

# Environmental Impact Assessments (EIA) as an Effective Tool for Environmental Sustainability under Cameroonian Law: Emerging Challenges and Legal Responses

*Mbetiji Mbetiji Michel<sup>1</sup>, Ayuk Macbert Nkongho<sup>2,\*</sup>*

<sup>1</sup>Senior Lecturer, Faculty of Law and Political Science, University of Dschang, Dschang, Cameroon

<sup>2</sup>Research Scholar, Graduate Teaching Assistant (Moniteur), Faculty of Law and Political Science, University of Dschang, Dschang, Cameroon

## Abstract

*It is worth noting that although infrastructural and developmental projects enhance economic growth of Cameroon, these projects have negative impacts on the environment and natural resources in which man greatly depend for livelihood. In this regard, to reconcile developmental exigencies and environmental protection and sustainability, there is the need for regulatory measures such as, EIA which will serve as an effective tool in that direction. Undoubtedly, the core purpose of EIA is to early integrate environmental and social considerations in the decision-making of proposed developmental projects in order to identify and mitigate potential negative impacts on the environment and human health. Regrettably, in spite of its well-known purpose, the EIA processes have documented a number of weaknesses and challenges that impede its effective implementation and enforcement. Based on this fact findings, this article is intended to analyze the legal and regulatory instruments on EIA and the extent to which it have been helpful in providing better protection of the environment and sustainable development in Cameroon. In order to attain the above objectives, doctrinal and analytical methods have been adopted. This article, therefore, concludes with some robust recommendations for filling the identified gaps. It is hope that this recommendation will go a long way in enhancing the implementation of regulations in order to dwindle the gap between theory and practice concerning EIA in Cameroon.*

**Keywords:** *Environment-EIA-Sustainability-Development-Management-Challenges-Cameroon-economic growth- resources- human health*

**\*Author for Correspondence** E-mail: ayuk.macbert@yahoo.com

## INTRODUCTION

The environment includes natural resources and ecosystem services that comprise essential life supporting functions for humans, including clean water, food, materials for shelter, and livelihood generation. Environmental degradation and the depletion of natural resources induced by human activities have attracted steadily growing concerns in the last decades. Such concerns made evident the necessity for the planning authorities to count on sound information about the possible environmental consequences of development actions [1]. The World Commission on Environment and Development (WCED)

reported in 1987 that many development trends at that time impoverished people and degraded the environment. The 1972 Stockholm Conference on Human Environment and development singled out industrialization and technological development as the root causes of environmental degradation and natural resources depletion in the world. The conference called for the safeguard and improvement of the environment during developmental undertakings by member states in their respective jurisdictions. The rate of environmental degradation in Cameroon however is alarming due to such economic activities. The degradation pressures the

livelihoods of a major part of Cameroonian population, which depends on environmental natural resources for survival.

Furthermore, it is a major threat to Cameroon's future growth potential and thus, the country's potential for poverty reduction. Therefore, despite the presence of ambitious and regulatory measures, negative environmental and social impacts of projects activities remain major challenges to achieve sustainable development in this country [1]. One of the tools available to satisfy this need is represented by the procedure of Environmental Impact Assessment (EIA) [42]. By definition, Morrison-Saunders and Arts defines EIA as a process for taking account of the potential environmental consequences of a proposed action during the planning, design, decision-making and implementation stages of the action [3]. This procedure involves the systematic identification and evaluation of the impacts on the environment caused by a proposed project [2]. The *raison d'être* of EIA is to achieve two outcomes: First, to inform decision-makers of the environmental consequences of their decision of proposed activities and secondly, to integrate environmental matters into other spheres of decision-making process [29], while it also provides a mechanism for the participation of potentially affected local communities in the decision-making process.

In the same line of reasoning, Cameroon has contributed meaningfully to the development and advancement of EIA policy and practice in Africa. For example, environmental assessments were conducted for several projects such as the Mokong dam project in the Far North Region of Cameroon, the Waza-Logone project in 1995, the Chad-Cameroon Pipeline in 1999 [53], the Lom Pangar dam project in the East Region of Cameroon in 2005 [54], the Herakles Farms project in South West Cameroon in 2011 [55], CAFECO in 2009 in Eyumojock sub-division [45] among others. The main objective of evaluating the environmental impacts of these projects was to obtain detailed information and views on the environment, both bio-physical and socio-economic, that could assist in supporting the

integration of social and environmental concerns of these projects into the decision-making process in Cameroon. Because these projects were likely to have adverse impacts upon environmental resources of local communities, compliance with laws and policies governing EIA in Cameroon during project implementation was essential. EIA exists to help ensure that in designing and undertaking development projects, environmental considerations are taken into account and integrated in the entire process. It provides for an elaborate process of identifying negative environmental and social impacts of any proposed projects, determining what mitigation measures are necessary and whether if such action is undertaken, the project could proceed without negatively impacting on the environment [40]. Whether EIA mechanisms have worked or is working for Cameroon is a question that deserves an answer. According to Goodland et al., EIA was formally introduced in the United States through the National Environmental Policy Act (NEPA) of 1969. EIA regulations rapidly spread to other countries, mainly industrialized countries of the world. Today, it is applicable in more than 100 countries, and by all development banks and most international aid agencies [2].

The rationale behind this study in Cameroon is that the EIA system is comparatively new and complex in its applicability especially when Decree No. 2005/0577/PM was revised in 2013. Given that there has been no adequate appraisal of the revised legislation [52], more research is, therefore, needed to help investigate possible shortcomings, and make recommendations to address possible flaws and strengthen the EIA system to promote environmental sustainability in the face of developmental projects in the country. This research unveiled an array of problems, including shortcomings in the laws and regulatory framework governing EIA and robust advice for the successful implementation of EIA in Cameroon.

## **CONTEXTUALIZING EIA AND ITS PRINCIPLES**

It should be noted that Abaza et al. has identified nine general principles of EIA

application that are broadly correspondent to the basic principles issued by the IAIA (1999). The general principles are intended to be a first step toward EIA good practice. These principles of good EIA practices are: EIA should be applied as a tool to help achieve sustainable development; EIA should be integrated into existing development planning and approval processes; EIA should be applied as a tool to implement environmental management, rather than as a report to gain project approvals; EIA should be integrated into the project life-cycle to ensure that environmental information is provided at the appropriate decision points and the correct time. EIA should be applied to all proposed actions or projects that are likely to have a significant adverse effect on the environment and human health [64]. In a social context, particular attention should be given to vulnerable groups, such as indigenous peoples, and local communities who depend upon the resource base for their sustenance or lifestyle through public participation in decision making processes; EIA should include an analysis of feasible alternatives to the proposed action [3]. The process should be applied early in project development at a stage when these alternatives are still practicable; EIA should include meaningful opportunities for public involvement. These should occur throughout the EIA process, using mechanisms that are appropriate to stakeholders; EIA should be carried out in a multi-or inter-disciplinary manner, using best practicable science; and EIA should integrate information on social, economic and biophysical impacts to the maximum extent possible [4].

