

PRACTIONERS PERSPECTIVE OF ENVIRONMENTAL, SOCIAL AND HEALTH IMPACT ASSESSMENT (ESHIA) PRACTICE IN NIGERIA: A VITAL INSTRUMENT FOR SUSTAINABLE DEVELOPMENT.

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ASSESSMENT OF NIGERIA (AEIAN) ON IMPACT ASSESSMENT: A TOOL FOR ACHIEVING
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INTRODUCTION

- 1. Environmental issues have become top priorition in national, sub-regional, regional and global agenda in realisation of the importance and benefits of environmental protection for sustainable development.
- 2. Industrialisation, improved technology and economic growth have considerably impacted positively on man's quality of life and this has however not been without its untoward consequences on our environment
- 3. We are aware that a wide variety of environmental problems have arisen, complementing the natural ones to constitute hazards to the health of humans and their ecosystem.
- 4. We therefore need a balance between technological development which improves the quality of human life with minimal effect on our land, water, air and biodiversity.

5. The anti-dote for this is the precautionary principle, ensuring that any technological development is done with due consideration to our environment. The way out therefore, is to enforce the conduct of Environmental Impact

CONCEPT AND MEANING OF EIA

- The EIA process was first institutionalized and signed into law in the United States in early 1970. Agenda 21, an outcome of the United Nations Conference on Environment and Development (UNCED) provides 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 subject to a decision of a competent authority". While the EIA was passed into Law in the United
- While the EIA was passed into Law in the United States as a result of public concerns on the negative impacts of industrialization on the environment, the Agenda 21, to which Nigeria is a signatory, was the spring board to the promulgation of the EIA Act 1992 now CapE12, LFN, 2010.
- * EIA is conducted to ensure that potential problems are foreseen and addressed at an early stage in the project planning and design.
- ❖ In other words, EIA is a proactive assessment of the likely consequences of the project on the environment, the people and the inherent biodiversity
- * Environmental Decree No. 86 of 1992 governs E(SH)IA process and makes E(SH)IA mandatory for development projects that are likely to have adverse impacts on the environment.
- ❖ Furthermore, in compliance with the Act CAP E12, Laws of the Federation of Nigeria (LFN) (2004)
- * ESIA act confers the mandate to implement the ESIA study on the Federal Ministry of Environment (FMEnv).

Environmental Impact Assessment & SDGs



Environmental impact assessment1 (EIA) is recognized as a key support tool for sustainable development and is a major instrument in decision making and for measurement of sustainability in the context of any national carrying capacity, provided the conceptual framework is extended to the cumulative assessment of developmental policies, plans and projects. EIA has three main functions:

- To predict problems,
- To find ways to avoid them, and
- To enhance positive effects.
- EIA is a management tool for planners and decision makers and complements other project studies on engineering and economics.

Environmental Impact Assessment & SDGs



In the last few years, EIA is increasingly becoming as familiar and important as economic analysis in project evaluation. Thus EIA:

- Provides a unique opportunity to demonstrate ways in which the environment may be improved as part of the development process.
- Predicts the conflicts and constraints between the proposed project, programme or sectoral plan and its environment.
- Provides an opportunity for mitigation measures to be incorporated to minimize problems.
- Enables monitoring programmes to be established to assess future impacts and provide data on which managers can take informed decisions to avoid environmental damage.

It is now well understood that environment and development are complementary and interdependent and EIA is a technique for ensuring that the two are mutually reinforcing

Environmental Impact Assessment & SDGs



For EIA to effectively contribute to sustainable development:

It needs to show that it can contribute to poverty alleviation, employment creation and improved economic development

That safeguards for the ecosystems 'integrity are guaranteed.

The 2030 Sustainable Development Goals focus on are the 5 Ps

People: the wellbeing of all people

Planet: protection of the earth's ecosystems

Prosperity: continued economic & technological growth

Peace: securing peace

Partnership: improving international cooperation

These five aspects are interdependent. Therefore, the SDGs demand integrated thinking as well as integrated approaches to achieving the goals – EIA are the tools!!!!!!

Three elements helps determine whether a project is classified as 'major development' to undergo the screening process. These include:

Generally, all developmental projects in Nigeria are categorised.

