaluative framework for comparing the formal legal procedures, the arrangements for their application, and practice in their implementation in EIA systems. Kennedy (1988, 262) concluded that "...EIA works best when ... there is a specific legal requirement for its application, where responsible institutions have adequate capacity, where there is adequate coordination and partnership among responsible institutions, and where there is effective public participation". Each of the concepts are discussed bellow.

2.5.1 National Legislative and Institutional regimes for EIA

What lies at the center of sustainable development is the decision of individuals, the private sector, local communities or governments on how to use or transform environmental resources in to assets. These decisions are influenced by the amount, diversity or quality of resources and decisions on which resources matter for whom and why. This will bring about competition among resource users and thus may lead to misuse unless it is guided by a legislative framework, such as EIA. This situation is substantiated by the assessment of the World's ecosystems which has disclosed the fact that 15 out of 25 examined ecosystems are in decline mainly due to misuse (CBD, 2007).

What then are the main elements of an adequate national legislative and institutional regime necessary to give effect to and implement the principles of environmental impact assessment? Though a universally applicable model of legislation for environmental impact assessment may be not be feasible, it is possible to identify certain crucial elements of the EIA process that may be regulated through legislative means. In this connection, it might also be borne in mind that "law" in the sense of statutes enacted by the legislature represent only one type of law making and could yield an incomplete

picture of the regulatory regime, which may also included, administrative directives, guidelines, decisions, customs, etc.

Having regard to the principles of Environmental Impact Assessment discussed and countries' practice in the legislative and institutional field, UNEP has developed the following principles as elements of a national regulatory regime for EIA (UNEP, 1989):

1. Requirement of EIA in respect of activities likely to have a significant impact on natural resources and the environment i.e. stage at which EIA is required.
2. Criteria and procedure for determining which activities require EIA, e.g. lists of relevant projects, areas and resources, requirement of a preliminary assessment etc.
3. Institutional arrangements - the establishment and empowerment of a designated authority to require EIAs and administer the process.
4. Communication procedures and time tables.
5. Format and requirement of EIA report - responsibility for preparing report having regard to requirements of objectivity and transparency.
6. Review of EIA - scientific and technical review - institutional arrangements.
7. Public participation - rights of the public; procedural matters.
8. Decision making process.
9. Appeals from decisions of authorized bodies - administrative, quasi-judicial and judicial.
10. Continuing monitoring

The regulation governing EIA should indicate as clearly as possible which projects are subjected to EIA procedure and which are not, so as to avoid bureaucratic constrains on minor activities. If it is felt that the requirement for EIA would change with time, it may be appropriate to make only a general statement in the body of the legislation and keep the specifics for supplementary guidelines or regulations. Rules governing an EIA should always be documented.

According to Sadler, EIA should have a well-founded legislative base with clear purpose, specific requirements and prescribed responsibilities. This perspective is now generally accepted as evidenced by the growth of EIA legislation in countries throughout the world (Sadler, 1996). However, as Glason *et al.* (1999) argued, the existence of mandatory regulations, acts or statutes relating to EIA are 'not necessarily indicative of how thoroughly EIA is occurred out'. Brazil and Philippines were sited as countries that have enacted EIA requirements which have generally been poorly implemented.

A further relevant issue in EIA is the question how far the detailed operation of the EIA process should be prescribed in laws and regulations. The advantages of legally specified EIA system may be summarized (Wood, 2002) as: permanence and evidence of commitment; avoidance of uncertainty; provision of firm basis for public participation; and enforcement of acceptance of EIA. There is always a danger that, unless the various steps in the EIA process are mandatory, there will be some proponents, consultants, or authorities who will fail in certain circumstances, to discharge their responsibilities fully. For this reason, each steps in the EIA process needs to be specified sufficiently in a directive or guidelines to provide a measure of certainty to the participants in the EIA process. It is important, in the interests of certainty, that the specified system is adhered to by all the stakeholders and that accepted procedures are not changed arbitrarily.

While lawyers drafting laws and regulations will always strive to make them unambiguous, others will endeavor to discover loopholes and ambiguities if it is in their client's interest to do so. Clearly for an EIA system to function effectively, ambiguities need to be minimized. Where they exist and cause problems in the operation of EIA, they should be remedied at the first available opportunity. Herein lays another advantage of specifying some details in the form of guidance, since they can then be modified without recourse to primary legislation.

EIA is a process which applies to certain types of actions, but not all proposals. Therefore, the legal requirements relating to EIA should be clearly distinguished from those relating to other types of actions so that no confusion exists.

In the last analysis, it may be necessary to take enforcement actions against one of the participants in the EIA process. This might, for example, be against the responsible Authority for not screening the proposal appropriately, or for not considering the comments on the EIA report adequately in reaching its decision, or against the proponent for not meeting conditions attached to permission. Such action might be taken by any of the participants in the EIA process, including the public. It is necessary therefore, that there should be adequate opportunities for the various participants to appeal administratively or to the courts to insure that the various obligations in the EIA process are properly discharged.

It is important that a clear outline of all procedures involved in the EIA process be available so that proponents, consultants, the public and the relevant authorities can gain an overview of the whole process.

2.5.2 Institutional Capacity

Effective implementation of EIA is highly affected by the human, financial and material capacity of responsible institutions. The capabilities of the people involved influence the effectiveness of the EIA (Wood, 2002). Trained and experienced people are necessary to make the EIA process work effectively. Training programs, however, have not kept pace with the rapid development of new procedures and practices for EIA (Ibid). The number of skilled EIA professionals in most developing countries is severely limited, and human resource development is the top priority.

Senior officials responsible for the overall direction of the process need to develop an understanding of: a) the functions of an EIA process; b) the essential skills needed for EIA practitioners; c) the level of procedural and technical guidance required for efficient operation of the process; d) the appropriate quality standard for EIA reports; e) the importance of ensuring monitoring and compliance after acceptance of the EIA; and f) the role of EIA in development planning (Canter, 1996).

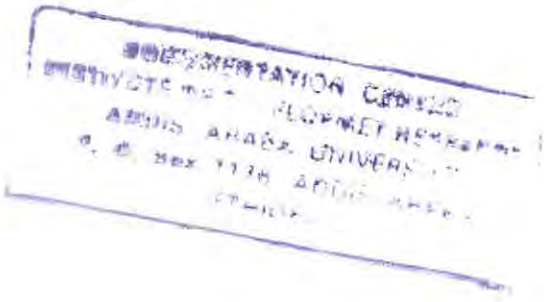
EIA agency staffs need skills in project screening; developing EIA TOR; reviewing EIA reports; reviewing project compliance with environmental management plans; and designing environmental monitoring programs. It is desirable that agency staff

collectively have expertise in physical sciences, environmental engineering, ecological sciences, and social sciences (Djoghalf, 2006).

The EIA practitioner deals primarily with the provision of scientific and technical information. It is important to have a broad range of scientific training represented on teams of EIA practitioners. Because most approaches to the assessment of environmental impacts are interdisciplinary by nature, team members must also have the ability to look beyond their own discipline. Practitioners must develop a good understanding of the EIA process and its goals. It is important for them to understand how their information is used within the EIA process. Practitioners must know how to critique their own EIA reports, develop environmental management plans, and design environmental monitoring programs.

While skilled people are a crucial part of an effective EIA process, the quality of EIA studies and reports is also highly influenced by the resources available to the EIA practitioner (Djoghalf, 2006). An effective EIA process forces proponents to provide sufficient financial resources to ensure the production of an EIA report that meets quality standards.

EIA requires time and money. EIA studies vary in scope, quality, and levels of expertise used in their preparation. The cost of the studies depends on the quality of the advice provided to decision makers through individual assessments and their intended use in project design, implementation, and management. While the costs of preparing an EIA report sometimes appear high, they are actually small when compared with the overall project costs. Generally, EIA budgets range from 0.1% to 1% of the overall project cost (UNEP, 1989). In addition to money, most IEEs take a few months to prepare. The time spent on preparation depends on the type of project and the analyst's qualifications and experience (Ibid).



2.5.3 Public Participation

In the EIA context, *public participation* is defined as a two-way communication between the project EIA team and the targeted and/or affected peoples. The goals of public participation are to promote public understanding and acceptance by minimizing perceived impacts of the project through education and open discussion (Wood, 2002). In return, public feedback can be used as constructive input into improving the project design. This definition stresses the importance of communication to both the community and the project itself.

Public participation has become a mandatory component of EIAs for most projects supported by multilateral development banks (Djoghalf, 2006). This is largely the result of pressure from citizens groups that have complained that community resources were being affected by projects, without public notice or consultation. It is for this same reason that many countries routinely incorporate public participation into their EIA procedures, even if multilateral institutions are not involved.

Educating the public about a project is an essential first step for all public participation programs. An uninformed public cannot make educated decisions about a project. Basic data on the type, size, and location of the project should be publicized. Additional data and analysis regarding the expected significant socioeconomic and environmental issues related to the project should be made readily available to interested parties who are affected by the project.

It is important for project proponents to realize the benefits of public participation are not one-sided. The objectives of public participation encompass benefits to the community as well as to the project. The primary result of a public participation program is that the concerns of the community are acknowledged and addressed. Such open involvement tends to increase public acceptance of a project, and increase the likelihood of a project's sustainability over the long term. A major component of public participation is educating people about the project and its likely effects on their lives. If uninformed, the public will often react negatively towards a project. Good ways to avoid confrontation are to keep people fully informed and to seek their help in resolving contentious matters which

concern them. Projects pushed ahead in spite of public opposition often fail, at considerable cost to all parties involved (Canter, 1996). Public participation also may be used to help quantify the value of non-market resources, such as religious or historic sites, scenic and recreational areas, endangered species, etc.

Project proponents are sometimes reluctant to communicate openly regarding significant socio-economic and environmental issues. They may fear that public awareness of a project's potential negative impacts will increase opposition to the project. In fact, the opposite is often the case. Lack of clear communication between those implementing a project and those affected by it creates feelings of alienation in the community and heightens public concern. The demonstration of good faith by the project proponents in representing all aspects of the project through a public information program can actually help reduce public opposition.

The specific concerns of the public regarding a project should be addressed in detail in every EIA. Since certain topics are not openly discussed in some societies, it may require some effort to ascertain exactly what the root issues are. If the trust of the community representatives and open dialogue is to be established, it is critical that the approach taken by project spokespersons toward community representatives be cooperative, and not condescending or dictatorial.

Public participation goes beyond simply defining the public's concerns. Solutions to the major issues should be developed though joint efforts so that they will be acceptable to both the project proponents and the public. Community representatives may suggest measures to mitigate disruptive socioeconomic effects from the project, and may also assist in the development of appropriate environmental protection measures.