Good performance indicators for EIA including: Quality of Terms of Reference; Statement clarity, and quality of impact prediction; Evaluation of significance of impacts; Assessment of alternative options; Quality of mitigation proposed; Quality of monitoring proposed; Involvement of local people; Non-technical summary; Baseline study; Assessment of socio-economic and health issues; Inclusion of environmental management plan (EMP); and Length of reports [42]. Against this backdrop, it is

imperative to discuss the legal and regulatory frameworks governing EIA.

## **LEGAL AND REGULATORY FRAMEWORKS GOVERNING EIA IN CAMEROON**

In this head, we shall discuss both the international and national instruments governing EIA in Cameroon.

### **International Legal Instruments Governing Environmental Impact Assessment (EIA)**

At international level, there are a number of legal instruments having concern on EIA. For example, the principle of the 1972 Stockholm Declaration has a rationale underlying EIA. This can be identified in Principle 14 and 15, respectively which the former states: rational planning constitutes an essential tool for reconciling development and environmental needs. In the same spirit, Principle 15 provides that: planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and opting maximum social, economic and environmental benefits for all. EIA was fully recognized and reiterated in the 1992 Rio Declaration under Principle 17 which endorses the institutionalization of Environmental Impact Assessment (EIA) at the national level as a decision-making instrument for proposed activities that are likely to have significant adverse impact on the environment [5]. To expatiate further, Article 11 of the World Charter for Nature (1982) stipulates and articulates for the deployment of best available technology in the event of EIA to minimize risk and other adverse effect on the environment. This requirement is restated by the 1992 Convention on Biological Diversity (CBD) in the following terms:

*Each Contracting Party, as far as possible and as appropriate, shall introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate. Allow for public participation in such procedures [6].*

The Johannesburg Plan of Implementation (JPOI) which was the output of the World Summit on Sustainable Development identifies the use of EIA procedures as a key action to be undertaken in addressing the challenges of unsustainable patterns of consumption and production. Among others, the International Association for Impact Assessment (IAIA) in cooperation with the Institute of Environmental Assessment, UK has set objectives of EIA in 1998.

According to these institutions the main objectives of EIA are: Ensure that environmental considerations are explicitly addressed and incorporated into the development decision making process; anticipate and avoid, minimize or offset the adverse significant biophysical, social and other relevant effects of development proposals; protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and promote development that is sustainable and optimizes resource use and management opportunities. The importance of EIA can never be undermined for it has not only been prescribed by most soft law and hard law instruments of a global character but has also been domesticated into the local legislations of Cameroon.

#### **National Legal Instruments Governing EIA**

The Preamble of the 1996 Constitution reaffirms the State's duty to safeguard the protection of vulnerable populations, including subsistence communities, minority populations, and indigenous groups. The Constitution also asserts the country's connection to the fundamental freedoms enshrined in the *Universal Declaration of Human Rights* and guarantees the rights to a healthy environment and to use and dispose of land and other property as basic human rights. Specifically, the Preamble announces that "every person shall have a right to a healthy environment" and that the "protection of the environment shall be the duty of every citizen." Article 45 of the Constitution which proclaims that the President shall negotiate and ratify conventions (treaties), and duly ratified treaties shall, "following their publication, override national laws." This

quotation indicates that the treaties that Cameroon has ratified will take precedence over any domestic legislation, but the Constitution. Thus, the (environmental) human rights provisions of the Constitution should not be overridden by, say, an investment treaty. Irrespective of the government's plan to foster investment and economic growth, it has to stay within the borders of the Constitution. Article 45, therefore, renders the Constitution the highest law of the land and the cornerstone of Cameroon's politics [59]. Also, Cameroon in a bid to embrace the wind of environmental changes in the early 1990's, incorporated EIA as a mandatory requirement in its 1996 Framework Law on Environmental Management in the following words:

*The promoter or owner of any development, labor, equipment or project which may endanger the environment owing to its dimension, nature or the impact of its activities on the natural environment shall carry out an impact assessment, pursuant to the prescriptions of the specifications. This assessment shall determine the direct or indirect incidence of the said project on the ecological balance of the zone where the plant is located, the physical environment and quality of life of populations and the impact on the environment in general. The impact assessment shall be carried out at the expense of the promoter [7].*

This law also provides for an environmental and social impact assessment (ESIA) regime, which makes provision for the involvement and participation of local communities in decision-making processes of activities impacting on the environment [39]. This law provides that the impact assessment shall necessarily comprise of the following five indicators: area of proposed action, potential impact of the action, alternative to proposed action, measures to minimize and impacts [8]. In the same vein, Section 72 of Environmental Law obliges the state to encourage and allow for public participation insofar as environmental governance and protection is concerned. A practical example is in the case of *FEDEV v. China Road and Bridge Corporation* (FEDEV case), the Court of First

Instance in Widikum, Cameroon, granted FEDEV *locus standi* to institute legal proceedings in the public interest, with a view to compelling the respondents to engage local communities in the ESIA process [9]. See also the case of the local population against the Kilum-Ijum Mountain Biodiversity Conservation project whereby, the government of Cameroon, in its effort to maintain the natural biodiversity of the KilumIjim mountain forest, entered into a contract with the NGO Bird-Life International to conserve the mountain's forest. This decision was taken without involving the inhabitants who were all asked to quit the forest. As a result, the decision was never implemented due to resistance from the local population [41]. Their views and opinions must be considered before a decision is taken to commence the project, because of the anticipated environmental impact on the environment and their related rights and interests. The proper implementation of public participation generally, and in EIA processes in particular, has the potential to ensure and promote environmental justice and human well-being, as it helps to balance the needs of both present and future generations in governmental decisions [10]. However, this framework law incorporated EIA requirements as a general obligation, and without providing all the needed details on its implementing procedures.

To fill these lacunae, it was not until 2005 that the Prime Ministerial decree [11] to law down the procedure for carrying out EIA was formally launched. It was promulgated for the implementation of Article 17 (the EIA provision) of the 1996 Environmental Framework Law. According to Tamassang, et al [12]. in Alemagi, et al., the decree is monumental because it represents the first attempt made by the Government of Cameoon to incorporate the legal and procedural framework governing EIA into a comprehensive legal instrument. The Decree lays down the process and the procedural framework governing EIA for any development project that has the potential to inflict harm on the environment, making it applicable to industrial forestry activities such as concession-based forestry. Articles 5, 6, 7,

11, and 14 describe the central EIA authority to implement, coordinate, and enforce the EIA provisions during an environmental assessment study, including contents of the terms of reference (TOR) and the EIA report. This was consolidated by the publication and enactment of Ministerial Order No. 0070/MINEP of March 2005 by MINEP prescribing the different categories of projects that would necessitate an EIA and Rule No. 0070/MINEP of 22<sup>nd</sup> April 2005 Fixing the different categories of operations submitted to the realization of an EIA [60]. This regulation further describes the significant outcomes from EIA decision-making [56], outlines the validity of Environmental Compliance Certificate [57], and states the condition for public participation [58] and the procedure of appeal and hearing about the rejection of EIA report by the Central EIA authority [58].