Size of the proposed project Category I

 Projects requiring fullscale E(SH)IA e.g.
 Construction of Roads and Infrastructure projects like, Railways,
 Ports and Harbours, airports etc

The expected activity or business of the facility Category II

- **Projects require partial E(SH)IA.**
- Requires mitigative measures or changes in project design (depending on the nature and magnitude of the environmental impacts) as well as further actions may be required from the proponent.

The location of the project Category III

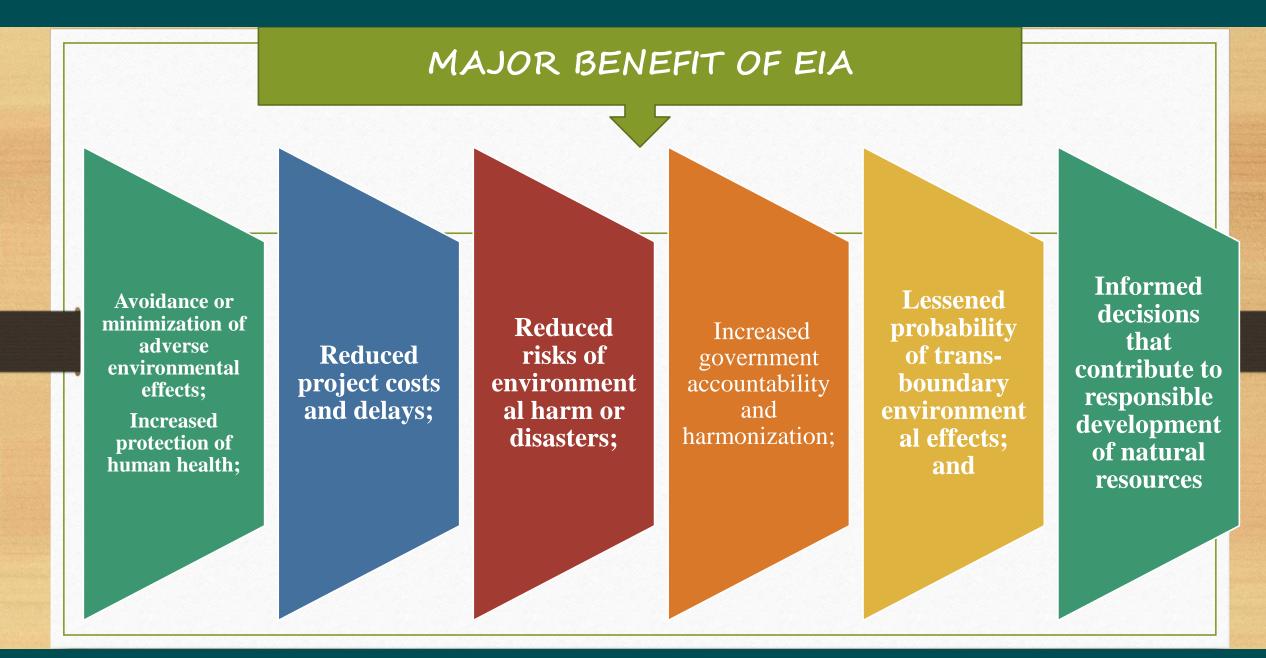
Projects expected to have beneficial impacts on the environment e.g. Projects in this category include family planning programme, institutional development, environmental awareness projects, etc.

Stages of the EIA Process

- **Project Screening:** Not all development projects requires EIA. Project screening will help identify the ones that actually require EIA. This stage describes the various screening criteria.
- Scoping: The process of scoping helps to determine the coverage "Scope" of the project.
- Baseline Data Collection: A brief explanation on the concept of baseline data gathering and its purposes.
- Identification of Environmental Impacts: Described here are the various types of environmental impacts of development projects both beneficial and adverse
- Impact prediction comparison of alternatives and determination of significance: This stage covers the considerations for impact prediction, uncertainties in impact prediction and comparison of alternatives for impact prediction.
- **Mitigation Measures:** Described briefly under this stage are the concept and objectives, types and interesting points of mitigation measures.
- **Public Consultation and Participation:** Public participation is a necessary component of the EIA. "Who are the public?", "How to involve them?", and "What are the benefits/threats?" The answers can be found under this stage.
- Environmental Monitoring: Is one of the most important aspects of EIA, "Environmental Monitoring" is defined here along with explanations on monitoring principles and institutional responsibilities.
- **Environmental Auditing:** You will find under this phase, the various Environmental Audit requirements and when it should be carried out.

