

# FEDERAL NEGARIT GAZETA

## OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

### PROCLAMATION NO. 299/2002 ENVIRONMENTAL IMPACT ASSESSMENT PROLAMATION

WHEREAS, environmental impact assessment is used predict and manage the environmental effects which a proposed development activity as a result of its design sitting, construction, operation, or an ongoing one as a result of its modification or termination, entails and thus helps to bring about intended development;

WHEREAS, assessment of possible impacts on the environment prior to the approval of a public instrument provides an effective means of harmonizing and integrating environmental, economic, cultural and social considerations into a decision making process in a manner that promotes sustainable development,

WHEREAS, the implementation of the environmental rights and objectives enshrined in the Constitution would he fostered by the prediction and management of likely adverse environmental impacts, and the maximization of their socio-economic benefits.

WHEREAS, environmental impact assessment serves to bring about administrative transparency and accountability, as well as to involve the public and, in particular, communities in the planning of and decision taking on developments which may affect them and its environment;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of 1-thiopia, it is hereby proclaimed as follows:

#### PART ONE

##### 1. *Short Title*

"This Proclamation may he cited as the "Environmental Impact Assessment Proclamation No. 299/2002."

##### 2. *Definitions*

In this Proclamation:

- 1) "Authority" means the Environmental Protection Authority;
- 2) "Environment" means the totality of all materials whether in their natural state or modified or changed by human; their external spaces and the interactions which affect their quality or quantity and the welfare of human or other Living beings, including but not restricted to, land atmosphere, whether and climate, water, living things, sound, odor, taste, social factors, and aesthetics;

- 3) "Environmental Impact Assessment" means the methodology of identifying and evaluating in advance any effect, be it positive or negative, which results from the implementation of a proposed project or public instrument;
- 4) "Impact" means any change to the environment or to its component that may affect human health or safety, flora, fauna, soil, air, water, climate, natural or cultural heritage, other physical structure, or in general, subsequently alter environmental, social, economic or cultural conditions;
- 5) "Licensing Agency" means any organ of government empowered by law to issue an investment permit or a trade or operating license or a work permit or to register a business organization, as the case may be;
- 6) "Person" means any natural or juridical person;
- 7) "Pollutant" means any substance whether liquid, solid or gas which directly or indirectly:
  - a) alters the quality of any part of the receiving environment so as to affect its beneficial use adversely, or
  - b) produces toxic substances, diseases, objectionable odour, radioactivity, noise, vibration, heat, or any other phenomenon that is hazardous or potentially hazardous to human health or to other living things.
- 8) "Project" means any new development activity under any category listed in any directive issued pursuant to this Proclamation, major expansion or alteration or any existing undertaking, or any resumption of work that had been discontinued;
- 9) "Proponent" means any organ of government if in the public sector or any person if in the private sector that initiates a project;
- 10) "Public instrument" means a policy, a strategy, a programme, a law or an international agreement;
- 11) "Region" means any of those parts of Ethiopia specified as Regions under Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and, for the purpose of this Proclamation, includes the Addis Ababa and Dire Dawa Administrations;
- 12) "Regional Environmental Agency" means any regional government organ entrusted by that Region with a responsibility for the protection or regulation of the environment and natural resources.

## PART TWO

### 3. *General Provisions*

- 1) Without authorization from the Authority or from the relevant regional environmental agency, no person shall commence implementation of any project that requires environmental impact assessment as determined in a directive issued pursuant to Article 5 of this Proclamation.
- 2) Without prejudice to Sub Article (1) of this Article, when the Authority or the relevant regional environmental agency believes that the possible impacts of the project are insignificant, it may decide not to require the concerned proponent to conduct an environmental impact assessment.

- 3) Any licensing agency shall, prior to issuing an investment permit or a trade or an operating license for any project, ensure that the Authority or the relevant regional environmental agency has authorized its implementation.
- 4) Approval of an environmental impact study report or the granting of authorization by the authority or the relevant regional environmental agency does not exonerate the proponent from liability for damage.
- 5) Without prejudice to Sub Article (4) of this Article, exemption from liability shall be granted only when it is verified that it is the victim himself or a third party for whom the proponent is not responsible that has caused the damage.

#### *4. Considerations to Determine Impact*

- 1) The impact of a project shall be assessed on the basis of the size, location, nature, cumulative effect with other concurrent impacts or phenomena, trans-regional effect, duration, reversibility or irreversibility or other related effects of the project.
- 2) The Authority or the relevant regional environmental agency shall err on the side of caution while determining the negative impact of a project having both beneficial and detrimental effects, but which, on balance, is only slightly or arguably beneficial, and thus determine that it is likely to entail a negative significant impact.