Many local and international non-government organizations (NGOs) have become interested and active in environmental issues over the past several decades (Wood, 2002). They help educate the public regarding environmental issues, lobby for more stringent environmental laws and regulations, and conduct campaigns against projects which they deem environmentally dangerous. This has given them an adversarial image in many cases. NGOs, however, can be called upon in some instances to assist with a variety of

efforts, including environmental training, the development of appropriate ambient and discharge standards, and even monitoring projects for compliance with standards (Ibid). The opportunities to work with, and receive assistance from NGOs should not be overlooked; especially in developing countries where appropriate environmental technology, funds, and trained personnel are often in short supply.

2.5.4 Inter-institutional Coordination

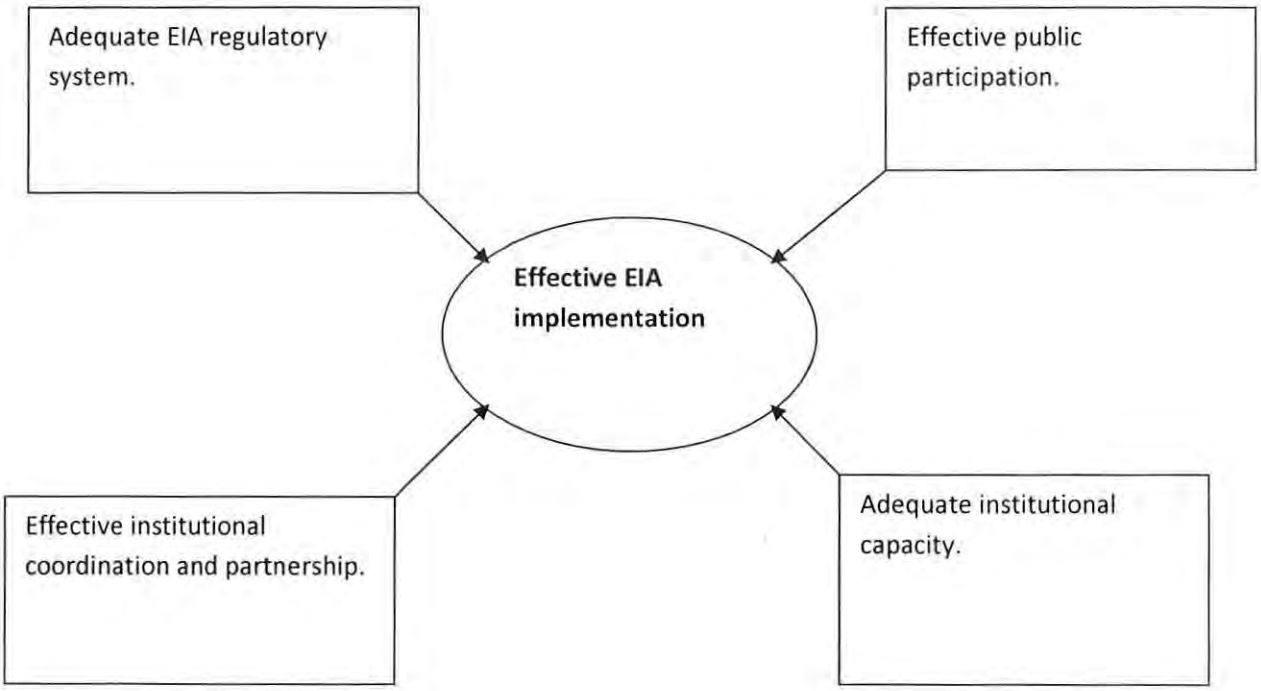
Coordination and partnership is about synchronizing relationships and it is vital for reducing costs and eliminating risk of gaps or double works. Moreover, coordination and partnership increases efficiency, facilitates the possibility of sharing risks and benefits, and creates enabling condition to evaluate partnership regularly. It is assessed that when two or more agencies are geared towards a common goal, it is to their mutual advantage to join forces (UNEP, 2006). This is because each partner brings complementary skill, resources and experience in the program. Adding to this, it also paves the way to build on comparative advantages of each partner and achieve more than any of the actors acting alone.

Exploiting the synergies between partners will make implementing the EIA system more efficient. The result of this synergy will be great in terms of saving money, time and bring about stronger protection and enhancement of the social, economic and ecological components of sustainable development. Coordination among public agencies in the EIA process is beneficial to secure greater involvement and consensus on trade-offs across sector policy areas. The deeper the coordination and partnership, the greater is effectiveness of compliance with and enforcement of the EIA system.

In almost all countries, environmental organizations are relatively young and are still developing. They face difficulties related to their environmental management organizations within government. These difficulties include: overlapping responsibilities, unclear and confusing relationships among organizations, overly centralized, or contrary, overly dispersed functions (OECD, 2006). High level political commitment is thus a prerequisite to sustain partnership among public agencies at the vertical and horizontal levels.

The success of coordination and collaboration depends on the presence of mechanisms to overcome coordination failures and enhance genuine and lasting partnership among responsible public agencies. To this end ensuring sustained partnership entails the need to go beyond voluntary partnership. It requires embedment of responsibilities to implement EIA into the work programs of the concerned public agencies and periodic performance reporting. The premise of this approach is that interagency coordination and multi-stakeholder process will be successful where the process is supported by administrative mechanisms and legal authority (UNEP, 2006).

Concepts framing effectiveness of EIA



Note: The above diagram shows the conceptual framework of the study.

2.6 Challenges for EIA implementation in developing countries.

Developing countries in general have incorporated EIA into development planning processes (Djoghalf, 2006). Accordingly, EIA implementation in developing countries faces severe limitations, however, including: 1) insufficient procedural guidance; 2) inadequate baseline data upon which to base analyses; 3) the cost of EIA study preparation; 4) potential delays in project implementation; 5) the lack of expertise for assessing impacts; 6) inefficient communication of EIA results to decision makers; 7) lack of inter-agency coordination; 8) limited capacity for review of EIA reports; and 9) insufficient commitment to follow up on the implementation of environmental protection and monitoring requirements. Of these constraints, one of the most significant is the lack of effective communication of EIA results and recommendations to decision makers (Ibid). This may be the result of a lack of EIA skills in staff of national EIA agencies — if they had the skills, they would likely discover a way to get their findings to decision makers. Another serious shortcoming which often negates high quality EIA is the insufficient commitment to follow up; resulting in no action in spite of the EIA findings and recommendations.

Developing countries often have limited technical and social databases for making impact projections. As a result, extensive baseline data must be collected. This is perhaps the single most expensive and time consuming endeavor in the conduct of an EIA. The expense can be considerably reduced, while maintaining quality and accuracy, if the essential baseline data or information is available. Comprehensive environmental planning generates information that becomes critical to the rational use of renewable natural resources. Regional and sectoral development planning, national and regional conservation strategies, and environmental profiles provide much of the baseline information for EIA. An EIA may then be used to correct environmental deficiencies at the project level.

Since developing countries face a shortage of EIA experts, relevant capacity building is a priority. Increasing needs for EIA and environmental management programs should provide employment opportunities and career prospects in the field (Wood, 2002).

The lack of inter-agency coordination is another problem (Djoghalf, 2006). Many agencies are involved at various stages of development projects and EIA assignments — often with no clear demarcation of responsibilities. Thus in addition to general guidelines for the preparation of EIA reports, there is also a need for specific guidelines for development sectors. Such guidelines should be comprehensive, thorough, and relevant to the specific needs and realities of each developing country. The EIA guidelines should also provide for monitoring programs that determine the effectiveness of environmental protection measures incorporated into development activities. The primary factor in the successful use of EIA is the capability of project proponents and the national environment agency to initiate and coordinate environmental management efforts, competently review reports to ensure that environmental plans and management measures are adequate for their intended purposes, and ensure that the EIA findings are considered by the country's decision makers. Successful environmental management is much more likely when project proponents and environmental agencies clearly understand their respective responsibilities. To accomplish these tasks, EIA training programs should be initiated whenever possible for proponents and review agencies.

2.7 Nature and component of the Ethiopian EIA system.

This section provides an overview of the EIA system in Ethiopia. For that matter, a brief account of the constitutional and policy framework of EIA is presented. Following this, the institutional framework of EIA is mentioned. Finally, the legal frameworks of EIA are summarized. The account of the overview in this section is to provide an introduction to the discussions, about the challenges for effective EIA implementation by FDI Projects in Addis Ababa, made in Chapter 4. Here, only the frameworks relevant to the implementation of EIA by FDI Projects are discussed.

2.7.1 Constitutional and Policy Frameworks for EIA.

In Ethiopia, the need to perform EIA for Investment Projects is recognized in various policy and legal provisions and their specific implications.

The 1995 Constitution of the Federal Democratic Republic of Ethiopia contains provisions that support the enactment of EIA legislation. In this regard, it stipulates that

the design and implementation of development programs and projects (among which FDI project is the one) in the country 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 (Art. 92). In addition, the constitution recognizes the right of citizens to live in a clean environment, and where they are displaced or their livelihood has been adversely affected by the development projects undertaken by the government, the rights to get commensurate monetary or alternative compensation, including relocation with adequate state assistance (Art. 44). These provisions provide a perfect constitutional basis for the development and implementation of an effective EIA process.

Moreover, the Environmental Policy of Ethiopia (EPE) has been adopted by the council of Ministers in 1997 to provide overall guidance in the conservation and sustainable utilization of the country's environmental resources to bring about sustainable social and economic development. For such purposes, the policy clearly lays a clear foundation for the formulation and enforcement of EIA in the country. Under section 4.9, the Policy provides for the enactment of a law which requires that an appropriate EIA and environmental audits be undertaken on public and private development projects; and the development of detailed technical guidelines that direct the undertaking of EIA and environmental audits in the various sectors. It also provides for the establishment of institutional arrangement responsible for undertaking, coordinating and approving EIA and subsequent environmental audits.

2.7.2 Institutional frameworks for EIA.

Following the above constitutional and policy foundations; the Environmental Protection Organ Establishment Proclamation (Proclamation No. 295/2002) is issued to establish institutions responsible for, and relevant to, the administration of EIA in the Country. The Proclamation declared for the establishment of; The Environmental Protection Authority, Regional Environmental Agencies and the Sectoral Environmental Unit; each having its own responsibility in the implementation of EIA.

A) Environmental Protection Authority (EPA).

EPA is the lead federal environmental organ with the objective of formulating policies, strategies, laws and standards to ensure social and development activities in the country and sustainably enhance human welfare and the safety of the environment (Art. 6 of Proclamation No. 295/2002). The administration of EIA is one of the key responsibilities entrusted to the EPA. In this respect, EPA is responsible for establishing a system for undertaking EIA on public and private projects (among which FDI Projects are the one) as well as on social and economic policies, strategies, laws, and programs. Specifically, EPA is responsible for developing a directive that identifies categories of projects likely to have negative environmental impact and thus require EIA, and for issuing guidelines that direct the preparation and evaluation of EIA study reports (Proclamation No.299/2002, Art. 5 & 8). In addition, EPA is responsible for evaluating the EIA study reports on projects subject to Federal licensing, execution or supervision (among which FDI projects are the one) and projects likely to create inter-regional environmental impacts. The Authority is also responsible for auditing and regulating the implementation of the environmental management plans of such projects. Moreover, EPA is responsible for giving technical support pertaining to environmental management and protection to regional states and sectoral institutions.

