

SUSTAINABLE PROCUREMENT ENVIRONMENT AND SOCIAL STANDARDS CENTRE OF EXCELLENCE (SPESSCE), AHMADU BELLO UNIVERSITY ZARIA

Short Course on:

OVERVIEW OF THE EVOLUTION OF ENVIRONMENTAL AND SOCIAL
IMPACT ASSESSMENT (ESIA) PROCESS IN NIGERIA AND AT THE
WORLD BANK

24 – 28 January, 2022

**Lecture theme: The Environment Impact Assessment Act -
Decree no. 86 of 1992**

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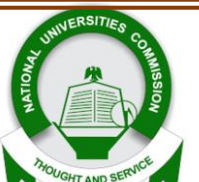
OUTLINE

- ☐ Purpose of Environmental Laws
- ☐ Brief History of Environmental Laws
- ☐ Environmental Impact & EIA
- ☐ Stages of Environmental Impact Assessment
- ☐ EIA in Nigeria – Historical Evolution of the Laws
- ☐ **The EIA Decree of 1992** – 3 parts & 64 sections

PURPOSE OF ENVIRONMENTAL LAWS

They are “**principles, policies, directives and regulations** enacted and enforced by local, national or international entities to regulate human treatment of the non-human world” — *Budnukaeku & Hyginus (2021)*

The purpose is to **prevent, minimize, remedy** and **punish** actions that threaten or damage the environment and those that live in it (*Kamala, 2020*).

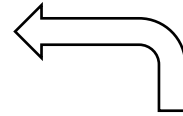


Brief history of Environmental Laws

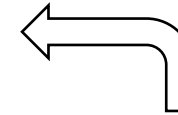
- In 2,700 B.C., the middle-eastern civilization in ancient Mesopotamia passed laws protecting the few remaining forests in the region
- In 80 A.D., the Roman Senate passed a law to protect water stored for dry periods so it could be used for street and sewer cleaning
- During American colonial times, Benjamin Franklin argued for “public rights” laws to protect the citizens of Philadelphia against industrial pollution produced by animal hide tanners
- The “Antiquities Act” of 1906 for protection of certain areas as national monuments in the US
- establishment of the Environmental Protection Agency (EPA) in 1970
- Subsequent international interests – United Nations, the World Bank, and the World Trade Organization: Agenda 21, Rio Declaration, etc. ...

Lecture theme in the course's context

To enhance sustainable capacity in the management of procurement, environmental and social standards in the public and private sectors



Evolution of Environmental and Social Impact Assessment (ESIA) process in Nigeria and at the World Bank

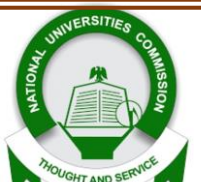


The Environment Impact Assessment Act - Decree no. 86 of 1992

ENVIRONMENTAL IMPACT & ENVIRONMENTAL IMPACT ASSESSMENT

Environmental Impact connotes the effect that people's actions have on the environment. It can be negative or positive.

UNEP defines **Environmental Impact Assessment (EIA)** as a tool used to identify the environmental, social and economic impacts of a project prior to decision-making.



STAGES OF ENVIRONMENTAL IMPACT ASSESSMENT

Although legislation and practice vary around the world, the fundamental components of an EIA would necessarily involve the following stages (CBD 2010):

1. **Screening** to determine which projects or developments require a full or partial impact assessment study;
2. **Scoping** to identify potential impacts relevant to assess and possible alternative solutions or mitigation options
3. **Assessment and evaluation of impacts and development of alternatives**, to predict and identify the likely environmental impacts of a proposed project or development, including the detailed elaboration of alternatives;

Stages of Environmental Impact Assessment

4. **Reporting the Environmental Impact Statement (EIS) or EIA report**, including an environmental management plan (EMP), and a non-technical summary for the general audience.
5. **Review of the Environmental Impact Statement (EIS)**, based on the terms of reference (scoping) and public (including authority) participation.
6. **Decision-making** on whether to approve the project or not, and under what conditions; and
7. **Monitoring, compliance, enforcement and environmental auditing.** Monitor whether the predicted impacts and proposed mitigation measures occur as defined in the EMP.