Later, the 2005 decree was amended and replace with Decree No. 2013/0171/PM to law down rules and procedure for conducting EIA. The 2013 Decree stated lucid the social aspect of the impact study, as it is referred to as ESIA rather than to EIA. This caused a change in appellation from EIA to ESIA [13]. It should be noted that Established Authorization applies in the field of forest, wildlife and fisheries. The 2013 Decree also introduced Strategic Environmental and Social Assessment (SESA) and Environmental Impact Statement (EIS) as tools for environmental assessment which must be carried out by any promoter or owner of any development project or establishment under pain of sanctions envisaged in the law enforce [14]. This Decree defines ESIA as a study that is aimed at determining the positive and negative effects of a project on the environment [15]. Under the Decree, every holder of timber exploitation license is required to carry out an EIA for his or her proposed project. The Decree [16] stipulates that ESIA should be carried out with the participation of local communities requiring a sustainable management of natural resources such as large-scale industrial forest exploitation which may have adverse effects on the ecosystem and the adjacent local communities.

Conducting an environmental and social impact assessment is vital and pre-requisite for any project on the environment, as this process enables the promoter of the said project as well as the state to evaluate both the negative and positive impacts of any proposed project or installation on the population and the environment. The 2013 Decree proceeded to state that the concession holder must ensure that public consultations and meetings are organized to sample the opinions of the population at large on the project. This includes advertising the EIA for the development project, recording possible opposition to the project, and providing a forum for affected populations to discuss the findings of the EIA, and as a result, respect their rights to free, prior and informed consent of local and indigenous people. This is because, Articles 19 and 32 of the Declaration of the Rights of Indigenous People makes it explicitly clear that, before the government takes any administrative or legislative reform, allocate projects for mining, logging or any other exploitation projects that will affect the rights of the indigenous people to access, use or exploit the forest, their consent should be obtained.

Furthermore, Article 28 goes further to ensure that local and indigenous people who have lost their land and forest completely without their consent [18] needs to be compensated fully for the loss. While the Decree has been cited as a positive step towards incorporating public participation in concession-based forestry [19], it has been noted in other sectors most notably large-scale energy infrastructure projects that public involvement was lacking in practice despite the presence of a legal framework [20, 21]. An additional issue relates to the fact that the Decree does not require that, consultation occurs during the early phases of project development [22] nor does it explicitly state that the opinions of the population at large will actually be accounted for in project plans [23]. EIA is obligatory for the setting up of any project that may have effect on the biological diversity. It is argued that any genuine or legitimate effort to protect the environment must lie in its attempt to prevent rather than cure environmental damage. EIA is defined as

“the formal and systemic collection and analysis of information relating to the possible environmental effects of new or significantly altered projects in relation to the physical, social and economic environment surrounding that development” [44].

The same law demands that owners or promoters of projects (actors), which may endanger the environment owing to the impact of such projects on the natural environment, carry out an impact assessment. Consequently, EIA requires a procedure or legal steps to be followed (actions) to establish an environmental impact statement or report that will be subject to a decision by a competent administrative authority. However, since all project that affect the environment as subject to ESIA in Cameroon, and large scale industrial logging greatly affect the environment, it is therefore by virtue of this that the environmental code [24], the forestry law and 2005 Decree of implementation provides that, such activities must be subjected to environmental and social impact assessment. Ministerial Order No. 00001/MINEPDED of 9 February 2016 fixes different categories of operations whose realisation is subject to EISA and SESA. This Order amends and replaces the 2005 Order [25] that defines activities subject to EIA. The 2016 Order classifies projects requiring an ESIA into two categories. Category 1 projects are those projects requiring a simple ESIA, [70] while Category 2 projects are those requiring a detailed ESIA study, and industrial forestry projects falls under the second category for example [71].

In the forestry sector, EIA can be traced back to the enactment of the 1994 forestry law that lays down the requirements for the management of forestry, wildlife and fisheries. It was however, limited to projects that may affect forests ecosystem only [26]. The initiation of any development project such as industrial timber exploitation projects likely to perturb a forest or aquatic environment shall be subject to a prior study of the environmental impact assessments [27]. However, this was reasserted by the 1995 forestry decree that determines the conditions

of implementation of forestry regulations as it states that in the case where a development project or plan is likely to lead to disturbance in a forest or to its destruction, a preliminary environmental impact assessment shall be carried out by the applicant according to the rules laid down by the Ministry of Environment, in order to determine the special steps to be taken to ensure the conservation, development or, where appropriate, recovery of natural resources [28]. Hence, the Forestry Law, in addition to its implementing decree, establishes a classification of acts, including logging and fishing, subjected to environmental impact assessment, as well as conditions and norms for forest management in Cameroon. In this light, a practical case where a detailed EIA was conducted in 2009 is the Cameroon Agriculture and Forest Exploitation Company Limited (CAFECO) which has a partnership agreement with WIJMA Douala (CAFECO). However, the main administrative body for EIA is the Ministry of Environment and Forestry, which was established in 1992 [43]. Also, in the *SEFE case*, the plaintiffs instigate an action at the Ndian High Court in Mundemba, praying the court to restrain the respondents from exploiting the forests resources of the area in their vast oil palm project without complying with EIA obligation [93].

### **INSTITUTIONAL FRAMEWORK IN CHARGE OF EIA IN CAMEROON**

By the public trust theory of environmental and natural resource management, the state has the duty to hold natural or environmental resources in trust for the benefit of the public and not to make them subject to private ownership except the law expressly provides for that [91]. In Cameroon, the management and protection of the environment against degradation is the sole responsibility of the state. The government plays these roles through a public body such as its vibrant institutions (ministries).

#### **Ministerial Departments in the Implementation of EIA in Cameroon**

Article 19 of the EIA Law acknowledges the Ministry of the Environment as the national body to manage the environmental assessment

process for proposals needing an EIA. This strength of legal order for the Ministry of the Environment to apply EIA portrays the level of Cameroon government's policy to an efficient EIA system. In the same strand, the administrative procedure of environmental assessments is organized and managed by the Ministry of the Environment with the collaboration of other ministries as shall be discussed in the subsequent section.

The Government of Cameroon created the first ministry known as the Ministry of Environment and Forests (MINEF) in 1994. In 2004, this Ministry was split into two Ministries to wit: The Ministry of Forestry and Wildlife (MINFOF) and the Ministry of Environment and Nature Protection (MINEP). MINEP was later dissolved in 2012 with the creation of the Ministry of Environment, Nature Protection, and Sustainable Development (Ministry of the Environment) [62]. The Ministry of the Environment elaborates, plans, promotes, oversees, and coordinates (and works with other ministries and departments) the implementation of environmental and sustainable development policies and programs. It monitors environmental compliance of EIA in the implementation of major projects. The Ministry is also responsible for establishing an ad hoc commission to prepare a report on the public hearings and veracity of the information in EIA reports and may employ external expertise to assess EIA reports that are forwarded to it. As central authority for EIA, this Ministry directly supervises and guides the activities of its subordinate units [63].

The Ministry of Agriculture and Rural Development (MINADER) is responsible for the: development, planning and realization of the governmental programs related to agriculture and rural development. The Ministry of State Property and Land Tenure (MINDAF) is responsible for the management of State private property as well as goods, furniture, and buildings. Ministry of Industry, Mines and Technological Development (MINIMIDT) together with the administrations concerned, promotes ecologically sustainable industrial development, monitors, and controls

hazardous, harmful or inconvenient establishments regarding safety, hygiene and health, and develops and implements quality control programs [63].