EPA is accountable to the Prime Minister (Art.3-2) and the organizational framework of the Authority is composed of: an Environmental Council, The Director General and Deputy General appointed by the government, and the necessary staffs (Art.7 of Proclamation No. 295/2002). The Environmental Council, which is the highest organ on the EPA, which is composed of the Prime minister or his designate, designate of National Regional State and of the Federal Government, and other members (Art. 8, Proclamation No. 295/2002). The Council holds regular meeting once every six months and is mandated to "*review and approve directives, guidelines and environmental standards prepared by the Authority*", among other things (Art. 9, Proclamation No. 295/2002).

B) Regional Environmental Agencies.

Proclamation No. 295/2002, established Regional Environmental Agencies in all the National Regional States (Art. 15).The regional environmental agencies are responsible for coordinating the formulation, implementation, review and revision of their respective regional conservation strategies and for environmental monitoring, protection and regulation (Art. 15 of Proc. 295/2002). Relating to EIA specifically; the EIA proclamation gives regional environmental agencies the responsibility to evaluate the environmental impact statement report on and regulating the implementation of the environmental management plans of projects that are licensed, executed or supervised by regional states and that are not likely to entail inter-regional impacts. However; licensing and approval of all FDI Projects fall under the jurisdiction of the Federal Government (the Ethiopian Investment Agency according to Investment Proclamation No.280/2002) and consequently under the Federal EPA in relation to EIA implementation issues. Therefore, the institutional relevance of regional environmental Agencies to this study is invisible.

C) Sectoral Environmental Units.

The Environmental Organ Establishment Proclamation No. 295/2002 has also established Sectoral Environmental Units at every Competent Agency. In this regard, Article. 14 of the same Proclamation requires every Competent Agency to establish an environmental unit that shall be responsible for coordination and follow-up so that the activities of the competent agency are in harmony with all relevant environmental protection requirements, among which EIA is the one. Therefore, in relation to EIA, such sectoral Environmental Units can play important roles in assuring that EIA is carried out in all the activities of their respective Agency.

2.7.3 Legal frameworks

The Environmental impact assessment law

After the Environment Policy is enacted and Institutional Frameworks established, the Ethiopian government introduced the Environmental Impact Assessment proclamation

(Proclamation No 299 of 2002). The objectives of the EIA proclamation, as stated on its preamble, are:

- Assuring that the adverse environmental effects of a proposed development activities are proactively predicted and managed at each stages of the activities,
- Harmonizing and integrating environmental, economic, cultural and social considerations into law and decision making process in a manner that promotes sustainable development,
- Assuring the implementation of the environmental rights and objectives enshrined under the constitution by predicting and managing the adverse environmental impacts, and maximizing their socio economic benefits,
- Bringing about administrative accountability and transparency and accountability by involving the public on developments which may affect them and its environment.

Having the above objectives, the proclamation requires EIA process for any planned development project (among which FDI project is the one) or public policy which is likely to have a negative impact on the environment. With regard to development projects, the proclamation stipulates that no person shall commence implementation of a proposed project, identified by **directive** as requiring EIA (though such a directive has not been yet formally enacted) without first passing through environmental impact assessment process and obtaining authorization from the competent environmental agency (Art. 3(1)). In line with this, project proponents must undertake EIA and submit the report to the concerned environmental body, and, when implementing the project, fulfill the terms and conditions of the EIA authorization given to them (Art. 7). Moreover, the proclamation allows for the imposition of a fine between fifty-thousand and one hundred thousand birr on any project owner who commences implementation of a project without obtaining authorization from environmental agencies or who makes false presentation in the environmental impact assessment study report (Art. 18).

Furthermore, the proclamation obliges licensing institutions, prior to issuing investment permits or operation license to projects, to ensure that the relevant environmental bodies have authorized the implementation of the projects (Art. 3). In addition, it requires such licensing institutions to suspend or cancel the permit or license they have issued for projects where the concerned environmental body suspends or cancels the authorization given for implementation of the project (Art. 12). These provisions are important to ensure that project owners comply with the EIA requirement.

The proclamation also provides for public participation in the environmental impact assessment process. It requires environmental bodies to ensure that the comments made by the public (in particular the comments by the communities likely to be affected by the implementation of a project) are incorporated into the EIA study report as well as into its evaluation (Art. 15). To this end, it requires environmental bodies to make any EIA study report accessible to the public and solicit comments thereon.

The proclamation also requires government policy, plan, strategy, program, law or international agreements; which are identified by directive as requiring EIA; to pass through environmental impact assessment process prior to their approval. In line with this, it obliges government organs to ensure that their policies and strategies have passed through EIA process prior to their submission for approval (Art. 13).

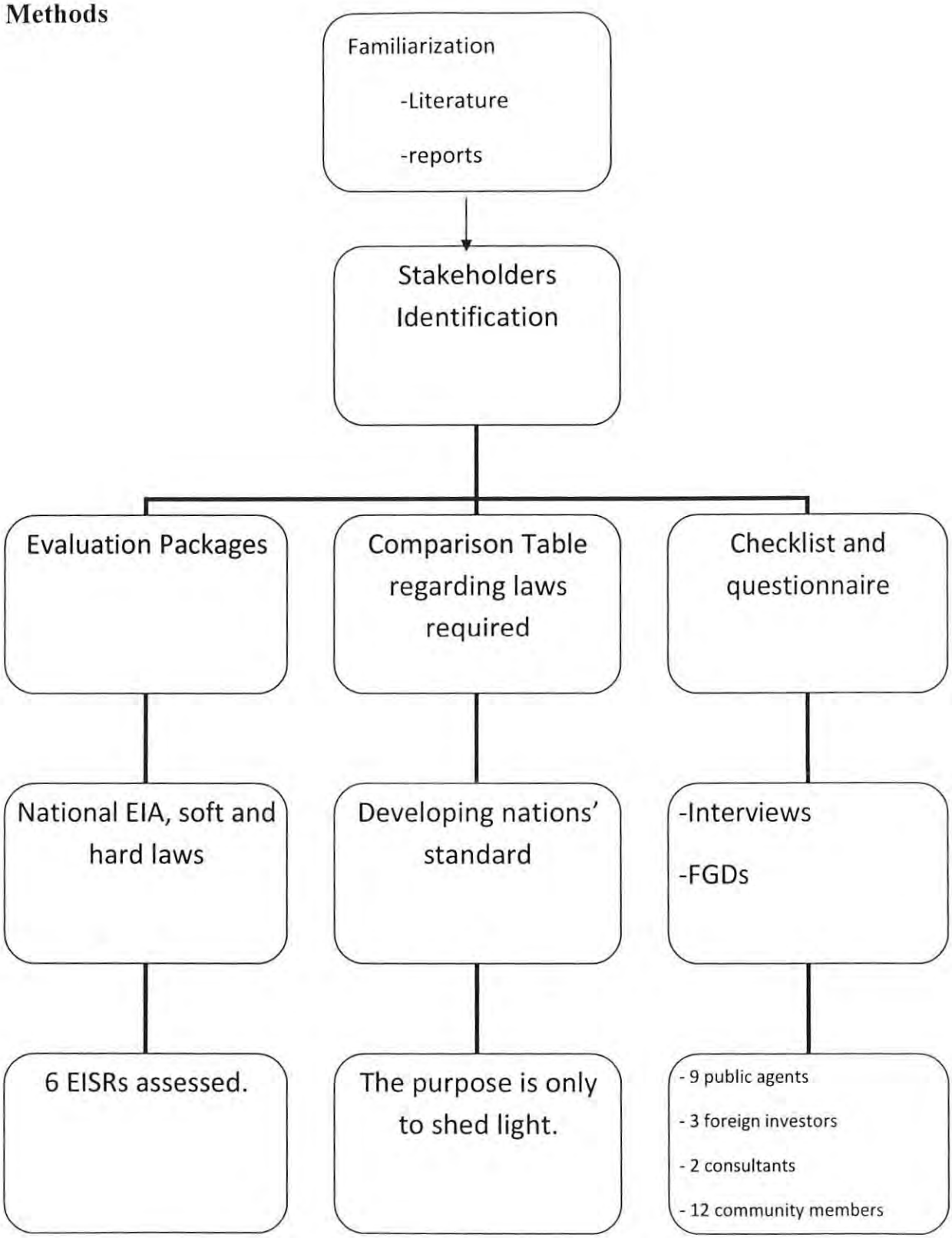
Having provided the basic framework of EIA, the proclamation envisages the issuance of specific directives and guidelines that further specify implementation of the EIA process. Particularly, it requires the Environmental Protection Authority (EPA) to develop a directive identifying categories of projects likely to have negative impact and thus require EIA (Art. 5). It also requires EPA to issue guidelines that determine the elements necessary to prepare and evaluate EIA study report (Art. 8). In accordance with these requirements, the Environmental Protection Authority has already developed such draft directives and guidelines but, up to the writing of this study, none of them has been formally adopted and are, therefore, not legally binding. The detail about these directives and guidelines is discussed in Chapter-4.

ranges from 0 to 3. "0" represents nothing is done on the issue, "1" represents there is some initiative to work on the issue, "2" represents the issue is addressed but has some gap, "3" represents the issue is adequately addressed.

3.3 Acquisition of information

The instruments and strategies for collecting data included questionnaires, interviews and Focus group discussions. The questionnaires were designed to meet the general and specific objectives of the study. The questionnaires prepared for the Federal EPA, the Ethiopian Investment Agency and the Addis Ababa City Government Land Administration were given to their relevant agents with a view to obtain an institutional response as opposed to an individual opinion. Checklists were prepared and based on them discussion was undertaken with 9 intentionally selected agents working at the said institutions, 3 foreign investors, 2 consultants and 12 individual members of the Community participated in EISR preparation. The interviewees were selected based on the relevance of their position with the questions, availability and willingness. Following that, 3 focus group discussions were undertaken with experts working in each institution to verify the information provided and to further expand the analytical component of the study. Secondary data were obtained from a range of literature.

Methods


Familiarization
-Literature
-reports
Stakeholders Identification
Evaluation Packages
Comparison Table regarding laws required
Checklist and questionnaire
National EIA, soft and hard laws
Developing nations' standard
-Interviews
-FGDs
6 EISRs assessed.
The purpose is only to shed light.
- 9 public agents
- 3 foreign investors
- 2 consultants
- 12 community members

Chapter Four: Results and Discussions

4.1 Assessment of the adequacy of the National EIA Regulatory System

Having adequate legislative base is one of the determinant factors for the effective implementation of EIA. With this understanding, the adequacy of the Ethiopian EIA regulatory system relevant to FDI projects is assessed based on the UNEP standard developed for developing countries (see Table-1). The purpose behind is to shed light on the adequacy of the Ethiopian EIA Regulatory system for its implementation by FDI projects in Addis Ababa.