E(SH)IA PROCEDURAL GUIDELINES SUMMARY USING FMENV ADMINISTRATIVE APPROACH AS AN EXAMPLE

- Register the Project
- ❖ Develop the EIA Terms of Reference (TOR) (first draft)
- Site Verification Exercise
- Scoping Exercise and TOR Approval
- First Season Data Gathering
- ❖ Interim Report Production
- Second Season Data Gathering
- First Draft EIA Report Production
- Public Display
- Panel Review Exercise
- Production of Final Draft EIA
- Regulatory Monitoring Exercise
- **❖** Interim Approval □ EIA Certificate



EIA AND DECISION MAKING IN ENVIRONMENTAL MANAGEMENT

One of the significant benefits of assessing the likely impacts of a project on the environment is that the process is a decision making tool. Effective EIA could alter the nature of the decisions or actions to be implemented to reduce negative environmental impacts and makes the project more sustainable. Decisions made on the basis on EIA can lead to the following:

- Change in the location of the project
- ☐ Change in the siting of some components of the project
- Change in the machines, technology and equipment
- ☐ Change in the operational methods
- Complete overhaul of the project plan
- Abandon the project altogether

CHALLENGES IN THE IMPLEMENTATION OF EIA ACT IN NIGERIA

- The EIA Act of 1992 was an offshoot of the UNCED Agenda 21. After the Earth Summit, issues on Environment hitherto relegated to the background, emerged a global, front burning issue.
- Prior to this era, hygiene and sanitation were the main considerations for the Nigerian environment. The inception of the EIA was considered strange, and received with utmost suspicion and apathy.
- The challenges in the implementation of the EIA Act therefore, were myriad from the onset, ranging from ignorance, lack of awareness, deliberate resistance to compliance, lack of comprehensive policy on enforcement, policy conflict between the various levels of government, as well as those emanating from the Act itself, etc.
- The National Environmental Standards and Regulations Enforcement Agency (NESREA) established by an Act of the National Assembly in 2007 and now had the onerous mandate, amongst others, to enforce the EIA Act and consequently, combat the above mentioned challenges which are discussed below especially from the window of enforcement.

CHALLENGES IN THE IMPLEMENTATION OF EIA ACT IN NIGERIA: EMANATING FROM THE ACT

There are challenges emanating from the content and the drafting of the Act itself.

- Proponent or Project executor: Section 13(a) where the proponent is required to conduct an EIA irrespective of whether the said proponent is Federal, State or Local Government. This is often cited by Project executors as they point the Enforcement Agency to the "proponent". Whereas Section 2 makes it expressly clear that the public or private sector of the economy shall not undertake or embark on or authorise projects or activities without prior consideration, at an early stage, of their environmental effects. The mandatory requirement of the "proponent" to carry out EIA has been a major drawback in the practical implementation and enforcement of the above provision in the Act. Most facilities refer enforcement authority to the so called proponents, most often, the Federal, State or Local Government of Nigeria. Proponent should actually be replaced with Project Executor.
- **Penalty:** The violation of the Act carries a maximum penalty of N1 million naira for corporate bodies, which by present day value is not enough deterrent for the offence. This encourages consistent default by companies who prefer to pay a paltry sum of N1 million Naira instead of embarking on an EIA that would cost more.
- The Mandatory List: Provision for emerging sectors should have been included.