The Ministry of Energy and Water Resources (MINEE) is charge of the development of governmental plans and strategies concerning energy and water supply; the prospection, search and exploitation of water in urban and rural areas; and the promotion of new sources of energy, in conjunction with the Ministry of Scientific and Technical Research and Innovation (MINREST) [63]. The Ministry of Forestry and Wildlife (MINFOF) [61] and the Ministry of Justice (MINJUSTICE) of Cameroon. In fact, the Ministry of Environment's duty is lucid regarding project screening, review of TOR, evaluation of EIA report, and final decision-making with regard to EIA in Cameroon.

#### **Other Departments on EIA in Cameroon**

The government of Cameroon also created some administrative departments on EIA, prominent amongst them are the Inter-Ministerial Committee on the Environment (ICE), a National Consultative Committee on the Environment and Sustainable Development (NCCESD) which is placed under the authority of the Prime Minister [92] and a National Environmental and Sustainable Development Fund (as a financial mechanism for implementation and enforcement of environmental law) [59]. Furthermore, grassroots communities, decentralized territorial authorities, environmental associations, and administrative units further assist the government of Cameroon. Each one of these actors has a role to play (their duties are to be elaborated by implementing instruments) [64], making the management of the environment in Cameroon highly complex. For example, ICE is organized by Decree N° 2001/718/PM of 3 September 2001, relating to the organization and functioning of the Inter-ministerial Committee on the Environment. ICE was established to assist the Cameroon government in formulating, implementing, and monitoring environmental policies in the country [66]. ICE, which comprises 17 members [55], oversees the development of action plans to

implement environmental policies in Cameroon [67]. This institution also has the responsibility to ensure that environmental considerations are included in the design and implementation of economic development projects in the country. For instance, the law requires ICE to provide its reasoned judgment on all EIA reports and public consultation programs that the Ministry of the Environment submits to it [68]. ICE is furthermore charged "with ensuring the participation of all ministries in the sustainable management of resources, directing the updating of the national environmental management policy" [63]. Like ICE, NCCESD assists the Cameroon government to promote rational environmental management in the country. To this end, it assists in coordinating and translating environmental policies that the government develops [67]. The National Environmental and Sustainable Development Fund (NESDF) was instituted in 1996 by Article 11 of the Environmental Code of Cameroon. It aims to contribute to the financing of environmental auditing and provide backstopping for sustainable development projects, environmental research, and education. Supporting clean technologies, encouraging local initiatives on environmental protection and sustainable development, promoting legalized environmental protection organizations; and buttressing the actions of ministries involved in environmental management in Cameroon are additional goals of NESDF [69]. According to the Environmental Code, the resources for NESDF shall come from contributions from the State and international donors; voluntary donations; proceeds from environmental fines; and pollution fines [69]. Thus, NESDF remains the Cameroon government's major treasury in the area of environmental and sustainable development financing in Cameroon [63].

#### **THE PROCEDURE AND PRACTICE OF EIA IN CAMEROON**

For a proposed project or activity, the EIA process consists of the pre-decision stage and the post decision stage. The pre-decision stage consists of screening; scoping; impact prediction and analysis to establish the potential negative and positive environmental

impacts of the proposed project and to propose mitigation measures and; review for decision making. The post decision stage known as follow-up is broadly defined as the collection of activities undertaken after approval of a project has been given following EIA review. The purpose for undertaking these activities is to monitor, evaluate, manage and communicate the environmental outcomes that occur in order to ensure that projects are meeting intended goals and objectives and, more importantly, to provide for feedback and learning for improving environmental management practices [1].

### **The Pre-Decision Stage**

The EIA Law outlines the various pre-decision steps through which a project requiring an environmental impact assessment will have to undergo. These steps include inter alia:

#### **Screening**

Like in other EIA systems, EIA in Cameroon begins with project screening, to determine whether or not an EIA is required. In Cameroon, Article 19 of Order No. 0069/MINEP of March 8, 2005, laying down the different categories of operations whose realization is subjected to an environmental impact assessment classifies projects submitted to the realization of an EIA into two categories. First, Category 1 projects (projects requiring a simple EIA) [70]; and next, Category 2 projects (projects needing a detailed EIA) [71]. This listing supports public authorities to ascertain the category of the proposed activity, and comment on the scoping of the likely environmental and social impacts of the proposal. It is but lucid that with the existence of a clear list of projects, proponents may not need decisions from the Ministry of the Environment as to whether the proposal requires a simple or detailed EIA.

However, the cost of application often discourages proponents of EIA in Cameroon, hence prefer corrupt means. To illustrate, the application fee to the National Environmental and Sustainable Development Fund for executing a comprehensive EIA in Cameroon is CFA 5.000.000 frs [72]. This money shall be payable by the developer to the sustainable development fund as an application fee. To

assist in the government's mission to promote sustainable development, the National Environmental and Sustainable Development Fund was instituted in 1996 [73]. This high cost that must be paid to the Sustainable Development Fund before undertaking a detailed EIA may have a chilling effect, and hence, discourage some proponents from spending additional money to collect environmental data in the public interest to facilitate the public consultation process [63].

#### **Scoping Procedures**

The system in Cameroon requires the consideration of baselines and reasonable alternatives, the preparation of TOR, and finally the participation of the public in the EIA process. If a detailed EIA is required, the EIA Law requires the proponent to forward a project file to the Ministry of the Environment and the Competent Administration which may refer to a ministry of relevance. For example, the Ministry of Agriculture and Rural Development, which is responsible for promoting investment in medium and large-scale plantations, would qualify to act as the Competent Administration for encouraging and evaluating proposed large-scale agricultural investments in the country. Under Article 5 of the EIA Law, the project file should contain: (1) the name, share capital, the number of jobs that the project will provide, and the sector of activity; (2) a description and justification of the proposed project and the site chosen, with emphasis on environmental protection of the site chosen; (3) TOR of the EIA study; and (4) proof of payment of the application fee. Until these conditions are satisfied, an application to conduct an EIA shall not be assessed by the appropriate institutions in Cameroon. Upon receipt of the file, the Competent Administration reviews the application documents and forwards its reasoned opinion on the scoping of the project's potential impacts to the Ministry of the Environment, which is expected to comment on the TOR within 30 days from the date it was submitted [63]. The scoping process results in a certificate of environmental compliance or a report with specification on the admissibility of the TOR. With an approved TOR, the developer may

conduct the environmental assessment: the proponent may employ the services of a State approved environmental assessment consultant if need be [63].