#### *5. Projects Requiring Environmental Impact Assessment*

- 1) Every project which falls in any category listed in any directive issued pursuant to this Proclamation shall be subject to environmental impact assessment.
- 2) Any directive provided under Sub Article 1 of this Article shall, among other things, determine categories of:
  - (a) projects not likely to have negative impacts, and so do not require environmental impact assessment;
  - (b) Projects likely to have negative impacts and thus require environmental impact assessment.

#### *6. Trans-Regional Impact Assessment*

- 1) A proponent shall carry out the environmental impact assessment of a project that is likely to produce a trans-regional impact in consultation with the communities likely to be affected in any region.
- 2) The regional environmental agency in the region where a project with likely trans-regional impact is being initiated shall ensure the submission of the environmental impact study report of the project to the Authority.
- 3) The Authority shall, prior to embarking on the evaluation of an environmental impact study report of a project with likely trans-regional impact, ensure that the communities likely to be affected in each region have been consulted and their views incorporated.

## PART THREE

### 7. *Duties of a Proponent*

- 1) A proponent shall undertake an environmental impact assessment, identify the likely adverse impacts of his project, incorporated the means of their prevention or containment, and submit to the Authority or the relevant regional environmental agency the environmental impact study report together with the documents determined as necessary by the Authority or the relevant regional environmental agency.
- 2) A proponent shall ensure that the environmental impact of his project is conducted and the environmental impact study report prepared by experts that meet the requirements specified under any directive issued by the Authority.
- 3) The cost of undertaking an environmental impact assessment and preparing an environmental impact study report shall be borne by the proponent.
- 4) When implementing his project, a proponent shall fulfill the terms and condition of authorization.

### 8. *Environmental Impact Study Report*

- 1) An environmental impact study report shall contain sufficient information to enable the Authority or the relevant regional environmental agency to determine whether and under what conditions the project shall proceed.
- 2) An environmental impact study report shall contain, as a minimum, a description of:
  - (a) the nature of the project, including the technology and processes to be used;
  - (b) the content and amount of **pollutant that will be** released during implementation **as well as during** operation;
  - (c) source and amount of **energy required for** operation;
  - (d) information on likely **trans-regional impacts**;
  - (e) characteristics and duration of all the estimated direct or indirect, positive or negative impacts.
  - (f) measures proposed to eliminate, minimize, or mitigate negative impacts;
  - (h) contingency plan in case of accident; and
  - (i) procedures of self auditing and monitoring during implementation and operation.
- 3) The Authority shall issue guidelines that determine the elements necessary to prepare as well as evaluate an environmental impact study report.

### 9. *Review of Environmental Impact Study Report*

- 1) An environmental impact study report that is submitted to the Authority or the relevant regional environmental agency for review shall include a brief statement summarizing the study in non technical terms as well as indicating the completeness, and accuracy of the information given in the study report.

- 2) The Authority or the relevant regional environmental agency shall, after evaluating an environmental impact study report by taking into account any public comments and expert opinions, within 15 working days:
  - (a) approve the project without conditions and issue authorization if it is convinced that the project will not cause negative impacts;
  - (b) approve the project and issue authorization with conditions that must be fulfilled in order to eliminate or or reduce adverse impacts to insignificance if it is convinced that the negative impacts can be effectively countered, or
  - (c) refuse implementation of the project if it is convinced that the negative impact cannot be satisfactorily avoided

10. *Validity of Approved Environmental Impact Study Report*

- 1) The Authorization of an environmental impact study report shall expire if the project has not been implemented according to the time frame set during its authorization.
- 2) Any proponent who wishes to challenge the appropriateness of the provision of Sub Article (I) of this Article, to his project, may submit an application to that effect to the Authority or the relevant regional environmental agency, as may be appropriate
- 3) Within 30 days from the receipt of an application. pursuant to Sub Article (2) of this Article, the Authority or the relevant regional environmental agency shall, unless special circumstance so dictate, decide whether to extend the validity of the report or to order the revision or the redoing of the environmental impact assessment.

## **PART FOUR**

11. *Occurrence of New Circumstance*

If an unforeseen fact of serious implication is realized after the submission of an environmental impact study report, the Authority or the relevant regional environmental agency may, as may be appropriate, order the environmental impact assessment to be revised or to be redone in order to address the implication.

12. *Implementation Monitoring*

- 1) The Authority or the relevant regional environmental agency shall monitor the implementation of an authorized project in order to evaluate compliance with all commitments made by, and obligations imposed on the proponent during authorization
- 2) When the proponent fails to implement the authorized project in compliance with the commitments he entered into or obligations imposed upon him, the Authority or the relevant regional environmental agency may order him to undertake specified rectification measure.