CHALLENGES IN THE IMPLEMENTATION OF EIA ACT IN NIGERIA

- Public Participation: The EIA report is not adequately presented to the public for comments. Usually about 3 copies are made available in the project State for everyone to view and comment. This number does not give room for sufficient public participation or engagement.
- Delay in EIA Process: The EIA process is unduly delayed due to administrative bottle necks and inadequate staffing.
- Inadequate Screening and Scooping: The type of impact to be addressed in the EIA report and the identified alternatives are not adequately outlined and understood by the proponent.
- Limited Scope of EIA Review: The EIA report is not subjected to a wider public participation for encompassing views, comments and observations.
- Lack of Awareness: Perhaps, lack of public awareness of the short and long term value of EIA based projects and the resultant sustainability of the environment is a major detriment and draw back in the enforcement of the Act. In other words, proponents of development projects do not know about the existence of the EIA Act, nor do they appreciate the inherent value when the Act is eventually introduced to them. General public awareness has been the bane of EIA enforcement in Nigeria and likely to be so in other West African countries.
- Deliberate resistance to compliance with the Law of the land: In Nigeria like other West African countries, a lot of development projects are owned or operated by multinational companies. Examples are quarries, construction companies, Companies with interests in the Food and Beverage, Sector, Tannery, Textile etc. Most of these multinationals have operated in Nigeria for many decades without giving the environment the same attention it is accorded in their parent/home country. Although they are aware of the legal environmental requirements of operating major development facilities, it is unfortunate to note that these multinationals and even indigenous companies relegate environmental concerns to the background by deliberately resisting compliance with extant rules.
- Weak Enforcement of the EIA Act: During the FEPA days considerable efforts were made to enforce environmental laws at all tiers of Government, including the EIA Act. However when FEPA became defunct up to the establishment of NESREA in 2007, only some operators in the oil and gas sector, continued to conduct EIA. Most operating facilities stopped adhering to the provisions of the EIA Act including State Laws and Local Government bye-Laws. In the course of NESREA enforcement action, many violating companies have been brought to book and quite a number of them are complying voluntarily. A testimony to this, is the increase in application for the conduct of EIA received by the EA Department and the significant increase in application for Environmental Audits and Management Plans at the NESREA

WAY FORWARD

Implementing the EIA process in accordance to extant laws

- Creation of Massive Public Awareness: All tiers of Government, the National Assembly, the Media and all lovers of the environment should continue to create massive publicity campaign on the need for compliance with environmental laws by both the private and public proponents. The use of the mass media by NESREA has been exceptionally effective since 2007. Other NESREA fora that have encouraged public participation and consequently public enlightenment, had been through the Annual Stakeholders' meetings, Regulatory Dialogues, Seminars, NESREA Green Corps, etc.
- Compliance Monitoring and Enforcement: The Agency should intensify on compliance monitoring and enforcement of the provisions of the NESREA Act and EIA Act. This single strategy has been the most effective in accomplishing compliance in Nigeria.
- **Inter MDA cooperation:** In the administration of EIA which is multi-sectoral, the cooperation of all affected and relevant MDA's is a thing that is absolutely necessary to the sustainability of the Nigeria environment. Cross-cutting policies and mandates should be redefined to avoid operational blockage and administrative obstacles.
- It was observed that some of the provisions of the EIA Act have become obsolete. The Act has been reviewed by a committee inaugurated by the Hon. Minister of Environment and a Draft Review of the Act has been submitted to the Ministry for further action.

Conclusions

- Environmental Impact Assessment is a veritable and effective tool for achieving sustainable development in Nigeria if properly conducted and coordinated and Nigeria has taken serious steps to develop effective environmental strategies by the promulgation of the E(SH)IA Decree and all the procedural guidelines.
- Nigeria, E(SH)IA experts and proponents believe that the main objective of E(SH)IA is to enhance sustainable development and to reduce environmental impact from projects, and to help in decision making. To date the success has been rooted in public participation and the legal regulation of E(SH)IA
- However, There is a growing concern in Nigeria over the scarcity of personnel with appropriate E(SH)IA skills, knowledge and institutional mandate to anchor and drive environmental, social and health impact assessment functions in a coherent and coordinated manner. Also, low competence of authorities and practitioners need to be addressed urgently. E(SH)IA practitioners need to have a thorough knowledge on E(SH)IA procedures and legal requirements, but forecasting the effects and evaluation of the results should be reserved for the recognized experts.
- To resolve this problem, the EIA Act must be revised appropriately, the EIA process should be adequately funded, more environmental public enlightenment activities should be conducted, EIA reports preparers should be trained, and retrained while effective monitoring activities should be frequently carried out by the regulators