### **Impact assessment Procedures**

In Cameroon, impact assessment involves rigorous and appropriate scientific evaluation. Except for projects that have to do with national security or defense [74], impact assessment for Category I or Category II projects shall be conducted with the relevant population and within the concerned communities through public consultation and public hearings [75]. Regarding whom should be involved in the participation process, the Environmental Code says all “concerned groups” must be consulted [76]. The concerned public would include communities that are likely to be affected by a proposed development project. The EIA Law obligates the proponent to forward the public consultation program to representatives of the concerned communities at least 30 days before the first meeting. About the content of the program, it shall be comprised of the date and venue of the meetings, a report describing the project, and the purpose of the meetings [66]. However, the public consultation program will have to receive a *prima facie* approval of the Ministry of the Environment before the first meeting. The content of the EIA report in Cameroon (which includes the significant issues and factors that the developer needs to address during the impact assessment) include, shall be forwarded to the Ministry of the Environment for review. This Ministry shall submit a copy of the public consultation program and the EIA report to ICE for evaluation and comments. ICE, an ad-hoc commission set up by the Ministry of the Environment, has up to 20 days to submit comments to the Ministry of the Environment [68], and where necessary, ICE may employ external expertise to assess the EIA report. Hence, the reasoned judgments of ICE, ICE shall, after examining the adequacy of the consultation program and the EIA report, forward its reasoned judgment to the Ministry of the Environment, for it to make its approval decision.

If satisfied with the consultation program and the EIA report, the Ministry of the Environment

shall provide its support and shall also establish an ad hoc commission to prepare a report on the public hearings and the veracity of the information in the EIA report after visits to the project site and affected communities [77]. Besides informing the affected communities and their representatives 30 days before the first meeting, the developer or promoter shall also ensure that for each public hearing, minutes are prepared, adopted, signed, and attached to the EIA report that is later submitted to the Ministry of the Environment for evaluation [77]. Building on the opinion of ICE and the report of the ad hoc commission that was established to prepare a report on the public hearings and the veracity of the information in the EIA report after field trips to the project site and affected communities, the Ministry of the Environment will have to arrive at its final decision. One of three rulings is possible: a favourable decision (where a certificate of environmental conformity (CEC) that allows the project to commence is issued); or a conditional decision (where a certificate of environmental conformity is issued provided the proponent implements certain measures before commencing the project); and an unfavourable decision (where the Ministry of the Environment interdicts the implementation of the project) [78]. It is, therefore, illegal to implement proposed developments in Cameroon without a certificate of environmental conformity from the Ministry of the Environment.

### **The Post Decision Stage**

As abovementioned, the post decision stage known as follow-up is broadly defined as the collection of activities undertaken after approval of a project has been given following EIA review. This stage constitutes the following components:

### **Monitoring Process**

With regards to checking on how an approved development is progressing, there are some requirements for EIA follow-up in the EIA Law. It proclaims that the Ministry of the Environment shall ensure that any project, whether Category I or Category II projects, for which an EIA is undertaken is subject to a routine technical and administrative monitoring

during the post-decision stage of the EIA process [79]. The promoter is required under the EIA Regulation to submit to the Ministry of Environment an interim or quarterly report on the operationalization of the environmental and social management plan [79]. This report and the Environmental Impact Statement (EIS) summarize the findings of the evaluation and discuss the acceptability of the predicted environmental impacts [80]. The EIS is made up of a number of disciplinary studies, each one addressing specifically one category of effects (noise, radiation, etc.), or one environmental component (air, water, etc.) [2]. The monitoring and evaluation results are used to check compliance with regulations in force and the effectiveness of the mitigation measures and inform environmental management actions [2].

#### ***Continues Monitoring of EIA Processes***

The ministry in charge of the environment is empowered to adopt corrective or additional measure where upon submission of the quarterly report of implementation of the ESMP, it is realised that some effects were initially insufficiently considered. In such a case, the administration in charge of the environment may also hire the services of private experts following public contract rules to carry out studies on the aspects of the assessment that were initially not sufficiently considered.

#### **SANCTIONS FOR NON-COMPLIANCE WITH EIA PROCEDURE IN CAMEROON**

Sanctions or penalties for violating environmental legislation and/or regulations on EIA are administrative and criminal in nature.

#### ***Administrative Sanctions***

Where in the course of surveillance the administration detects cases of non-compliance with the ESMP or the promoter fails to comply with reporting obligations, however, it is discernible from previous dispositions of the law that the following administrative measures may be taken by the minister in charge of environment:

- warnings;
- suspension of CEC; or

- withdrawal of CEC.

Another case worth addressing is that of blatant disregard of EIA procedures by a project proponent or where after carrying out ESIA and SEA, a negative response is given by the competent authority, but the promoter goes ahead to execute the project. In other words, where the promoter starts executing his project before a final decision is made on his application file [63]. Once again, even though the law is silent on this question, practice shows that the promoter may either be suspended definitely or indefinitely without prejudice to penalties under the Law on Environmental Management. Where the suspension is indefinite, the project owner may be required to carry out an environment audit in compliance with Decree No. 2013/0172 on environmental audit, for the suspension to be uplifted [63]. It should also be noted that the said administration may bring an action against a promoter to whom CEC has been issued in an administrative court where administrative actions prove to be abortive.

#### ***Judicial Sanctions***

Where a promoter implements a project needing impact assessment, without carrying out such assessment, the administration may, besides taking suspension or withdrawal measures may seized the competent court of law for causing harm on the environment through its activities which ought to have been guided by EIA processes if one was undertaken. These courts could be ordinary court or administrative court of law depending the nature of the project and its contract. Within the ordinary courts of law, the criminal judge is competent and has been trying criminal violations of environmental prescriptions especially involving violations of EMP. Such competence is conferred on the criminal judge by the Penal Code [46] and also the Framework Law on Environmental Management in Cameroon [47] and the 1994 Forestry Law. Article 79 of the Environmental Framework Law for example, provides for penalties, as it proclaims that “any person having implemented a project that does not conform to the criteria, norms, and measures spelled out for the impact assessment shall be

liable to a fine of up to 5 million CFA Frs and a prison sentence of up to two years.” This sanction applies to any investor that fails to implement the measures designed to prevent, minimize, and resolve future negative impacts of the proposed development on the environment as outlined in the environmental and social management plan.

### ***Do Affected Communities have any Right of Legal Action?***

The question that becomes obvious is whether there are any administrative recourse mechanisms available to communities that are directly affected by the activities requiring EIA, where the promoter fails to comply with the provisions of the law on ESMP as for instance, violation of the right to public participation of local communities in decision-making processes on EIA. Even though the law is silent on this question, members of such a community can address a complaint to the minister in charge of the environment either through individual action or collective in the capacity of an NGO.

In this vein, under Article 8 of the Environmental Code, non-governmental organizations working for environmental protection “may exercise the rights of the plaintiff with regard to facts constituting a breach of the provisions of the Environmental Code on EIA and causing harm to the environment they are intended to protect.” It was as a result of this provision that FEDEV were able to exercise the rights of the communities that were burdened with the impacts of the Herakles Farms oil palm project and activities of the Bamenda City Council in Cameroon. In this light, if the complaint is founded, the minister may adopt any of the administrative measures mentioned above [63].

### **THE FEASIBILITY OF SUSTAINABILITY ASSESSMENTS IN EIA IN CAMERON**

Ever since the 1987 Brundtland Commission defined sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs,” [81] focus on the potential for project

developments to yield sustainable outcomes has heightened [82]. There is a wide array of sustainability-based assessment processes [83], and hence, various definitions.