Table-1: Assessment of the Adequacy of the Ethiopian EIA Regulatory System.

No	Necessary legislation	Evaluation results	Percentage of the total
1	Requirement of EIA in respect of projects likely to have a significant impact on the environment.	3	10
2	Criteria and procedure for determining which projects require EIA	2	3.3
3	Legislation establishing institutions responsible for EIA administration	3	10
4	Communication procedures and time tables within the EIA process.	0	3.3
5	Format and requirement of EIA report.	2	3.3
6	Standards for identifying experts qualified to prepare EIA report.	0	0
7	Guideline for public participation.	1	3.3
8	Guidelines on EIA decision making.	1	3.3
9	Regulation for appeals from decisions of EPA.	0	0
10	Procedure on monitoring and auditing the implementation of terms of approval	0	0
	Total	36.4	

"0" represents no legislation on the issue

"1" represents there is some initiative.

"2" represents there is draft legislation

"3" represents there is adequate legislation

Source: Questionnaire, August 2009

As it can be seen from Table-1, the Ethiopian EIA Regulatory System is incomplete, over 63.6% of the necessary subsidiary EIA legislation are missed from the country's legal System. It is observed that during the past 10 years only two Proclamations (the EIA Proclamation and the Environmental Organ Establishment Proclamation) have been formally enacted, two subsidiary EIA legislations (Procedure for determining which projects require EIA, and Format and requirement of EIA report) have been drafted, and there is an initiative to draft guidelines on Public participation and on EIA Decision making (See Table-1). However, the other subsidiary EIA legislations; which are necessary for the implementation of EIA, are found completely absent from the Ethiopian EIA Regulatory system (See Table-1). The discussion undertaken with a group of experts working in the Federal EPA also confirmed that the existing EIA Regulatory System in Ethiopia is incomplete. The next issue to be raised here is, thus, the implication of this gap for the implementation of EIA by FDI projects in Addis Ababa.

The provisions contained under the EIA Proclamation are of a framework nature and that they cannot implement themselves. Thus execution of the Proclamation requires subsidiary regulations, standards, directives and guidelines. If one looks at Art 5, Art 7, and Art 8 of the proclamation it is self-evident that the proclamation itself loudly recognizes the need for the enactment of formal guidelines and directives.

Art 5, states that "*every project which falls in any category listed is any* ***directive*** *issued pursuant to this proclamation shall be subjected to EIA*". However, no official directive specifying which projects should be subjected to EIA or otherwise is still enacted; though the draft directive is completed in 2003 (See Table-1). Legally speaking this draft legislation does not have a binding force until approved by the responsible body (Environmental council in this case) and published on the relevant legal document. This means that the investors and licensing Agencies (the Ethiopian Investment Agency and the Addis Ababa City Government Land Administration) have not been informed regarding which projects require EIA. Consequently, under the current state of affairs the status of the EIA Proclamation does not have a 'binding' effect. So far as there is no legislation specifying projects that should undertake EIA; it will be possible for an investor to say

no for EIA. Moreover, it will be legally groundless for EPA, the Ethiopian Investment Agency and the Addis Ababa City Government Land Administration to force foreign investors undertake EIA as long as EIA requiring projects are not legally prescribed.

The effect of the non-existence of the directive on the ineffectiveness of EIA is double: first, it will create a legal loophole for responsible institutions to actively play their roles with in the EIA process, and loopholes for favoritism and discrimination (the basis of decisions is not clear). Secondly, responsible institutions and investors may use this legal gap as a safe justification for not undertaking their respective responsibilities with in the EIA system. This is also confirmed on an interview undertaken with the head of the EIA Service Department of the Federal EPA. Accordingly, the non-existence of an approved directive has systematically relieved investors of the obligation to undertake EIA and as a result made the Authority legally helpless to exercise its legal mandate to assure the effective implementation of EIA.

The enactment of the directive could have helped investors to identify as to whether their proposed project demands EIA or not so that they, in advance, planned their project and resource accordingly. Moreover, it will be more clear and simple for the Ethiopian Investment Agency to screen and send only EIA requiring projects to EPA. This in turn will minimize the resource loses and work burden on EPA for evaluating all projects to identify which projects need EIA or otherwise. Therefore, to ensure that projects with significant impacts are assessed and to avoid squandering scarce resources on the EIA of projects with minor impacts, it is essential to have a simple and effective screening system incorporating the use of simplified EIA for appropriate projects (Canter, 1996).

The second EIA provision which demands the enactment of supportive directive for the effective implementation of EIA is Art 7(2). This Article states that, "*the environmental impact of a project shall be undertaken by qualified experts meeting the standards specified under any directive issued by EPA*". The article demands that a formal directive, specifying requirements to identify qualified experts for preparing EISR, shall be issued so that it will be clear for both EPA and investors to identify qualified experts. The existence of this directive is necessary for the effective implementation of EIA. This is in such a way that, qualified experts are necessary, though not sufficient, for preparing quality EISR which in turn is necessary for decision makers (EPA) to make qualified decision and qualified EIA decision is the major important factors of effective EIA.

However, the responsible unit of EPA (Environmental council) didn't enact the aforementioned directive (See Table-1). Because of the non-existence of this important directive, according to my interview with the head of the EIA Service department of the Federal EPA, most EISR are prepared either by a single person and/or unqualified personalities. Consequently, as my respondent further states, most EISRs prepared are of low quality which are far insufficient inputs to make quality EIA decision.

Last, but not least, Article 8(3) of the EIA Proclamation specifies the need for issuing guidelines that determine the elements necessary to prepare as well as evaluate the EISR. These guidelines, however, have not been yet issued. Providing a formal procedural and technical guidance is necessary for the effective implementation of EIA. This is because, by outlining the basic requirements and steps required for compliance with the EIA process, these guidelines usually provide information on the contents and format of EIA reports aiming to assist investors, the Ethiopian Investment Agency, and EIA consultants concerned to effectively play their respective roles. Therefore, the absence of the basic requirements and steps required for compliance with the EIA process rules and regulations, it will be difficult for EPA, investors and EIA practitioners to effectively undertake their responsibilities within the EIA process.

To conclude, the pace at which these directives and guidelines required for ensuring compliance with and enforcement of the EIA system have been enacted has been rather slow. All the guidelines, till the writing of this brief, have the status of draft legislation. The issuance of these regulations is an undertaking that should have commenced immediately after the approval of the EIA Proclamation and continued at a more urgent rate than is being observed. Therefore, it would be rational here to ask as why the ratification of these important subsidiary legislations has been delayed this far.

The discussion undertaken with a group responsible personalities working in the Federal EPA concluded that the delay is mainly attributed for two major reasons. Firstly, while the required number of environmental strategies, standards directives and guidelines are as diverse as 'biological diversity itself'; the relevant functional unit of EPA (the Department of Environmental policy and legislation) has been understaffed and in need of skill enhancement. The Department which runs only with single staff having first Degree in Law has been unable to draft all the necessary legislations, including the missed subsidiary EIA regulations, and send them for approval with the required pace.

Secondly, even after some subsidiary legislations had been drafted, it has been difficult to get them approved timely to give them a binding effect (See Table-1). According to the discussion, this is because of the inaccessibility of individual members of the Environmental Council which is in charge of approving the draft legislations. The Council is composed of the Prime Minister or her/his designate, a representative designated by each regional States and other members (Article 9(4) of the EPA establishment Proclamation No. 295/2002). These high government officials are very busy personalities who have found it difficult to meet regularly or even at the same time to undertake their responsibility within the Council and, consequently, the Council has not yet approved any directive or guideline. As a result of all these, the EIA legal system has been incomplete and hence difficult to determine implementation and to monitor compliance of FDI projects with EIA. This is also confirmed by the head of legal and policy department of EPA as:

> *... the ongoing national environmental law making process is deemed lengthy. For instance, the development and approval of the EIA proclamation took four years, and three years for the recently approved Solid Waste Management Proclamation. Under such state of affairs, a minimum of 20 years may be required to enact all the missed subsidiary EIA legislations. Hence the practice has informed the fact that, as things stand out now, the full-fledged implementation of EIA will remain susceptible for longer time.*

4.2 Assessment of the institutional capacity of EPA.

The assessment revealed that the institutional capacity of EPA to assure the implementation of EIA is 58.43% (See Table-2). This is a good achievement compared to the average value of African countries, which is 42.2% (UNEP, 2006). It is observed that the Federal EPA has established the EIA Service department and employed five permanent staffs to administer specifically EIA related issues. Moreover, the Authority has also launched a laboratory in which EIA related issues are being tested. These are remarkable steps which can help the authority to strengthen its institutional capacity in assuring the implementation of EIA. In spite of this, the assessment disclosed some limitations of capacity especially on the area of institutional power, adequacy of budgetary and material resources and of human resource both in quantity and quality.

Table 2: Assessment of the institutional Capacity of EPA.

No	Quality Parameters	EPA	Percentage of the total
1	Prevalence of institutional structure for administering EIA	2	16.7
2	Allocation of adequate staffs	2	16.7
3	Allocation of adequate budgetary resource	1	8.3
4	Allocation of adequate material resource	2	16.7
	Total percentage		58.43

"0" represents nothing is done on the issue.

"1" represents there is some initiative to work on the issue.

"2" represents the issue is addressed but has some gap.

"3" represents the issue is adequately addressed.

Source: Questioner, August, 2009.

The EIA service department which is in charge of reviewing the EISR documents of all EIA requiring FDI projects in the country is running with five permanent staffs, four of them hold first degree in Agriculture, Engineering, Forestry and Plant Science each and one specialized in EIA. The EISR documents presented to the department are usually bulky and the experts are expected

to complete the review within a maximum of 15 days since submission. Assessment of the volume of the 18 EISR documents of FDI projects, available at the Federal EPA's library, reveals that 66% have more than 450 pages, 18% has 300-443 pages, and the rest 16% has 212-289 pages.

Review is a complex and dynamic process which, among other things, require triangulation of information in the document with the reality at the ground, laboratory check-up, exposing documents for public comment and incorporating relevant public interests. Adding to this, since EIA is a multidisciplinary activity, those experts responsible to conduct reviews should be at the cutting edge of different disciplines. All these require that the department has not only adequate number of experts but also availing continues trainings and access to information for the staffs. However, when the department is assessed from this point of view (as it is also confirmed by the head of the department) it is running understaffed in terms of both the quantity and quality of staffs. Owing to the short time allotted to complete the review process on the one hand and the bulkiness of the EISR documents on the other hand, the existing number of staffs in the department is insufficient to adequately finish the review on the deadline.