EIA in Nigeria – Historical evolution of the laws

The Harmful
Wastes Decree of
1987

*Response to
dumping of
toxic waste in
Koko, Bendel
state*

Decree 58 of
1988 - FEPA

National Policy
Plan (NPE) **1989**

**The EIA Decree No.
86 of 1992**

Pollution abatement
Regulation **1991**

Decree 59 (**1992**)
States and Local
EPAs

Isah, (2012)



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FEDERAL GOVERNMENT OF
NIGERIA



THE EIA DECREE OF 1992

3 parts, 64 sections

OBJECTIVE

To guide the conduct of Environmental Impact Assessment (EIA) and related matters in the country



THE EIA DECREE OF 1992

Part 1: General Principles of Environmental Impact Assessment

Section 1: Objectives of EIA in authorising the undertaking of any activity that may likely or to a significant extent affect the environment; and development of procedures for information exchange

Section 2: EIA as a mandatory requirement for private and public sectors before carrying out development activities and the need to consider environmental impacts of projects at early stages.

THE EIA DECREE OF 1992

Part 1: General Principles of Environmental Impact Assessment

Section 3: Powers of the Act to specify the EIA process

Section 4: Matters to be included in the EIA such as description of activities, potential affected environment and assessment of likely or potential environmental impacts.

Section 5: Significance of the likely impact to determine the degree of EIA detail.

Section 6: The information provided by the EIA to be examined impartially.

THE EIA DECREE OF 1992

Part 1: General Principles of Environmental Impact Assessment

Section 7: Public disclosure of activity to stakeholders before decision

Section 8: Mandatory waiting for elapse of public disclosure time.

Section 9: Format of presentation of agency's decision on proposed activity and the need for the report to be made public.

Section 10: Need for appropriate supervision to ensure compliance in section 9.

THE EIA DECREE OF 1992

Part 1: General Principles of Environmental Impact Assessment

Section 11: Extension of impacts beyond political boundaries and the need for interstate/local government consultations & information exchange

Section 13: Projects on the mandatory list must not be carried out until conditions (where necessary) are duly specified.

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 14: Where EIA is required. Example where federal, state or local government happens to be the proponent of a project; or providing a guarantee for loan or financial assistance for a project

Section 15: Areas of exemption for EIA, such as likely minimal impact; during national emergency for which temporary measures have been taken by the Government; public health or safety projects.

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 16: the need for screening, assessment by a review panel and a follow-up programme

Section 17: issues to consider during screening or mandatory study such as:

- ☐ Purpose of the project
- ☐ seriousness of the effects
- ☐ public comments and
- ☐ technical & economic feasibility of proposed measures

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 18: Power of the Agency to delegate any part of the screening or mandatory study of a project

Section 19: The need for screening and screening report for projects not in the mandatory study list

Section 20: Power of the Agency to declare a “class screening report” with potential for application in similar circumstances



THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 21: Approval for projects with acceptable changes/modifications after screening report

Section 22: Powers of the agency to permit, refer to review panel or deny approval for projects after screening report is prepared

Section 23: Discretion of the Agency to either ensure conduct of mandatory study or referral to council/review panel in respect of projects in the mandatory study list

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 24: Power of the Agency to use existing reports for renewal of license

Section 25: Determining the date for public disclosure of mandatory study report and where it can be obtained by the Agency

Section 26: Public concerns may warrant referral of a project to a review committee for mediation

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 27: The Agency may as well forward the project for council to refer it to review panel in the case of contentious projects

Section 28-29: Power of the Agency to terminate Environmental Assessment of a project that has or has not been referred to review panel for mediation