A wide range of researchers, including Robert Gibson [84], Pope *et al.*, [85] Waas *et al.*, [86] etc. hold that sustainability assessment is more instrumental in steering environmental decision-making (EIA) towards a sustainable future or, in the words of Alex Weaver to “push the vectors’ towards sustainability goals.” [87] To be more comprehensive, Waas *et al.* define sustainability assessment as any process that aims to: (1) contribute to a better understanding of the meaning of sustainability and its contextual interpretation (interpretation challenge); (2) integrate sustainability issues into decision-making by identifying and assessing (past and/or future) sustainability impacts (information-structuring challenge); and (3) foster sustainability objectives (influence challenge) [86].

Moreover, when compared with EIA, sustainability assessment is considered an “ex-ante” process intended to predict future outcomes [89] or evaluate the effects of decisions in advance and support an alternative between various options [83]. To this effect, Robert Gibson has adopted generic criteria/principles for sustainability assessment [84]. Because of their general nature, these requirements can be applied in any jurisdiction when assessing the sustainability of a project.

As mentioned earlier, initiatives in sustainability assessment have been associated with the field of environmental assessment [84] and have been launched and applied in many jurisdictions within the past few decades. For example, sustainability assessment processes have been used in Canada [63], the Southern African Development Community (SADC), Western Australia [63], Hong Kong, the European Union, and a bunch of other countries [90]. The essence of these policy initiatives is that mainstreaming of environmental, economic, and social impact assessments should strengthen and steer decision-making towards a sustainable future. In Canada, sustainability-based criteria were

applied in the assessment of the Voisey's Bay Nickel Mine and Mill Project [84], the Mackenzie Gas Project case, and the White's Point quarry and marine terminal in Nova Scotia [84].

Pushing the sustainability vectors through EIA is also reflected in the concept of corporate social responsibility, with some developers inventing individual sustainability goals to navigate corporate activities [63]. A good example is Pilbara Iron (2004) in Western Australia, a company that has developed sustainable development goals to: reduce water use, net land disturbance, net emissions (environmental); improve equal employment opportunities, contribution to community capacity building, reduce impact on heritage (social); and optimise long-term economic value (economic) [87, 63]. Weaver *et al* have also provided some examples underlining cases in which EIA practitioners have supported more sustainable operations and outcomes [87]. Thus, through the EIA process, EIA practitioners were able to push the environmental, economic, and social vectors, and hence, support the enhancement of benefits to affected communities. Thus, EIA practitioners were able to operationalize these three vectors into different contexts [87].

All these happened after the EIA incorporated management process to strengthen the environmental and socio-economic benefits of the projects for the affected communities; the companies concluded different agreements with local communities and incorporated the recommendations from the public authorities and the public into their environmental and social investment programs [63]. Sustainability assessment is a decision-making strategy that can enable public and private actors to achieve the social development, environmental protection, and economic growth that the Brundtland report asserts [63]. Thus, EIA practitioners and promoters in Cameroon and other parts of the world should follow suit by spearheading similar initiatives by developing management tools that can guide the decision-making process to a sustainable future.

## **HURDLES IN THE IMPLEMENTATION AND ENFORCEMENT OF EIA PROCESSES IN CAMEROON**

There are some inconsistencies in the legal and institutional framework that affect effective implementation of EIA processes in Cameroon. Most of these legislations to an extent negatively affect the environment conservation as they are frame towards economic interests while compromising environment sustainability. These obstacles greatly affect the compliance and implementation efforts taken by Cameroon government on EIA to achieve sustainable development and environmental protection. They render difficult the understanding and implementation of EIA regulation. In this light, the obstacles are distinct, to wit:

### **Inadequate and Unskilled Human Resources and Expertise**

It is worth noting that in spite of the significance of EIA, it took the government about ten years for an enabling Decree [30] fixing the modalities for the realisation of EIA. It could be argued that, this is due to inadequate human resources on the part of the government. In the same line of reasoning, there are also reports of incompetent and inadequate scientists, inspectors and technical staffs. It seems that so far only one institution [31] offer a post graduate program in EIA in Cameroon [32]. According to Tamassang, C.F., (2018) [33], a prime ministerial Decree designing the Inter-Ministerial Advisory Committee for EIA was found to be incompetent and inappropriate. He posits that in a series of personal communications with a senior specialist with a local NGO and a director at the then MINEP, it was revealed that the committee is composed of persons who lack the necessary expertise. According to a study undertaken by Eyong, over 68 ESIA reports have been processed by the Department of Environmental Assessment. Of these, 54 have been environmentally assessed and most of the ESIA's carried out were sponsored by international finance corporations including the World Bank [63]. It therefore remains unclear whether these ESIA's, which should in principle promote and facilitate public participation in these projects,

actually reflect a genuine response on the part of the Government of Cameroon to ensure and enhance the right to a healthy environment advocated in the Constitution. Perhaps they rather provide a mere guise designed to aid and abet the approval and implementation of these vast internationally financed projects, notably for example, the Chad-Cameroon Oil Pipeline project. However, skill levels or training may not have improved.

### **Lack of Public Participation of Local Communities in Decision-making Concerning EIA Processes**

It is argued that there is a glaring and complete absence of involvement and participation of local communities in ESIA processes relating to large-scale development projects on the environment. Indeed, public participation is a fundamental component of ESIA process. As Wood [34] explains, EIA is not EIA without consultation and participation of local communities as it increases accountability and transparency of the decision-making process [35]. An empirical study by Alemagi et al. highlighted that local communities from eight villages in the south-west region of Cameroon were entirely excluded from public participation in decision making processes in EIA relating to a forest concession project prior to timber exploitation in 2008.

Commentators have also argued that the ESIA regime neither provides for, nor requires, prior consultation with local communities and interested and affected parties during the early phases of project development. It furthermore does not explicitly stipulate that their views and opinions should be taken into account during decision-making processes relating to project plans. Interestingly, the ESIA regime does not state whether or not an ESIA is required for the expansion of projects in Cameroon, and if local communities have a right to participate in the decision-making process relating to them. Given the fact that the expansion of already existing projects such as the Cameroon Development Corporation project is a common phenomenon in Cameroon, one would have expected the ESIA regime to have subjected such expansions to additional ESIA's preceded by public

consultation. However, this does not seem to be the case and supposedly, their impact on the environment and on people's environmentally related rights will be unidentified, unassessed and unmitigated, which amounts to a contradiction of the environmental management principles contained in Law No. 96/12 on environmental code. Furthermore, the right of the public to participate in ESIA's is restricted to reviewing the ESIA report. It does not extend to the screening, scoping, decision-making and follow-up stages of the process.

This further demonstrates and supports the argument that local communities and affected stakeholders are rarely participate in decision-making processes relating to activities with great potential to impact on the environment. In terms of Article 16 of Law No. 96/12, developers of authorized projects must submit biannual reports about the implementation of their environmental management plans to the Ministry of Environment and Nature Protection, the authorizing agency. Pragmatically, the Ministry is the sole monitoring institution of ESIA's, an indication that developers of projects must be accountable only to the Ministry and not to other stakeholders, such as local communities and civil society organizations. This holds potential to undermine the essential independent scrutiny public participation can bring to the ongoing monitoring of projects prior to their commencement.