According to an interview with the head of the EIA service department, as the department has not a sufficient number and quality of experts, it has been overburdened and could not review the documents in a manner that is expected of it. As it is also personally observed, the department is now under a great pressure and unfinished works have been pilling up in the department. Therefore, it could be fair to conclude that such a stressful environment has devoid the department of the capacity to produce a quality EIA process and will remain so if not halted.

The other aspect of capacity problem observed is lack of infrastructures, meaning internet service, environmental laboratories and organized library service. The department is expected to communicate with many organizations, project owners consulting firms, government offices, international organizations, etc. These communications involve exchanging bulky documents, which often contain lots of pictures. Unless the department is equipped with powerful computers and quality internet service, it will remain a difficulty to download and send materials and documents to the concerned organs. In addition to this, well equipped environmental laboratories are required to conduct quality reviews on EISRs and for the follow-up purposes after approval of the EISRs. EPA's environmental laboratories are not well equipped to facilitate a quality EIA process; although there are now efforts being made to improve the quality of service from the laboratories.

Moreover, EPA is not a financially strong government organ. The budget allocated to the Authority is not commensurate with its vast regulatory tasks. For instance, in the 2001 Ethiopian budget year the total money allocated to EPA was Birr 3,907,642. From this amount, 2,348,300 was intended to cover the salaries the employees, and the remaining balance, about one and a half million birr, was intended to cover all the Authority's other expenses (EPA, 2008). According to a discussion undertaken with a group of experts working in EPA, many of the discussants argue that this amount is so far insufficient to run the EIA process and fulfill all the Authority's other duties. With regard to shortage of budget, the EIA service department is in even worse condition. For instance, no other budget is allocated to the department except salaries for its permanent staffs. As a result of these, according to an interview with the head of the department, the implementation of the approved management plans of most of the FDI projects in AA has not been checked. Under such situation, the implementation of the approved EISRs will be uncertain, and this tends to run counter to the purpose of undertaking EIA in the first place.

4.3 State of coordination between EPA and Licensing Agencies.

Effective implementation of EIA is partly determined by the level of synergy between responsible institutions. The assessment has disclosed that the level of coordination is low (19.8%). It is observed that both licensing Agencies (the Ethiopia Investment Agency and the Addis Ababa City Government Land Administration) have not yet established their own respective Environmental Units, do not document environmental instruments, do not communicate reports on EIA and encourage environmental friendly investments (See Table-3). This indicates that the agencies have not taken measures that enable them to mainstream EIA in to their activities, do not share ideas and made consultation and there is no well-designed linkage between them including (but not limited to) in the area of reporting. For that reason, a system to foster effective coordination has been observed incomplete. According to an interview with the head of the EIA Service Department, "*this situation has impeded the most needed coordination in the course of directing an environmentally sound investment*".

Table-3: Assessment of the coordination between EPA and licensing Agencies.

No	Quality Parameters	Addis Ababa City land administration	Ethiopian Investment Agency	Federal EPA	Sum	Percentage of the total
1	Status of establishment of environmental unit.	0	0	2	2	4.4
2	Communicating relevant reports	0	1	1	2	4.4
3	Encouraging environmentally sound investment	0	0	1	1	2.2
4	Documentation of EIA regulations	0	0	3	3	6.6
5	Awareness raising programs on EIA.	0	0	1	1	2.2
	Total percentage			19.8		

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"3" represents the issue is adequately addressed.

Source: Questioner, August, 2009.

Consultation of responsible institutions in the EIA law making process helps not only to create awareness about the importance of EIA but also to build mutual understanding among the institutions. Contrary to this, as it is confirmed by the interview with the head of the EIA service department, none of the licensing agencies were consulted in the making of the EIA proclamation. Even after the making of the law, no formal awareness raising program was undertaken among the institutions (See Table-3). Thus, the EIA process has missed the advantage of consultation, namely awareness rising among the licensing agencies.

In connection to this, the interviews undertaken with authorities of both licensing agencies demonstrate lack of sufficient understanding about the benefit of EIA. The officials of both agencies considered EIA as a process designed to make FDI 'difficult' in Ethiopia. They do not generally appreciate that EIA is important for the continued supply of the main inputs to the country's development. They do not understand that absence of EIA could mean unexpected depletion of resources and public resistance against projects or difficulty in accessing market opportunities. For instance, according to the head of the investment promotion department of the Ethiopian Investment Agency, *"We are poor and We need very rapid economic growth, thus we cannot afford environmental luxuries; EIA is anti-investment and anti-development, time-taking, costly and a complicated process that discourages foreign investors"*. In a situation where authorities have such a negative understanding and where there is no binding law, it will be unwise to expect effective institutional coordination from the licensing agencies.

In addition to this, according to an interview with the head of the Investment Issuance and Follow-up department of the Ethiopian Investment Agency, the weak coordination is also because the content of the existing EIA regulatory system is not yet concretely defined. For instance, which projects should be subjected to EIA or otherwise has not been defined, publicized and made accessible to licensing agencies. Moreover, what the licensing agencies are required to do, when and how has not been defined. For these reasons, effective coordination has been difficult to materialize.

The assessment done to look at the state of practical coordination between EPA and the licensing agencies on the implementation of EIA by FDI projects in Addis Ababa explored that more than 98% of the projects are implemented without undertaking their respective EIA. Out of the 986 EIA requiring FDI projects in Addis Ababa licensed since 2002 to 2008, only 18 (less than 2%) of them prepared their respective EISRs. The rest (98% of the projects) were issued license for investment and land without considering EIA. This indicates that the licensing agencies had issued investment or operational license to foreign investors that have not produced environmental clearance certificate from the EPA.

Discussion was conducted among a group of relevant experts working in EPA to investigate why the implementation of EIA is far below what is expected. The outcome of the discussion has seen contravention of the EIA requirement by the Ethiopian Investment Agency because of the inconsistency between laws issued on EIA and those issued to promote investment as major causes activating the non-compliance. This is also confirmed by another discussion convened by experts drawn from the judiciary in 2007 in order to discuss the same issue (EPA, 2007).

The conclusion reached by the focus group discussants was that the continued amendment made on the investment law during the last five years have eroded requirements specified under the EIA law. It was Article 14(1) of Investment Proclamation No.37/1996 that explicitly requires the undertaking of EIA prior to the issuance of investment license. This Proclamation, however, is repealed by Investment Proclamation No. 375/2003.Under the new Proclamation, the EIA requirement in relation to issuance of investment license to FDI projects is canceled. Under this law, there is absolutely no mention of the word 'environment' anywhere and no environmental obligations whatsoever are imposed upon both the Ethiopian Investment Agency and foreign investors. As a result, the Ethiopian Investment Agency has continued issuing investment license with no consideration of requirements stipulated under the EIA law. Added to this, absence of accountability when the Ethiopian Investment Agency is obviously contravening the EIA law has aggravated the situation and has continued widening the implementation gap.

According to an interview, the head of the EIA service department of the Federal EPA has this to say with regard to the implication of the new Investment Proclamation on EIA implementation:

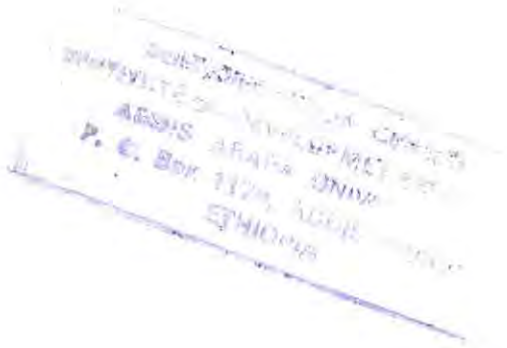
> *The fact that the new Investment Proclamation imposes no specific requirements for foreign investors to comply with any environmental conditions would appear to be a significant step backwards, as the repealed Proclamation had a provision requiring the Ethiopian Investment agency to ensure that investment projects undertake EIA*

before issuing any license to the projects. This provision was deleted by the new investment Proclamation. It was an important provision that could have ensured that, at the application stage; the environment is not misused or abused by investors who are out to maximize short-term profits at the expense of the environment. That it was removed from the investment Proclamation suggests that the various political statements and pledges about the Government's strong commitment to environmental issues is empty rhetoric which cannot stand up to rigorous scrutiny.

The result of another focus group discussion convened with a group of responsible personalities working in the Ethiopian Investment Agency to triangulate the assertion of the group from EPA is found contrary. Accordingly, the Ethiopian Investment Agency; rather than contravening law; is discharging its duty according to its mandate and in conformity with other laws of the country. The current investment Proclamation, based on which the Agency is guided, does not allow the Agency and, hence, it is legally impracticable for the Agency to consider EIA in the process of issuing investment license to FDI projects. As a result, coordinating with EPA by requiring foreign investors to produce environmental clearance certificate prior to issuing investment license has become legally impracticable for the Agency. For this reason, the Agency has continued licensing the projects without requiring EIA and will continue to do so. However, to help EPA force investors undertake EIA; the Agency has sent EPA the lists of all projects issued investment license.

A remark to be made here is that it seems less reasonable to attribute all the observed non-compliances only to the existing investment licensing practice of the Ethiopian investment Agency. In fact, the current practice of the Ethiopian Investment Agency in issuing Investment license to FDI projects without requiring environmental clearance certificate is not prohibitive to undertaking EIA. Investment license is not equivalent to a license to operate. The investor cannot commence operation unless he/she gets land. For this reason, it is possible for the Federal EPA to force foreign investors to undertake EIA even after they are granted investment license. In relation to this the head of the EIA service department has argued that there is no any mechanism for the Authority to trace foreign investors once after they are granted investment license. This is because, once the investors get investment license, the Addis Ababa City Government Land Administration grants them land for their project and, consequently, the projects have been implemented without undertaking EIA.

However, this problem can be solved without the need to modify the existing legal system in the investment sector, if the EIA requirement can be linked with Addis Ababa City Government Land Administration than investment Agency, which is in charge of investment promotion. In addition to this, a remarkable experience that can be adopted from UK, is attaching the EIA requirement with tax, incentive, credit and other relevant legislations of the country. This will serve as a pushing factor to influence foreign investors to undertake EIA for their projects. In relation to this, the Development Bank of Ethiopia, the major source of loan for most FDI projects in Ethiopia, has made EIA a requirement for granting loan. This is a remarkable home-grown experience that should be followed by other public and private Banks, taxation, incentive and credit legislations of the country. All these are important to give leverage for the EIA requirement to be implemented.



4.4 Assessment of Public Participation

4.4.1 Assessment of enabling conditions for public participation

The assessment pertaining to the state of enabling conditions for public participation revealed that it is 66.66 % (See Table-4). The most important findings are pointing towards lack of key infrastructures to assure effective and meaningful participation. The Constitution and the EIA Proclamation grants the public the right to participation. These Provisions are important; but not sufficient to materialize effective and meaningful participation.

