

## Overview of EIA systems in oil producing countries of Africa

### 1. Introduction

Within the last decade, African countries have discovered new oil deposits in commercial quantities (Aryeetey and Asmah 2011). The increase in countries with oil deposits has enhanced the importance of having effective Environmental Impact Assessment (EIA) systems and practice within the continent. Many arguments have been presented as to why oil producing countries in Africa require national EIA systems, amongst which include: to internally control the management of the environment, to issue fines and raise revenue from proponents to aide response to spill incidents, to regulate the technologies used on the environment, to improve local engagement between the regulator, proponent and the host communities and ensure corporate social responsibility programs are done by the proponents. In most African countries, pressure from international donors and in some cases; environmental disasters faced by the countries also accelerated the setting up of EIA systems (Kakonge 2006). This paper aims to evaluate and establish the legal framework for EIA systems in nineteen oil producing countries (See Figure 1) in Africa and propose recommendations for improvements. In doing so, the first section introduces the topic and the purpose of the research. The second section outlines the methodology while the third section summarizes the findings. Finally, conclusions are provided.



Figure 1. Map of oil producing countries in Africa (source: author)

## 2. Methodology

The rationale for selecting the 20 countries was based on their location in Africa and their level of crude oil production (Minimum of 1000 barrels per day) (EIA 2014). The evaluation framework developed in this paper is adapted from Ahmad and Wood (2002). A total of 19 criterion were used which are grouped under three major headings- a) EIA legislation; b) EIA administration; c) EIA process (See Table 1).

Table 1. EIA evaluation criteria: systematic measures

(Source: adapted from Ahmad and Wood (2002))

Criteria
<i>EIA legislation</i>
1. Provisions for Environmental Impact Assessment
2. Year of enactment
3. Status of EIA regulation
4. Legal provision for appeal
5. Time limit
6. Strategic Environmental Assessment provision
<i>EIA administration</i>
7. Environmental Impact Assessment regulatory body
8. Review committee
9. Sectorial authority role
<i>EIA practice</i>
10. Screening
11. Scoping
12. Alternatives
13. EIA specified report content
14. Public participation in Environmental Impact Assessment
15. Environmental Management Plan required
16. Requirement for impact mitigation
17. Experience in Strategic Environmental Assessment
18. Sectorial authority regulation
19. EIA implementation monitoring

In evaluating the African countries against the criterion developed above, a systematic literature review was carried out. Similar to an approach adopted by Jha-Thakur and Fischer (2016), this work reviews five leading journals on EIA including- a) Environmental Impact Assessment Review (EIA Review); b) Journal of Environmental Assessment Policy and Management (JEAPM); c) Impact Assessment and Project Appraisal Journal (IAPA); d) Journal of Environmental Planning Management (JEPM) and e) Journal of Environmental Management. This was further complemented by a wider literature review, documentary analysis (especially for French/Portuguese speaking countries) and input from EIA experts. Input from relevant environment ministry of the respective countries was sought. The review aimed to identify the developed criterion's in the EIA systems of each country. A matrix was constructed identifying the different countries and the criterion's they meet. The summary of the findings is presented in Table 2.

### 3. Results and findings

Table 2 below shows the results of the review. Of the countries discussed in this paper, Algeria was the first to issue EIA legislation through the Law 83-03 of 1983 on the protection of the environment (CITET 2003). Followed by Congo (Brazzaville) in (1986) and Tunisia in (1988).

Table 2. summary of the results of EIA legislation, administration and practice.

Criteria	Summary
<i>EIA legislation</i>	
1. Provisions for Environmental Impact Assessment	In 18 countries
2. Year of enactment	1983 to 2011
3. Status of EIA regulation	18 countries enacted and 2 drafted
4. Legal provision for appeal	In 6 countries, not available in 9 countries and no information on 5 countries
5. Time limit	In 5 countries with respect to submitting final report, specified time limits for components in 7 countries and no provision on 8 countries
6. Strategic Environmental Assessment provision	SEA provision in 3 countries, and no provision on 17 countries
<i>EIA administration</i>	
7. Environmental Impact Assessment regulatory body	Multiple regulatory bodies in 7 countries, Single regulatory body in 11 countries and no information on 2 countries
8. Review committee	In 15 countries, no provision in 1 country and no information on 4 countries
9. Sectorial authority role	In 11 countries, no provision in 4 countries and no information on 5 countries
<i>EIA practice</i>	
10. Screening	In 16 countries, no provision in 1 country and no information on 3 countries
11. Scoping	By proponent in 11 countries, by regulator in 4 countries and not specific on 5
12. Alternatives	Provision in 7 countries, no provision in 10 countries and no information on 3
13. EIA specified report content	Content specified in 16 countries, no specification in 2 countries and no information on 2
14. Public participation in Environmental Impact Assessment	Provision in 13 countries, no provision in 5 and no information on 2
15. Environmental Management Plan required	Provision in 12 countries, no provision in 6 countries and no information on 2
16. Requirement for impact mitigation	In 18 countries, no information in 2

17. Experience in Strategic Environmental Assessment	In 2 countries, no provision in 14 and no information on 4
18. Sectorial authority regulation	In 10 countries, no provision in 7 countries and no information on 3 countries
19. EIA implementation monitoring	Legislated in 13 countries, no provision in 5 countries and no information on 2

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### **EIA legislation**

Majority of the EIA legislation were put in place from 1983 to 2000. Since then, there have been advancements within the scope of EIA and its aim to help achieve sustainable development. Most of the countries require review of the current EIA laws to bring it up to date with current practices such as the inclusion of Strategic Environmental Assessment. (SEA). An appeal process is important especially as it provides an outlet for the aggrieved party to seek justice in a civilized manner. Most countries do not currently have legal provisions to appeal within their EIA legislation; this is left up to the courts which tend to be slow and delays the project. To setup a comprehensive legal provision to appeal, it's important to include an appeal procedure for all stakeholders (proponent, regulator and public) involved in the process. Also, considerations should be given in setting a time limit within which an appeal process should be concluded this is to ensure projects are not unnecessarily delayed by court processes. Currently, SEA is in existence in sixty countries globally (Fundingsland Tetlow and Hanusch 2012) but only in three among the oil producing countries in Africa selected have SEA provision. SEA provisions are extremely lacking within the EIA legislations in oil producing countries in Africa, although other non-legislated mechanisms for conducting SEA might be in place in some contexts; inclusion of SEA legislation will aide environmental management.

### **EIA administration**

Countries with multiple regulatory bodies need to ensure the EIA process is streamlined to reduce cost and bureaucracy. A common trend within countries with review committees is a non-technical person heading such a committee. It is important to ensure committees have technical capacities to make decisions on EIA applications. Sectoral authorities having a role are common in the countries reviewed. It is important to ensure there is no conflict of interest during the EIA process. In the context of Nigeria, EIA in the Oil sector is administered by both the Federal Ministry of Environment (FMENV) and the Department of Petroleum Resources (DPR). This ensures a higher level of regulatory presence but do not translate to a better level of compliance by proponents or regulatory enforcement by regulators. While in the context of Ghana a single administrative body the Environmental Protection Agency (EPA) handles the application and regulation of EIA.

### **EIA process**

The scoping component of the EIA practice in most of the countries reviewed needs to be strengthened to ensure better capture of prospective impacts; this can be achieved by building the capacity of the EIA administrative staff in setting the terms of reference for the proponent or in verifying the scoping report submitted by the proponent. Public stakeholders with vested interest should also be provided an opportunity to participate at the scoping stage of the project, as their local knowledge of the study area cannot be overemphasized. Lessons can



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