This reality was clearly illustrated in the Cobalt Nickel Mining project where there was no effort to engage with local communities (the Pygmies and the Bantu) [39]. There was also no input sought from those most closely affected by the destruction of natural resources associated with the mining project, negatively impacting on the land tenure rights of local communities, right to food and environmental rights. This example raises two concerns, namely: it shows the apparent fundamental disrespect by the government of the procedural rights of participation of local communities; and it impedes the protection of the environment and the environmentally related rights of these local communities [39]. As with public participation in the forestry sector, it

may be correct to submit that ESIA in Cameroon only serve as a formality for the approval of proposed development projects, and not necessarily a need to promote, facilitate and ensure effective involvement and full participation of local communities in decision-making processes with the hope of enhancing environmental governance and promoting justifiable sustainable development. For the latter to be a reality, the ESIA process would need to ensure the effective involvement and participation of local communities at all stages of the ESIA process.

The proper implementation of public participation generally, and in ESIA processes particularly, has the potential of ensuring and promoting environmental justice and human well-being, as it helps to balance the needs of both present and future generations in government decisions, integrate environmental consideration in decisions, and implement and enforce environmental standards. It has been argued that the intention of the government to enhance environmental sustainability has turned out to be nothing but a mirage, since it is void of effective involvement and participation of local communities and affected stakeholders in the governance of environmental resources. In sum, this response depicts a high level of dissatisfaction and loss of hope towards the state and the logging companies which should not be looked in isolation. Intimidation tactics and human rights violations have been known to occur during public consultations for natural resource exploitation and the public may be fearful of reprisal. These practices have caused many conflicts between the state, logging companies and local communities over government's failed policies to guarantee a sustainable environment for its populace.

### **Ministerial Conflicts**

Many different ministries have been created and are all involved in the management of land, fauna and flora species in Cameroon. A conflict of responsibility may arise between these ministries. Scholars have further argued that the overlap in the functions of the Ministry of Environment and Nature Protection, charged with the duty to articulate,

execute, and evaluate government policy in relation to environmental protection and the Ministry of Forestry and Wildlife that enact, assess and implement policies regarding the forest sector makes it difficult to safeguard a sustained environment. This is particularly true when it comes to environmental impact assessment following forests developmental projects to be executed [36]. This is because, EIA is under the ambit of the Ministry of Environment Nature Protection and Sustainable Development (MINEPDED). Thus, any forestry project under MINFOF which requires EIA, such as the grant of a forest concession which requires industrial installations with adverse effect on the environment, shall give rise to a reasoned decision of the EIA from another ministry (MINEPDED) after approval by an inter-ministerial committee under pain of nullity before the promoter starts his activities [37]. And the decision shall be taken within the time limit of four months as from the date of notification of the EIA to MINEPDED [38]. This process encourages illegal and unsustainable management of the forest as unjustified delays and administrative bottleneck remain the order of the day. This is because four months is too much and unjust for just a reasoned decision by the Minister of environment before EIA process to start, added with corrupt practices and the poor collaboration of the two ministries. The absence of effective coordination between all the ministries involved may hinder the smooth operation of EIA regime, and hence, the protection of the environmental resources of subsistence communities. It is hoped that greater consistency and coordination would ensure, adequately and timely, that mitigation measures are applied effectively and are working as planned.

### **Poor technical and Baseline Statistics on EIA**

To be categorical in our analysis, the use of baseline information ensures that identified and evaluated impacts are traced within the EIA process. Thus, providing efficient techniques of predicting the significance of impacts through existing environmental conditions is imperative in EIA process. However, insufficient technical and baseline

information on EIA process on the environment in Cameroon undermine the efficiency and quality of the whole EIA process [12].

### ***Inadequate Judicial Personnel and Specialization Limits Enforcement of EIA Regulations***

There is limited enforcement of the relevant law on EIA owing to a lack of knowledge by judicial authorities in that direction. Some judicial officers in Cameroon require basic knowledge of substantive criminal law and skills to investigate environmental offenses: they know very little about court procedure or the rules of evidence etc. A 2012 report found that in Cameroon “judges are not always well informed about environmental laws and are not usually sensitive to forestry/wildlife crimes” [63]. Most judges in Cameroon today were trained in an era in which environmental law was not a component of their training. They therefore have inadequate competence in environmental issues and so fail to fully appreciate EIA matters brought before them. This leads to judgments or decisions that at times do not adequately reflect the law in force [48]. Also, as reported by Sama, the judiciary in Cameroon “is not independent and there is a high risk of abuse of the due process of law” [63]. The absence of an independent judiciary may have a chilling effect on environmental litigation concerning EIA in the country [88].

Another report revealed that magistrates are equally “reluctant to apply the maximum sentence to poachers, thus providing no disincentive to killing endangered species” [63]. This is in addition to political interference that undermines law enforcement. EIA can contribute to environmental justice and sustainable development. Yet, it may be difficult to achieve this goal if planning authorities lack skills and know-how to adequately evaluate probable impacts and encourage developers to put forward mitigation measures that can effectually attenuate the impacts [63].

### ***Lack of provision of EIA for Expansion of Existing Development projects in Cameroon***

Expanding or modernizing current projects is a common phenomenon in Cameroon.

Therefore, there should be a provision in the EIA Law for expanding existing projects, especially because the need to execute an EIA is determined by whether the proposal (of a new project) exceeds certain threshold limits (for example, agricultural exploitation with surface area greater than 100 hectares shall be subject to a detailed EIA in Cameroon) [63]. An existing project (which was below 100 hectares), if expanded, may traverse the legal threshold limit (100 hectares) for environmental assessment, and so may have added environmental impacts to the originally proposed project [63]. The EIA Law has not indicated whether EIA is required for expansion of ongoing projects in Cameroon. In the absence of this provision, a proponent may try to evade undertaking EIA study for the supplementary impacts. The consequences are that the environmental impact associated with project expansion will go unaccessed, and possibly, unmitigated. To tackle this issue, the EIA Law should include a provision that requires EIA of project expansion [63].

### ***Poor Governance***

Analyzing the evolution of the global governance of African countries including Cameroon during the 2006 to 2015 period, the Mo Ibrahim Foundation (2016) ranks Cameroon 38<sup>th</sup> out of the 54 States on the Continent. This poor ranking does not appear to be trivial and pathetic. On the contrary, it makes sense especially when we consider the inability of the political and administrative apparatus in Cameroon to carry out innovative political and legislative reforms, and above all, to apply the laws and regulations in force. Thus, it is in this context, characterized by systemic poor governance that investors take advantage of to violate legal rules and regulations in force related to EIA of their projects. This remarkable print hinders the effective implementation of the entire EIA process [50].

In this light, it appears that investment projects are not subject to systematic and regular follow up and evaluation. The absence of such routine and regular control and monitoring by relevant administrations allows businessmen to juggle with legal and regulatory prescriptions and contractual specifications.

Other cases are marked by investors' refusal to comply with the norms and to obey public authority. This is the way it is explicitly mentioned in a Monitoring Committee Report on a Chinese project [49]. A practical example is "Hydro Mekin company, which produced its EIA in 2011, has never produced an implementation report of its ESMP. Moreover, between 2014 and 2017, it was subject to many implementation missions initiated by the different follow up actors among which: The South Regional Delegation of the Ministry of Environment, the Governor of the region, etc [51]. All these missions ended with the formulation of recommendations to Hydro Mekin, which decided not to implement them or even to produce a report. Non-compliance with state authority by Hydro Mekin was manifested by its refusal to respond to the invitation of the Committee. From these remarks, we will suggest to the hierarchy that sanctions should be applied on this company in accordance with the regulations in force".