Table 4: Assessment of enabling conditions for public participation.

No	Quality Parameter	Value	Percentage
1	Constitutional base	3	33.33
2	Regulations	1	11.11
3	Procedural Guidelines	2	22.22
	Total percentage		66.66

"0" represents nothing is done on the issue.

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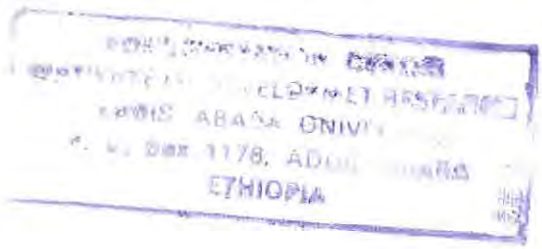
"3" represents the issue is adequately addressed.

Source: Questioner, August, 2009.

The Provisions on public participation as contained under the EIA Proclamation are too general and, therefore, not suitable for strait away implementation. Nor are the Clauses on public consultation under the draft Procedural Guidelines are better than what is provided under the EIA Proclamation. There are no Guidelines or Directives that elaborate the extent and mode of availing information held by EPA or investors to the public and also the role of the public in the EIA decision making. Furthermore, who is able to access what and what type information and whether access to information is free of charge or otherwise have not been clarified.

There is little clarity on how to assure participation in the EIA process. There is no subsidiary legislation that has articulated the right to participation in to action. As a result, deciding who should be consulted is also found problematic. Furthermore, there is no adequate mechanism to establish who the affected or interested party is. There are no code of conduct or other tools to determine the right and responsibilities of representatives of stakeholders in public participation. Nor is there a mechanism to monitor as to whether there is genuine participation or not. For these reasons, according to an interview with the head of the EIA service department, deciding how to reach stakeholders on a particular FDI project has itself become a problem. Therefore, as things stand out now, it is seriously skeptical that effective participation is rarely possible.

A recommendation to be made here is, therefore, issuing tools that provide for practical guidance to identify and determine and differentiate between people who are directly involved and others is essential. Moreover, it is also necessary to develop a tool that helps to determine logistical factors such as the place and the means through which stakeholders are likely to obtain information and express their views. These tools are essential not only to ensure enforcement of EIA but also to foster public participation in the EIA process.



4.4.2 Assessment of local community participation in EISR preparation

The level of local community participation in the EISR preparation is only 29.4%. The review of EISRs revealed the inadequacy or lesser clarity of stakeholders' analysis on the report preparation. None of the EISRs made it clear whether agreement was reached at the onset regarding selection of stakeholders and at which stages should communication be undertaken. As a result, the level of local community participation becomes blurred.

Table 5: Assessment of the state of local community participation with in the preparation of EISRs.

No	Quality parameters	I	II	III	IV	V	VI	Sum	%
1	Identification of stakeholders	1	3	1	0	0	1	6	3.7
2	Procedure for public participation	1	0	0	0	1	0	2	1.2
3	Extent or level of participation	0	1	1	2	1	1	6	3.7
4	Timing of participation	2	2	2	2	2	3	13	8.0
5	Weighing significance of stakes	1	1	0	2	0	1	5	3.0
6	Discussion on compensation	3	1	0	0	1	0	5	3.0
7	Inputs of local administration	1	0	0	1	2	0	4	2.5
8	Effective communication	3	0	0	2	1	0	6	3.7
9	Durable asset to affected groups	1	0	0	0	0	0	1	0.6
	Total percentage								29.4

"0" represents nothing is done on the issue.

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In all the reviewed EISRs lists of participants together with their respective signatures and thumb-marks are attached in order to justify the participation of local communities. The lists are affixed

by the signature of the Kebele administrator (local administration system) verifying that the names included in the lists are their members. 96% of the participants' names are of male. However, the roles and responsibilities of "representatives" of the local communities thereof are not specified and elaborated on any of the EISRs. This could neither justify whether the participation was informed and inclusive or otherwise nor can it make it clear whether the participants were really representatives of local communities potentially affected by the project. Plus to that the extent of the participants' accountability to their constituency on the outcome of the participation is not described.

With this observation, interviews were undertaken with the local communities participated in the EISRs preparation. All the participants commonly responded that the local communities had not participated in the determination of the project site and in the selection of participants. Most of the participants (10 out of the 12) responded that they were not informed about the negative side of the projects and no capacity enhancement program was delivered for them. Timing of the participation was also considered insufficient by 3 of the respondents. Regarding to this, one of the participants named Aklilu says that "*the participation was a one-time discussion undertaken with the preferred participants*".

According to a discussion undertaken with a group of EIA consultants, the reasons for lesser community involvement is mainly due to lack of sufficient time and money allotted by the investors for participation. The group states that while sufficient money and time is required to undertake community participation, neither the proponent has been willing to do that nor there is clear legal obligation forcing the proponent to do that .Because of this, the firms are mostly forced to undertake community participation with the intention of fulfilling the procedural requirement than making genuine community participation. Accordingly, even when the consultants occasionally try to undertake genuine participation, most of the community members, higher rates for women, are reluctant to participate. Moreover, for the most of the few participants, it has been difficult to understand issues about the nature of the project, type and extent of its environmental impacts and make informed participation within the allotted time and money.

For these reasons, consultants are most of the time reluctant to openly inform participants regarding the negative socio-economic and environmental impacts of the project. This is because of the fear that community awareness of the projects potential negative impacts will increase opposition to the project that cannot be reached at consensus with the limited money and time

allotted for the participation. So what the firms are doing is just presenting the community with all of the positive aspects but nothing or a few of the negative aspects of the project and gets their "consensus" to finish the participation deal within the short time and money allotted to it.

Adding to this, it is also observed that the level of civil societies' participation in the EIA process is invisible. Out of the 6 EISRs assessed, only one disclose about NGO participation. The accademicia and professional societies' are totally absent from the process and hence their potential contribution in generating knowledge largely remained untapped. As a result, all the regulators, investors and the affected groups have been unaided by the inputs of the accademicia and professional societies and, therefore, the important role and contribution of civil societies towards enhancing equitable development has been compromised.

A recommendation to be made here is that; as the interest of local communities is listened and respected at the project designing and implementation, so is assumed that they may become more ready to adjust and accept the project (World Bank, 1999). This will consequently improve the project's viability and sustainability. Unlike this, the current practice regarding to the involvement of local communities seems underplayed. What investors most often proudly mention is "job opportunity" for the local community. But they are found rarely stating and doing on how to enhance local capacity with a view to diversify interventions and provide durable assets to the affected local communities. Nothing is also mentioned in all the assessed EISRs about what will happen to those that have secured employment after the termination of the construction phase of the proposed project. The role of the local communities in monitoring whenever the project is malfunctioning is also found blurred. Owing to this fact, the participatory approach in the EIA process could not take-off and hence the bottom-up approach envisaged under the EIA Proclamation has not been energized.

Chapter 5-Conclussions and Recommendations

5.1 Conclusions

From the examination of the legal and practical challenges for environmental impact assessment implementation by FDI projects in AA, the following conclusions are derived:

Firstly, it is observed that the national EIA regulatory system is incomplete and thus insufficient to assess compliance and ensure enforcement. Over 66.7% of the necessary subsidiary EIA legislations are missed from the country's legal System (see Table-1). For instance, which projects shall be subjected to EIA or otherwise has not been publicized and made accessible. What licensing agencies are required to do, when and how in the EIA administration has not been defined. For this reason undertaking EIA becomes optional to project owners and at the same time it becomes legally groundless for the relevant functional units of EPA and investment agency to force proponents undertake EIA. Within the context of the existing EIA regulatory system, the decision on whether or not to undertake EIA is practically dependent upon the will of the investors.

Secondly, given the uneven development of the EIA law, the practice has been equally uneven and inconsistent. More than 98% the FDI projects invested in Addis Ababa have not undertaken EIA while the remaining did otherwise. It is fair to say, therefore, that whether or not an EIA study is undertaken has depended not on the legal requirements; rather it has depended on other dynamics such as requirements of project financing. The Development Bank of Ethiopia, which is the only long term loan granting financial institution in the country, now require EIAs as part of conditionalities for project funding.

Thirdly, the Ethiopian EIA system is unable to provide a broad framework in which the enactment and implementation of licensing agencies' legislations could be carried out in an integrated and holistic manner. This led to situations ranging from week institutional coordination up to disregarding the EIA requirement on the side of the licensing institutions. For instance, it is observed that both the Ethiopian Investment Agency and Addis Ababa City Government Land Administration have issued license for more than 98% of the FDI projects in Addis Ababa without considering the EIA requirement. The

problem is not only the incompleteness of the EIA regulatory system. The inability to timely enact and enforce the necessary legislations is also a serious problem. For instance, it is understood that EPA has not compatible number of experts to enact the missing legislations on time. Even if the necessary legislations were enacted; they would remain un-enforced and thus useless unless the existing problems of skilled manpower, material and funds are solved. Low level of willingness on the side of the licensing agencies to work in coordination with EPA is also observed as a problem to enforce the EIA legislation.

Another important lesson arising out of this analysis relates to public participation. It is observed that there is neither a mechanism for EPA to ensure public participation, nor are proponents practically undertaking genuine public participation. It is observed that most public participations are undertaken to satisfy the procedural requirement. This demonstrates the fact that those engaged in preparing EISR do not perceive the potential role of wide involvement in bringing about important inputs and useful assistance to a mere "technocratic" approach and to the sustainability of the project.

5.2 Recommendations.

The following recommendations are forwarded to improve the effectiveness of the EIA implementation:

The legal foundation of EIA should be strengthened. With this regard, all the missing directives and guidelines on; lists of projects requiring EIA, licensing of consultants, EISR preparation and evaluation, and public participation; should be prepared and approved as speedy as possible. However, it has been observed that EPA has no the necessary capacity to single handedly do all these activities within a reasonable time range.

Therefore, a multi-stakeholder involvement approach of environmental management law making is a better option. Under the current practice, where in good environmental governance is thriving all over the globe; involvement of major stakeholders in environmental norm making is the rule. The mission of such a method is to compliment efforts of EPA, to foster inclusiveness and bring many groups involved in the preparation of environmental norms on the side of EPA. The method could be that EPA defines ecological, social and economic objectives primarily. Based on that, investors will submit draft legislations to EPA, and then they will be called upon to elaborate and achieve these objectives. One irreplaceable role of EPA in the process is facilitating the consensus building and ensuring the legality of the outcome. The second role could be to make certain that non-compliance with the consensus is an admissible proof of contravention. In this context, 13 industrial sub-sectors have finalized their own respective industrial environmental management plans and submitted it to the EPA (Annex, V). Tanneries have, for instance, developed emission standards and are negotiating with EPA. The floriculture and horticulture sector has already developed its own code of conduct.