Section 30-33: Conditions under which the council may refer project to a review panel, appointment of a mediator and that the council's decision is binding

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 34: Functions of a mediator including ensuring that information is available to all participants and helping them reach consensus

Section 35: Council's power to terminate mediation and refer it to a review panel

Section 36: Appointment of members of review panel and fixing their terms of reference by Council and the Agency



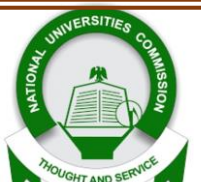
THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 37: Functions of review panel including public hearings and submission of report to Council and the Agency

Section 38: Powers of the review panel including compelling witnesses to provide evidence and required documents as in the case of the Federal High Court or a High Court of a State

Section 39: Making mediation or review panel report public upon receipt by the Agency



THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 40-41: Decision of the Agency after mediation or review report and establishment of a follow-up programme

Section 42: A certificate of environmental assessment as a proof of completion of the process

Section 43: Definition of “jurisdiction” in the context of the law and responsibility of such entities to carry out environmental assessment

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 44: Conditions for joint establishment of review panel between Council and jurisdictions including public participation and allowing the Council to fix terms of reference

Section 45: Legitimacy of the joint review panel report

Section 46: Recognition of review process other than that of the EIA Decree if found to be an appropriate substitute



THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 47: Conditions for accepting substitute report, which include public participation and publishing of the report

Section 48: Legitimacy of the approved substitution process

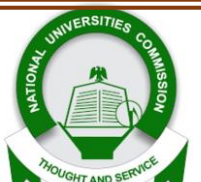
Section 49: Establishment of a review panel/recognition of an existing one for projects not found to be requiring environmental assessment but considered by the president as having potential adverse effect on another state

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 50-51: Establishment of special review panel to conduct an assessment of the international environmental effects of a project with potential trans-border impact for projects requiring and those not found to be requiring environmental assessment

Section 52: Allowance for modification of review panels as joint ones between council and other government entities (jurisdictions) in all applicable cases

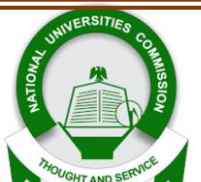


THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 53: Presidential stop-action order on contentious projects reviewed jointly with jurisdictions. The Agency takes action on clearly harmful projects

Section 54: Stop-action order by the court regarding contentious projects affected by substitute review panels



THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 55: 14 days life span for prohibition of substitute review report, if not approved within the period by the president

Section 56: Local and international government agreements and arrangements

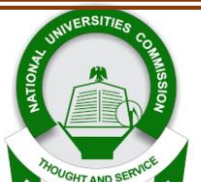
Section 57: Access to information – public registry for all assessed projects

THE EIA DECREE OF 1992

Part 2: Environmental Assessment of Projects

Section 58: Maintaining annual statistical summary of all the environmental assessments undertaken

Section 59: Protection of matters under the Decree for defect in form or a technical irregularity



THE EIA DECREE OF 1992

Part 3: Miscellaneous

Section 60-61: Powers of the Agency in issuing guidelines and codes of practice to assist in conducting assessment of the environmental effects of projects

Section 62: Penalty for non-compliance for individuals and firms/corporations

Section 63: Contextual definitions of Agency, Council, environmental effect, etc.

THE EIA DECREE OF 1992

Part 3: Miscellaneous

Section 64: Citation of the Decree as “the Environmental Impact Assessment Decree 1992”



THE EIA DECREE OF 1992

SCHEDULE

Mandatory Study Activities

Projects of (defined) considerable magnitude in the areas of:

Agriculture, Airport, Drainage & Irrigation, Land reclamation, Fisheries, Forestry, Housing, Industry, Infrastructure, Ports, Mining, Petroleum, Power generation & transmission, Quarries, Railway, Transportation, Waste treatment & disposal, Water supply

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Questions?

Comments?

Thank you



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