## CONCLUSION AND RECOMMENDATIONS

In sum, the Article has divulged the presence of a well-defined and a detailed legal and regulatory instrument for EIA in Cameroon. The Environmental Code and the EIA Law are crucial legislation in Cameroon concerning environmental protection through the application of EIA. These laws clearly outline projects that shall undergo an EIA and those that need not, in addition to the responsibilities of the Ministry of the Environment, ICE and others. In fact, the Ministry of the Environment's duty is lucid regarding project screening, review of TOR, evaluation of EIA report, and decision-making. Because of the existence of a clear list of projects, proponents may not need decisions from the Ministry of the Environment as to whether the proposal requires a simple or detailed EIA. That EIA is now a condition for all listed projects requiring environmental assessments might have avoided major threats on Cameroonian landscapes and biodiversity.

However, although Cameroon has a regulatory and institutional framework for environmental protection through EIA during developmental

projects, there are a number of challenges that undermine implementation and enforcement. For example, lack of guidance, poorly developed monitoring and evaluation techniques, enforcement deficiency, limited financial and human resources has impacted negatively on EIA processes in Cameroon. To address these challenges, a number of recommendations are proposed. It is hoped that this recommendation will go a long way to improve on the implementation of this law in order to dwindle the gap between theory and practice concerning EIA.

## POLICY OPTIONS TO ENHANCE ENVIRONMENTAL SUSTAINABILITY

Firstly, there is a need to strengthen capacity to ensure monitoring and enforcement of environmental standards at all stages of the EIA processes. Special and expert team should be established in order to facilitate periodic monitoring and evaluation of EIA proposals and ensure effective implementation of the stated recommendations.

Secondly, it is recommended that public education and research on EIA processes be an integral part of all lead institutions and agencies in Cameroon.

Thirdly, there is an urgent need to revise the ESIA regime to include mandatory requirements for ESIA for projects expansions, aligned with the environmental management principles prescribed in Law No. 96/12 on environmental management and EIA regulations in Cameroon.

Fourthly, it is recommended that with the proposed revision of the 1994 forestry law, attention should be given to include provisions that allow an all-inclusive participatory approach designed to include and involve indigenous people and local communities in decision-making processes in forestry-related projects requiring EIA in order to effectively attain the objective of the forestry law.

Fifthly, the government should promote sustainability assessments in EIA processes. Sustainability assessments can enable EIA

practitioners in Cameroon and private actors to operationalize social development, environmental protection, and economic growth, being the three arms of sustainable development. If adopted in Cameroon, this tool will encourage EIA practitioners and developers to consider assessing the sustainability (environmental, social, and economic) of a project proposal, not just to review a given stage of the EIA process, but in the conceptualization, planning, designing, evaluation, approval, implementation, monitoring and eventual decommissioning of project developments. Sustainability assessments can persuade developers to push the three sustainability vectors through EIA. Developers can do so by incorporating the concerns and recommendations of the affected communities and public authorities into their environmental and social investment programs. Sustainability assessment will ensure that EIA incorporates management measures to strengthen the environmental and socio-economic benefits of potential projects for the affected communities.

Sixthly, the government should increase the involvement of experts and training in different commissions and bodies in charge of validating and monitoring EIA process. There is also the need to build credibility and mutual trust among these stakeholders in the process.

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18. The universal declaration on human right and the declaration on the rights of indigenous peoples compels states to consult and cooperate in good faith with the indigenous people concerned either directly or through their representatives/institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures on the environment that may affect them.
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  60. See Article 19 of Law N° 96/12 of 5<sup>th</sup> August 1996 Relating to Environmental Management in Cameroon.
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  62. Decree No. 2012/431 of 01 October 2012, relating to the Ministry of Environment, Nature Protection and Sustainable Development.
  63. Semie, M.S., (2017), *Harnessing environmental justice to protect against land-grabbing in cameroon*, Ph.D Thesis, Ottawa, Canada, p. 200.
  64. See Article 8(2) of the 1996 environmental code.
  65. CyrilleValence, N.K., (2013), “Public hearings in environmental and social impact assessment for energy sector projects in Cameroon”, *Impact Assessment and Project Appraisal*, Vol. 31, No. 1, 64–73.
  66. See Article 10 of Law N°. 96/12 of 5<sup>th</sup> August 1996 Relating to Environmental Management in Cameroon.
  67. See Articles 10(2) and 16(2), *ibid*.
  68. See Article 13 of 2013 EIA regulation of Cameroon.
  69. See Article 11(1) of Law N°. 96/12 of 5<sup>th</sup> August 1996 Relating to Environmental Management in Cameroon.
  70. This projects includes the following:
    - Project of modification of installation that underwent a detailed EIA study,
    - Abstraction of rural water and real estate projects with 50–100 apartments,
    - periodic maintenance of roads in rural areas, construction of thermal centres and other combustible installation with a capacity of less than 2 megawatts,
    - Project requiring the reclamation of land from water on a lower scale,
    - Water irrigation project with irrigation surface between 100 and 500 hectares,
    - Aquaculture with surface area superior to 50 hectares,
    - Exploitation of community forest,
    - Artisanal and small-scale mining,
    - Industries responsible for the transportation of forest products on a smaller scale,
    - Artisanal leather industry,
    - Industrial exploitation of mineral water,
    - Installation for the repair of aircraft,
    - Installation for the repair of rail way materials and,
    - Assembly of vehicles and machines
  71. They includes:
    - Establishments classifies as dangerous, unhygienic and obnoxious of the first category
    - Dams;
    - Canalization, aqueduct and other installations for the regulation of water: 100,000 meters cube/day as output
    - Waste recycling units;
    - Installation for the treatment of domestic waste with a capacity greater than 50 tonnes per day;
    - Large hospital units, large educational and research units;
    - Community and sports infrastructure and other civil engineering Works;
    - Economic infrastructure (construction and rehabilitation of roads, motorways, thermal centers and other combustible installation with capacity of more than 2 megawatts
    - Agricultural exploitation with

- surface area greater than 100 Hectares;  
•Water irrigation project with irrigation surface greater than 500 hectares with river water;  
•Agro-forestry projects with surface area greater or equal to 50 hectares;  
•Slaughter-house, shipping yard, tourist industry, and industrial fishing;  
•Exploration and exploitation of hydrocarbons, crude oil and installation of gasification and liquefaction.
72. See Article 8 of the 2013 Decree on EIA.  
73. See Article 11 of Law N°. 96/12 of 5<sup>th</sup> August 1996 Relating to Environmental Management in Cameroon.  
74. EIA Regulation, *supra*, article 12.  
75. EIA Regulation, *supra*, article 9.  
76. Environmental Code, *supra*, article 9(e).  
77. EIA Regulation, *supra*, article 11.  
78. EIA Regulation, *supra*, article 14.  
79. EIA Regulation, *supra*, article 16.  
80. See Article 27 (3) of Law N°. 96/12 of 5<sup>th</sup> August 1996 Relating to Environmental Management in Cameroon.  
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