Secondly, to reverse the observed problems in relation to public participation, EPA should first issue directives and guidelines relevant to translate the right of "public participation" in to action. This should provide for practical guidance to identify and determine primary target groups and to determine logistical factors such as the place and means through which the public is likely to obtain information and express their views.

Adding to this, motivation and skill building for local community through their administration is very urgent. The negotiation capacity of local communities on the one side and the contribution of investors towards the sustainability agenda on the local level, other side can best be pronounced if there is a local sustainable program. Clarity of negotiation in the EIA process also requires local sustainable development plan. This plan will have immense contribution in setting the agenda for negotiation and in facilitating the achievement of tangible benefits to the local communities. So far there is no local development plan per se. Because of this missing link no EISR has articulated the contribution of a proposed project towards the materialization of the sustainable development aspirations set out at the lowest administrative level.

Thirdly, it has been observed that the far reaching contribution of EIA can not be handled by EPA as the sole body responsible for environmental matters. Therefore, the relevance of joint venture agreement between EPA and licensing agencies with a view to establish durable inter-institutional collaboration and coordination is needed. This provides a better chance of maximizing the benefit of synergy for it provides a clear role and increased accountability among the institutions under consideration. To sustain the partnership, capacity-building actions should go beyond the old fashioned approach and encompass all the partner institutions. This initiative entails implementation of a program comprising of two components. The first is to enhance commitment and skill of public agents on the application of EIA. The second is to elaborate and tighten the existing rule based partnership in EIA administration. This will lead to a win-win situation for there are many benefits that all the responsible institutions can secure by working in a mutually supportive way.

Fourthly, efforts should be made by all stakeholders, to solve the huge capacity deficit (human and financial) the EIA process falls under. The government, as the main stakeholder of the EIA process, must take a guiding role in augmenting the human, financial, infrastructure and other capacities of EPA, Sectoral Environmental Units and consulting firms. With this regard, academic institutions should offer programs on EIA and related subjects; and donor institutions working on related issues shall be considered as a potential source of funding.

To ensure that EIA is practically implemented, one more measure need to be undertaken. That is, FDI Projects must be persuaded and forced to pass through the EIA process. To do this, the following activities should be done;

- Opening discussion forum with foreign investors to raise awareness about the importance of EIA;
- Finding ways to impose EIA as a condition for access to credit, business license, access to market and land for the operation of the project or initiative, etc. The Development Bank of Ethiopia on its own initiative formulated a policy of greening its credit system. Such initiatives must be backed by legal instruments and must spread to other lending institutions;
- Establishing the public interest litigation in relation to the EIA system;
- Issuance schemes must exist to cover the environmental liability held by FDI projects and,
- Strictly applying both the EIA law and the Criminal Code (Art. 521) to punish those who do not submit their EISRs to EPA.

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Annex

Annex-I Interview questions for the Ethiopian Investment Agency.

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.

For your valuable cooperation thank you in advance!

Position in the Agency: _____

Year of service: _____

Time and date: _____

1. How do you see EIA requirements with respect to promoting FDI in Ethiopia?
2. Does your agency request FDI projects for environmental clearance certificate as a pre-requisite to grant investment license?
3. Does your Agency consider integration of environmental concerns, in the renewal or additional permits issuance activity of FDIs? If yes, how? If no, why?
4. Are environmental performance criteria included in your Agency's respective sectoral incentive or disincentive structure? If yes, how? If no, why?
5. Is there environmental unit established in your Agency? If not, why?
6. How do you describe the institutional coordination between Investment Agency and EPA in the process of EIA administration in relation to FDI projects in AA?
    - Is there networking and reporting system with EPA?
    - Is there periodic joint evaluation on the challenges and successes of EIA administration in relation to FDI projects?
    - Is there an EIA knowledge and skill enhancement program given by EPA to the responsible unit in the Investment Agency?
7. Have you received EIA related compliant from FDI projects in AA? If yes, what are the main causes of their compliant? How did you administer it?
8. How does your Agency compromise EIA Proclamation with Investment Proclamation No. 375/2003, which states that investment Agency can issue investment license without any EIA?
9. What are the main challenges for your Agency to ensure FDI projects compliance with and enforcement of EIA?
10. What mechanisms have you been developing to cope with the challenges?
11. In general, what do you suggest, should be done for you to assure the effectiveness in implementation of the EIA law?
12. How many FDI projects are issued since December, 2002 in AA?

Thank you again!

Annex- II Interview questions for sample Foreign investors in AA

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.

For your valuable cooperation thank you in advance!

Type of Investment _____

Nationality _____

Year of establishment_____

Location of the business_____

Number of employees

- Permanent_____
- Temporary_____

Time and date: _____

1. Have you already had knowledge about the EIA system of the country before you start to invest? If yes, please indicate the source of the information.
2. Were you informed by the Ethiopian investment agency that undertaking EIA is a requirement in the process of getting investment license?
3. What reasons forced you to undertake EIA?

   A. To get loan. B. To be up to the law.

   C. Others please specify.
4. Where did you get the necessary information to contact the EIA practitioner/s who made your EISR?
5. What was your standard to choose the particular practitioner?
6. Do you think that undertaking EIA is mandatory in the existing situation? Why?
7. At which stage of your project you undertake EIA? (before getting investment license, after project implementation)?Why? At which stage do you think is better for you to undertake EIA? Why?
8. How many working days did it take you to get environmental clearance certificate starting from the first day you contacted EPA up-to getting environmental clearance certificate?
9. How much money does it take you for EIA administration from the EISR preparation up to its implementation? What percent of the project cost?
10. Is there an instance by which you are asked by sectorial institutions to repeat what you did for EIA?
11. Do you observe any coordination failures among stakeholders which have role in the process of EIA administration? (EPA, Investment Agency, Practitioners). If yes, please state.
12. How do you describe the EIA process? Why?
    - Reasonable
    - Costly
    - Time-taking
    - Over-bureaucratized
    - State if there is another
13. What challenges have you faced in the process of undertaking EIA?
14. Does your project manager have the necessary knowledge about the environmental aspect of the project?
15. In general, do you have any comment on the existing EIA system in relation to FDI projects on which the government is required to undertake? If yes, please state.

Thank you again!

Annex- III Interview questions for EPA.

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.
For your valuable cooperation thank you in advance!

Position: _____
Year of service: _____
Time and date: _____

1. Are there clear and specific format and EIA requirements for investment projects on assessment, participation, decision making, auditing, thresholds, and criteria? If yes, what? If no, why?
2. Is the EIA law separated from other laws? / Is there an overlap between EIA requirements and sectoral requirements?
3. How do you describe the institutional establishment, empowerment and coordination between EPA, Investment agency, and AA city government land administration in the process of EIA administration?
4. Is there communication procedure and time table working between all responsible bodies in the EIA administration in relation to FDI projects in AA? If yes, what? If no, why?
5. What mechanisms do you use to trace FDI projects in AA to advise them undertake EIA?
6. At which stage of the project most FDI project owners in AA approach EPA to undertake EIA? Why?
7. What activities does your agency perform to enable foreign investors develop positive attitude towards EIA?
8. Do you give advice and technical assistance for FDI projects in the process of undertaking EIA? If yes, what? If no, why?
9. What activities you do on awareness creation for communities around FDI projects before and after the implementation of the project?
10. How do you undertake the review of EIA - scientific and technical review - institutional arrangements?
11. How do you describe the quality of most EISRs prepared by FDI projects in AA?
12. What mechanisms do you use to check the level and extent of public participation? How do you describe the practice?
13. Is there a mechanism by which the draft EISR is subjected to public comment before it is approved? If yes, what? How? If no, why?
14. Is there a mechanism of compliant administration for interested and affected parties and the proponent on EIA decisions and outcomes? If yes, what? How? If no, why?
15. Is there individual and collective legal accountability of experts in EPA for intentionally or negligently approving projects having negative environmental impact? What? How possible is it procedurally?
16. Have you ever let foreign investors comment on your service delivery in relation to EIA? If yes, what were the comments? If no, why?
17. Have you ever evaluated your service delivery by yourself to check if there are bureaucratic obstacles? If yes, what obstacles were identified and how it is solved? If no, Why?
18. Does EPA have a mechanism to and **practically** give incentive for FDI projects of better EIA performance? If yes, what? How? If no, why?

19. In case there happens non-compliance practice from any responsible body, what mechanism is available for EPA to ensure compliance with and enforcement of EIA? How is the practice?
20. Has there been any form of significant disagreement between your office and FDI projects in AA in the process of undertaking EIA? If yes, what and how is it resolved?
21. How many EISR of FDI projects in AA has been evaluated, approved and rejected since December, 2002?
22. Do you think that EPA has the necessary capacity in terms of legal power, institutional arrangement, and resource (material and human) to effectively assure the implementation of EIA?
23. Do you have internal problems which hinder you from effectively administering EIA in relation to FDI projects in AA? What are these problems?
24. What are the major challenges for your office to effectively assure the implementation of EIA by FDI projects in AA?
25. Was there any discussion forum organized among stakeholders to improve the compliance of FDI with the EIA requirements? If yes, what issues were raised? If no, why?
26. What, do you suggest, should be done to improve the effective implementation of EIA in relation to FDI projects in AA?

Thank you again!

Annex-IV Interview questions for EIA practitioners

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.
For your valuable cooperation thank you in advance!

Position: _____
Year of service: _____
Time and date: _____

1. Why do you prefer to work as EIA practitioner?
2. How do you first contact foreign investors to invest in AA?
3. Are you legally licensed to undertake EIA? Do you have association? If yes, what? If no, why?
4. Is there a published code of practice for EIA practitioners?
5. Is there a published EIA procedural guideline, which is clear, specific, detailed about actions, criteria, and thresholds and unambiguous in application, for undertaking EIA?
6. How do you describe the coordination between EIA practitioners and EPA?
7. Is there a reasonable degree of discretion in the guidelines left for EIA practitioners which is acceptable to them? If yes, what? If no, how do you fill gaps?
8. How do you prepare the EISR – scientific, technical and institutional aspects?
9. Do you consider the impact of a project at its different stages, exploration, construction, operation, modification and decommission?
10. Is it a legal requirement to make and do you practically make a rigorous evaluation and comparison of feasible alternatives including no-action alternative?
11. How do you identify "significant" impacts from the relatively less significant impacts of a project in the process of scoping?

12. What is the role and extent of influence the proponent and the public have in the process of evaluation and comparison of alternatives?
13. Is each level decision making process by EPA participatory, transparent, and is there a mechanism to you and the public appeal against the decision?
14. Do you think that there are actually favorable conditions for EIA practitioners to do EISRs being free of proponents' influence? If yes, what? If no, what has been your response for environmentally unacceptable proposals?
15. Do you fell that you get enough time and money for preparing quality EISR for FDI projects in AA?
16. What legal, administrative and other challenges do you face for effectively endorsing your responsibility in the process of EIA administration?
17. What do you suggest as a solution to the challenges?