- 3) Any other authorizing or licensing agency shall, in tandem with the Authority's or the relevant regional environmental agency's decision to suspend or cancel any authorization to implement a project, suspend or cancel the license it may have issued in favor of the project.

#### 13. *Environmental Impact Assessment of public Instrument*

- 1) A public instrument included in any category in any directive issued pursuant to Sub Article (2) herein, shall, prior to approval, be subject to environmental impact assessment.
- 2) The Authority shall issue guidelines to determine the category as of public instruments which are likely to entail significant environmental impact and the procedure of their impact assessment.
- 3) Any organ or government which initiates a public instrument falling into any category which requires environmental impact assessment as determined in any directive issued pursuant to Sub Article (2) of this Article shall ensure that it has been subjected to environmental impact assessment.
- 4) Any government organ shall collaborate with the Authority to enable the evaluation of likely environmental impacts of any public instrument prepared by it.

#### 14. *Jurisdiction*

- 1) The Authority shall be responsible for the evaluation of an environmental impact study report and the monitoring of its implementation when the project is subject to licensing, execution or supervision by a federal agency or when it is likely to produce trans-regional impact.
- 2) The regional environmental agency in each region shall be responsible for the evaluation and authorization or any environmental impact study report and the monitoring of its implementation if the project is not subject to licensing, execution and supervision by a federal agency and if it is unlikely to produce trans-regional impact.

### **PART FIVE**

#### 15. *Public participation*

- 1) The Authority or the relevant regional environmental agency shall make any environmental impact study report accessible to the public and solicit comments on it.
- 2) The Authority or the relevant regional environmental agency shall ensure that the comments made by the public and in particular by the communities likely to be affected by the implementation of a project are incorporated into the environmental impact study report as well as in its evaluation.

#### 16. *Incentive*

- 1) The Authority or the relevant regional environmental agency shall, within the capacity available to it, support implementation of a project destined to rehabilitate a degraded environment.
- 2) Without prejudice to Sub Article (1) of this Article the Authority may, to the extent that its capacity allows, provide any environmental rehabilitation or pollution prevention or clean up project with financial and technical support to cover additional costs.

#### 17. *Grievance Procedures*

- 1) Any person dissatisfied with the authorization or monitoring or any decision of the Authority or the relevant regional environmental agency regarding the project may submit a grievance notice to the head of the Authority or the relevant regional environmental agency, as may be appropriate.
- 2) The decision of the head of the Authority or relevant regional environmental agency shall, as provided under Sub Article (1) above, be issued within 30 days following the receipt of the grievance.

### **PART SIX**

#### 18. *Offences and Penalties*

- 1) Without prejudice to the provisions of the Penal Code, any person who violates the provision of this Proclamation or of any other relevant law or directive commits an offence and shall be liable accordingly.
- 2) Any person who, without obtaining authorization from the Authority or the relevant regional environmental agency, or makes false presentations in an environmental impact assessment study report commits an offence and shall be liable to a fine of not less than fifty thousand Birr and not more than one hundred thousand Birr.
- 3) Any person commits an offence if he fails to keep records or to fulfill conditions of authorization issued pursuant to this Proclamation and shall be liable to a fine of not less than ten thousand Birr and not more than twenty thousand Birr.
- 4) When a juridical person commits an offence, in addition to whatever penalty it may be meted with, the manager who failed to exercise all due diligence shall be liable to a fine of not less than five thousand Birr and not more than ten thousand Birr.
- 5) The court before which a person is prosecuted for an offence under this Proclamation or regulations or directives emanating from it, may, in addition to any penalty it may impose, order the convicted person to restore or in any other way compensate for the damage inflicted.

**PART SEVEN**  
Miscellaneous Provisions

19. *Power to Issue regulations*

The Council of Ministers may issue Regulations necessary for the effective implementation of this Proclamation.

20. *Power to Issue Directives*

The Authority may issue directives necessary for the effective implementation of this Proclamation.

21. *Duty to Cooperate*

Any person shall have the duty to cooperate in the implementation of this Proclamation.

22. *Inapplicable Laws*

Any law or practice inconsistent with this Proclamation is inapplicable regarding matters provided herein.

23. *Effective Date*

This Proclamation shall come into force as of the 3<sup>rd</sup> day of December, 2002.

Done at Addis Ababa, this 3<sup>rd</sup> day of December, 2002.

**GIRMA W/GIORGIS**  
**PRESIDENT OF THE FEDERAL**  
**DEMOCRATIC REPUBLIC OF ETHIOPIA**