Thank you again!

Annex-V Questionnaire for sample Community.

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.
For your valuable cooperation thank you in advance!

Age: _____

Sex: _____

Time and date: _____

1. Were you consulted about the project before its implementation?

   A. Yes B. No

2. If your answer for question number1 is 'Yes', by whom?

   A. By Governmental organs.

   B. By the proponent.

   C. If others please specify_____

3. If your answer for question number1 is 'Yes', how was the approach of the meeting? Please circle among the choices.

   A. Cooperative B. Transparent C. Dictatorial.

4. If your answer for question number1 is 'Yes', were you informed about the type, size, location, socio-economic and environmental impacts of the project? B. No
   C. I forget it.

5. If your answer for question number 1 is 'Yes', was the language and the idea easy for you to understand?

   A. Yes B. No C. I forger it.

6. Did you participate on identification of significant socio-economic and environmental impacts of and developing solutions for the negative impacts of the project?

   A. Yes B. No C. I forget it.

7. Do you feel that your interest is acknowledge and addressed by the project?

A. Yes B. No

8. Are you currently benefiting from the project? If your answer is yes, please indicate the benefit.

_____

_____

9. How much time were you given to identify your interest after you learn about the project? _____

10. Did you feel that the time was long enough for you to identify your interest in relation to the implementation of the project at/around your residence?

A. Yes B. No

11. Have experts from EPA been working on awareness creation to the community:

I. Before the implementation of the project?

A. YES B . No

II. After the project?

A. Yes B. No

11. Did you participate on EIA decision making?

A. Yes B. No

Thank you again!

Annex-VI Interview questions for Experts

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.
For your valuable cooperation thank you in advance!

Educational Background _____

Current position _____

Nationality _____

Time and date: _____

1. How do you evaluate the EIA practice of FDI projects in AA?
2. How do you compare the effectiveness of our EIA system on implementation in comparison to successful neighbor countries?
3. What does the EIA system of Ethiopia lack in comparison to successful countries' EIA system?
4. What attractive futures does our EIA system has?
5. What opportunities do you see in our EIA system for the effective implementation of the EIA law by FDI projects in AA?
6. How do you see the EIA law with respect to the country's effort to encourage inflow of FDI?
7. How do you see the government's commitment for the effective implementation of the EIA law on FDI projects?

8. What are the legal, administrative, and related constraints for the effective implementation of EIA law by FDI projects in AA?
9. What future government action is needed to be done to improve the effectiveness in implementation of the EIA law on FDI projects in AA?
10. What other issues, related to the implementation of the EIA law by FDI projects in AA, do you think are missed out?

Thank you again!

Annex-VII Interview questions for Addis Ababa City Government Land administration.

Dear respondent: The objective of this interview is to get information about the EIA compliance practice of FDI projects in AA. The information you are going to give will be used only for academic purpose. The quality of this study highly depends upon the accurate information provided by you. Whatever information you provide will be kept strictly confidential.
For your valuable cooperation thank you in advance!

Position in the bureau: _____
Year of service: _____
Time and date: _____

1. What are your criteria to give land to FDI projects?
2. What is the role of the community in the process of determining to and grant land to FDI projects?
3. Is environmental consideration part of your land allocation criteria for FDI projects? If yes, what environmental considerations are required? At what steep? If no, why?
4. If your answer is 'Yes' to question number 3, do you request FDI projects to present environmental clearance certificate to allocate land for their investment? If no, why?
5. If your answer is 'Yes' to question number 3, has there been any instance by which Foreign investors decide not to invest only by complaining to environmental clearance request? If yes, how did you solve it?
6. If your answer is 'Yes' to question number 3, how do you describe the institutional coordination between your office and EPA in the process of EIA administration?
7. Is there environmental unit in your bureau? If yes, what is its responsibility? If no, why?
8. What challenges do you see for effectively endorsing your responsibility in the process of EIA administration?
9. What do you suggest should be done to come out of these problems?

Thank you again!

ANNEX-VIII LISTS OF PROJECTS THAT REQUIRE FULL EIA.

1. Agriculture
   - water management projects for agriculture (drainage, irrigation)
   - large scale mono- culture (cash and food crops)
   - Pest control projects
   - Fertilizer and nutrient management
   - Land development schemes covering an area of 500 hectares or more to bring forest land into agricultural production
   - Agricultural programmes necessitating the resettlement of 100 families or more.

- Development of agricultural estates covering an area of 500 hectares or more
- Construction of dams, man-made lakes, and artificial enlargement of lakes with surface areas of 200 hectares or more.
- Drainage of wetlands wildlife habitat or of virgin forest covering an area of 100 meters or more.
- Introduction of new breed, species of crops, seeds or animals
- Surface water fed irrigation projects covering more than 100 hectares
- Ground water fed irrigation projects more than 100 hectares
- River diversions and water transfers between catchments

2. Livestock and Range management

- Large Scale livestock movement
- Introduction of new breeds of livestock
- Introduction of improved forage species
- Large scale open range rearing of cattle, horses, sheep etc
- Large scale livestock production in Urban area
- Large scale slaughter house construction
- Ectoparasite management (cattle dips, area treatment)
- Intensive livestock rearing units

3. Forestry activities

- Timber logging and processing
- Forest plantation and afforestation and introduction of new species
- selective removal of single commercial tree species
- pest management
- Conversion of hill forest land to other land use
- Logging or conversion of forest land to other land use with in the catchments area of reservoirs used for municipal water supply, irrigation or hydropower generation or in areas adjacent to parks
- Logging with special emphasis for endangered tree species
- Large scale afforestation/reforestation, mono-culture forest plantation projects which use exotic free species
- Conversion of forest areas which have a paramount importance of biodiversity conservation to other land use
- Resettlement programs in natural forest and woodland areas.

4. Fisheries activities
- Medium to large scale fisheries
- Artificial fisheries (Aqua-culture for fish, algae, crustaceans shrimps, lobster or crabs).
- Introduction of new species in water bodies commercial fisheries

5. Wildlife
- introduction of new species
- wildlife catching and trading
- hunting
- wildlife ranching and farming
- zoo and sanctuaries

6. Tourism and Recreational Development
- Construction of resort facilities or hotels along the shorelines of lakes, river, islands and oceans
- Hill top resort or hotel development
- Development of tourism or recreational facilities in protected and adjacent areas (national parks, marine parks, forestry reserves etc) on islands and in surrounding waters
- Hunting and capturing
- camping activities, walk ways and trails etc.
- sporting and race tracts/sites

- Tour operations

7. Energy Industry

- Production and distribution of electricity, gas, steam and hot water
- Storage of natural gas
- Construction of off shore pipelines in excess of 50 km in length
- High power transmission line
- Construction of combined cycle power station
- Thermal power development (i.e. coal, nuclear)
- Hydro-electric power
- Bio-mass power development
- Wind -mills power development
- Solar (i.e. Impact due to pollution during manufacture of solar devices, acid battery spillage and improper disposal of batteries)
- Nuclear energy

8. Petroleum Industry.

- Oil and gas fields exploration and development, including Construction of offshore and onshore pipelines
- Construction of oil and gas separation, processing, handling and storage facilities.
- Construction of oil refineries
- Construction of product deposits for the storage of petrol, gas, diesel, tar and other products within commercial, industrial or residential areas.
- Transportation of petroleum products

9. Food and beverage industries

- manufacture of vegetable and animal oils and fats
- oil refinery and ginneries
- processing and conserving of meat
- manufacture of dairy products
- brewing distilling and malting
- fish meal factories
- slaughter - houses
- soft drinks
- tobacco processing
- caned fruits, and sources
- sugar factories
- other agro-processing industries

10. Textile in industry

- cotton and Synthetic fibres
- dye for cloth
- ginneries

11. Leather Industry

- tanning
- tanneries
- dressing factories
- other cloth factories

12. Wood, Pulp and Paper Industries

- manufacturing of veneer and plywood
- manufacturing of fiber board and of particle - board

- manufacturing of Pulp, Paper, sand-board cellulose – mills

13. Building and Civil Engineering Industries.

- industrial and housing Estate
- major urban projects (multi-storey building, motor terminals, markets etc)
- tourist installation
- construction and expansion/upgrading of roads, harbours, ship yards, fishing harbours, air fields(having an air strips of 2,500mor long) and ports, railways and pipelines
- river drainage and flood control works.
- hydro - electric and irrigation dams
- reservoir
- storage of scrap metal.
- military installations
- construction and expansion of fishing harbours
- developments on beach fronts

14. Chemical industries
- manufacture, transportation, use and storage of pesticide or other hazardous and or toxic chemicals
- production of pharmaceutical products
- storage facilities for petroleum, petrochemical and other chemical products (i.e. filling stations)
- production of paints, vanishes, etc.

15. Extractive industry

- extraction of petroleum
- extraction and purification of natural gas
- other deep drilling - bore-holes and wells
- mining
- quarrying
- coal mining
- sand dredging.

16. Minerals extraction and processing

- Metallic minerals such as Iron, Lead, Copper, Nickel
- Industrial minerals such as kaolin, diatomite,
- Construction Minerals
- Mineral Water
- Thermal Water
- Extraction of salts from brines.

17. Non-metallic industries (Products)
- manufacture of cement, asbestos, glass, glass-fibre, glass-wool
- processing of rubber
- plastic industry
- lime manufacturing, tiles, ceramics

18. Metal and Engineering industries.

- manufacture and assembly of motor - vehicles
- manufacture of other means of transport (trailers, motor-cycles, motor-vehicle bicycles-cycles)
- body - building
- boiler - making and manufacture of reservoirs, tanks and other sheet containers
- foundry and Forging
- manufacture of non - ferrous products

- iron and steel
- electroplating

Source: EPA, 2003. The Draft EIA Procedural Guidelines.

Annex-IX. Personalities discussed with.

1. Head of the Addis Ababa City Government Land Administration.
2. Expert of environmental planning and monitoring, EPA.
3. Head Investment Issuance and Follow-up Department of the Ethiopian Investment Agency.
4. Former legal expert, Ethiopian Investment Agency, (who was active in the initiation of the new investment proclamation).
5. Head of Investment Promotion Department of the Ethiopian Investment Agency.
6. Head, Land Issuance Department of the Addis Ababa City Government Land Administration.
7. EIA expert, EPA.
8. Head EIA Service Department of EPA
9. A/head of environmental policy and legislation department of EPA.
10. EIA consultant in IRIS Consultant PLC
11. EIA consultant in IRIS Consultant PLC.

Declaration

I, the undersigned, declare that the thesis is my original work, has not been presented for a degree in any other university and that all the sources of materials used for the thesis have been duly acknowledged.

Declared by: Gizaw Belayneh Confirmed by: _____

Candidate's signature: _____ Advisor's signature: _____